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COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

HEARING OF VIVIANE REDING

COMMISSIONER-DESIGNATE FOR JUSTICE, FUNDAMENTAL RIGHTS AND CITIZENSHIP

BRUSSELS, 12 JANUARY 2010

2-002

Chairman JUAN FERNANDO LÓPEZ AGUILAR

(The meeting opened at 13.05)

2-003

I hereby welcome the members of the Committee on Civil Liberties, Justice and Home Affairs (LIBE), the Committee on Legal Affairs (JURI) and the Committee on Women's Rights and Gender Equality (FEMM). I also welcome Mrs Reding, as the nominee for a key post in the new Commission, namely that of Commissioner for Fundamental Rights and Justice. The present joint session of the three committees will last three hours and will be co-chaired by their three chairs, i.e. those of LIBE (myself), JURI (Mr Lehne) and FEMM (Ms Svensson).

With the agreement of the three chairs, we have structured this session in such a way that the first 75 minutes will be dedicated to our hearing of the nominee for Commissioner for Fundamental Rights, in relation to the responsibilities of LIBE. We have agreed with the political group coordinators that there will be a question and answer session consisting of twenty questions. As we only have 75 minutes at our disposal, I will have to be very strict from the chair and will have to limit everyone's speaking time, to one minute for each of the twenty questions and two minutes for each answer.

Members speaking will do so on behalf of their political groups, in accordance with the D'Hondt system, and must do so respecting the agreed order, which I shall ask them to comply with. I will raise my hammer to indicate the closing seconds. I will also ask Mrs Reding to kindly ensure that her answers do not exceed the two-minute limit.

We are aware that we have before us a working agenda of major interest, concerning as it does the relationship between the Commission and Parliament following the entry into force of the Treaty of Lisbon in the area of civil liberties and justice and home affairs, as well as that of the Charter of Fundamental Rights of the European Union.

I now invite Mrs Reding to speak, for the agreed duration of ten minutes.

2-004

Viviane Reding, Commissioner-designate. – Now is the third time that I have had the honour of appearing before this House as a Commissioner-designate.

For me the hearings are a very strong moment of democracy because they are a very strong moment of accountability, of debate, and for citizens outside to see that we have a very unique democracy here in Europe. There are not many parliaments around the world that have managed to win this battle and to get the right to put questions to the members of their government. We have been fighting for this, and, when I say 'we', I have been fighting together in this Parliament in order for this right to be established.

Now I am the victim of that today! But I think we can be very proud of this strong moment of democracy, and I am very proud also to stand for the first time in this strong moment of democracy in front of you as the first ever Commissioner-designate for Justice, Fundamental Rights And Citizenship, because it is in those fields that the citizens will expect very much from us policymakers, in the Commission, in the Council, most of all in Parliament.

Why? Because they have very often been disappointed, their expectations have not been taken on board, and that was not because of a lack of will: it was simply because there were not the instruments available.

Now, I remember when I was vice-chair of this committee that the decisions of the justice and home affairs ministers did not reach us. They were taken behind closed doors. There was no transparency at that time. Parliament had little to say on the third pillar, and EU legislators could only dream a visionary dream that one day it might be different.

Well, as from 1 December, it is different and now Parliament, together with the Commission, will have to show that this Lisbon Treaty is not only about words, but that it is a real revolution for the whole area of justice and home affairs.

The codecision procedure and the qualified majority in Council will help go forward with new legislation, and the judicial review, both in the Court of Justice and in the national courts, is of utmost importance. Most of all, the Charter of Fundamental Rights, which is now legally

binding, puts the Treaties and the Charters on an equal footing, and this must be fulfilled with action.

It was a long journey to arrive there, and now the citizens rightly expect from us to have actions and to have results. I am therefore convinced that the Lisbon Treaty now will mean a whole reorientation of our policies in the field of justice, fundamental rights and citizenship. Not only reorientation in thinking, but also reorientation in results, because there is no freedom without just security, and there is no security without justice. During the last decade, the concentration had been on security alone. Justice was neglected, and the Lisbon Treaty now gives us the possibility to balance those – to have the rights and freedoms included. That is exactly the reason why President Barroso made this policy reorientation by creating a new portfolio that is specifically dedicated to justice, fundamental rights and citizenship. If you confirm me in this portfolio, then I will pledge to make this reorientation of EU policies possible under the Lisbon Treaty in the interests of justice and in the interests of the rights of our citizens.

The first thing to do – and this will be a common endeavour of Cecilia Malmström and myself – will be to present the action plan for the Stockholm Programme. We will start this work at once – and it is some work because there are 170 new initiatives foreseen in this Stockholm Programme: all initiatives which will now come to you, which means that we will have really a lot of work to do in common during the coming years.

Allow me, before we go to the heart of the matter with your questions, just to single out three priority areas.

First of all we need to strengthen the EU's stance on protecting the privacy of our citizens, in the context of all EU policies. That means, in other words, that data protection will be high on my agenda – including when it comes to enforcement and crime prevention, and including when it comes to international relations with partners such as the United States.

Secondly, we now have other possibilities, through very concrete actions, to strengthen the right of the citizens to move freely in this European Union, whether alone or with their partners or family members.

Now, this free movement, I believe, is the core of the rights of EU citizens in the internal market. We have been thinking too much about 'market' and not enough about 'citizens'. We must do more not to leave that as an abstract idea but for it to become a concrete reality for all Member States, for all citizens, wherever they move, and EU law must be enforced vigorously if so necessary.

Thirdly, we need to ensure that the accused and the suspected also have clear rights in Europe. You know that we do have a European arrest warrant and a European evidence warrant, but we also have to guarantee that there is a high standard of rights concerning the fairness of the procedures, concerning prisons and detention conditions, and at the same time

we have to see to it that the rights of the victim are strengthened, because there can be no area of justice and no mutual trust without common fundamental rights standards based on our common values. So, here we need to strengthen the procedural rights and the rights of victims.

I singled out only these three elements, but you know that there are many more, and I am sure that you will come back to those in your questions during this debate. I am in your hands.

(Applause)

2-005

Simon Busuttil (PPE). – "First of all, I would like to congratulate Viviane Reding for this hearing and also for the fact that, as she has said, if everything goes well today, she will be serving a third consecutive mandate, meaning that she will have been a Commissioner for fifteen years. We certainly do not need to ask you, therefore, if you have enough experience for the post.

Your responsibilities will include European citizenship, which is very dear to us. We expect you to strengthen European citizenship and to give European citizens more concrete rights.

I would therefore like you to give at least three concrete examples of the new rights you would like to give European citizens, as Commissioner responsible for European citizenship."

2-006

Viviane Reding, Commissioner designate. – I have read very extensively the important report of your colleague, Alain Lamassoure, with the title *Le Citoyen et l'application du droit communautaire*, and in this report you get it all: all the gaps which our citizens face in their rights to freedom of movement, and that is why I will very quickly take first actions in this respect.

To take the first one, in the field of civil justice, I will give you an example. If you are a citizen of Finland who would like to marry a citizen from Great Britain, you have a big problem because Finland wants a certificate of no impediment and Great Britain does not foresee that. Now, for a young couple to start their life together, this means going through a real administrative barrier. We need for this the free circulation of administrative documents, we need more mutual recognition of official documents and we need more European authentic acts.

We have started, as a Commission, to do that. I recall the proposal on successions, where we already have an authentic act introduced in the form of the European certificate of inheritance. In order to get the other questions solved, I will come forward with a green paper on the free movement of civil documents early in 2010, which will be then followed by legislative initiatives.

As I am already talking about the documents and have given you the example of marriage, let me say that there are many cross-border marriages, 350 000, but there are also 170 000 cross-border divorces per year, which is roughly 20% of divorces. Now, there are big problems, not only because of the divorce, but also because there is no legal certainty on all this. There are very sad stories coming up. The Rome III proposal on divorce which would clarify this has been blocked in Council since 2006.

I will make a proposal on enhanced cooperation in 2010. I count on Parliament to help me. I will go ahead with the diplomatic and consular protection in order to have legally binding rules at the end of 2010. I will put in practice the free movement directive, if necessary with infringement procedures. Now, there is no right if people do not know about the right, and so I am going to use the possibilities of DG Communication in order to ensure that citizens are informed.

2-007

Claude Moraes (S&D). – Mrs Reding, welcome also on behalf of the group of Socialists and Democrats.

You will be the first Fundamental Rights Commissioner and, as you have told us this afternoon already, you will be sharing this portfolio, this justice and home affairs field, with the Security and Migration Commissioner. That is the key difference.

You talked about balance, but for the key current issues within our group – the asylum package, data and transparency issues, such as SWIFT, PNR, access to documents, most recently the use of body scanners – all of these have fundamental-rights – but also security – aspects.

In practice, how will you work together with your fellow Commissioner to resolve the potential conflicts when there is clearly both a fundamental rights dimension and a security dimension? How will you mainstream fundamental rights within the whole JHA field, now that we do not have the working group on fundamental rights?

And, finally, in terms of transparency and accountability to this committee and to this Parliament, how will you regularly inform this committee on how fundamental rights can be mainstreamed across justice and home affairs?

2-008

Viviane Reding, Commissioner-designate. – I have to answer three questions, actually. During the 10 years I was in the European Parliament, I had continuous contacts with the committees; we worked as a team, and I will continue to do that also with my new committees.

The second: how am I going to work together with my colleagues in the Commission? Because it is not only Cecilia Malmström with whom I will have to exchange very closely, it has also to be with the commissioners responsible for external affairs, because all these human

rights and fundamental rights questions also have an external dimension. So the mainstreaming of all those policies will be of the utmost importance. But the new element, of course – and that is based on the new Treaty and on the new Charter, and it will be based also on the fact that Europe is going to join the Convention of Rights of Strasbourg – is that we have to have a Commissioner who is responsible for the rights.

Of course, there are many elements where we have a shared responsibility. For instance, on the different problems you have been underlining – PMR, SWIFT, body scanners – you can be very sure; I hope I will get another question on this so that I can elaborate on this very important problem.

But you can be very sure that, on this, the fundamental rights issue and the data protection will be top of the line, and there will be negotiations which will be led among equals. We will not let ourselves be dictated to – rules which go against our fundamental rights and which go against our privacy and data protection for the sake of anti-terrorism rules. I can tell you I have been discussing this extensively with Cecilia Malmström. She absolutely shares this point of view and this action.

2-009

Louise Michel (ALDE). Madam Commissioner-designate, I am slightly ill at ease questioning you, because I am, of course, well aware of your great experience and, above all, of the talent and competence which you have always shown in exercising your various responsibilities.

Fundamental rights are clearly an important subject. They must be respected and promoted throughout the Union, and the Charter of Fundamental Rights must be fully implemented by actions and practical initiatives.

This, of course, implies that Member States must be monitored to see how they meet their commitments as regards these fundamental rights. I am thinking in particular of freedom of the press, media concentration, discrimination, state impartiality and a willingness, where necessary, to invoke the sanctions provided for in the Treaty.

I would therefore like to know which practical initiatives you will - or may - take to compel Member States to respect these principles which are not so far respected everywhere. It is an extremely arduous task that awaits you. Of course, I have confidence in you and know that you are quite capable of putting pressure on States. But I would like to have A FEW more details on what you envisage doing.

2-010

Viviane Reding, Commissioner-designate. – Things changed dramatically on 1 December 2009, because the Charter of Fundamental Rights became part of the Treaties. That means that the Court in Luxembourg has the right and the obligation to analyse all the decisions taken to see if they are in line with the Convention.

That is the case for decisions concerning the application of European law. For decisions concerning the application of national law, there is the Court in Strasbourg. At the point when the European Union becomes a member of the Council of Europe Convention, there will have to be collaboration between the Court in Strasbourg and the Court in Luxembourg. The Commission will seek a mandate to start negotiations on that accession to the Convention as early as possible in order to get this equilibrium established.

Those are the arrangements for when a problem arises. As far as what we have to do in our own work, you know from your time as Commissioner, Mr Michel, that we analyse all our proposals to see if they are in equilibrium – mostly with economic questions. In the future, we will have an analysis of each proposal issued by the Commission to see if it is consistent with fundamental rights and with the Charter. That will be the responsibility I carry out. It is a horizontal responsibility. It concerns all decisions, all proposals from the European Commission and also international agreements.

2-011

Raül Romeva i Rueda (Verts/ALE). – Welcome, Mrs Reding: I found your initial speech of great interest, and have noted your statement that there can be no justice or freedom without security. You did, however, also say that there can be no security without justice: but there, you did not mention freedom.

It is this that my question concerns, and I ask it at a moment when freedom is visibly under threat, most often thanks to the instrumentalisation of fear, and in the wake of unfortunate recent episodes - which have involved the EU institutions and Member States - such as the case of the CIA flights or our debates of the last few days on Swift, data transfer and the various aspects of Internet monitoring, not to mention the issue now under debate of full-body scans.

My specific question is the following: how do you intend to ensure priority - and in a clear and concrete fashion in a case such as that of body scans - to protecting the rights and freedoms of our citizens in the face of the manipulation, and indeed in some cases instrumentalisation, of fear being proposed in certain milieux?

2-012

Viviane Reding, Commissioner-designate. – Article 8 of the Charter is very clear. Body scanners are a good case with which to illustrate what our policies will be. We need to ask ourselves a series of questions: Do those scanners work efficiently? Do they pose health risks? Do they pose specific problems relating to privacy and data protection?

We always have to look at the principle of proportionality – are the measures we utilise in order to protect society proportionate to the goal we want to achieve? I wish to make it very clear that our need for

security cannot justify every violation of privacy. Our citizens are not objects, but human beings.

That is why there are three defined conditions for the body scanners. Firstly, it has to be voluntary; secondly the images have to be destroyed immediately; and, thirdly, the consequences for health must be monitored. Nothing is 100% secure, and scanners are no panacea either. We must also look at less intrusive and more privacy-friendly ways to detect explosives.

We have to look at the efficiency of all our data-collection and data-sharing systems. They are under review. What is the point of collecting all that data when proper use is not made of it? I am thinking of PNR and of SWIFT. We should never be driven by fear, but by the values on which the Union is founded. Those are the clear fundamental rights, and there will be a fundamental rights assessment of each proposal, as I said in my previous answer, on these kind of negotiations too.

2-013

Timothy Kirkhope (ECR). – It is good to have a proven achiever before us today and I welcome this opportunity.

Commissioner, this is a Europe of 27 individual Member States and therefore many different national priorities. In that case, surely the European Union should look to increase effectiveness and improve the implementation of current legislation rather than always looking to expand further into areas of national competence.

As you know, the main emphasis of the Hague Programme was to monitor and improve the implementation of existing Community measures rather than expand the *acquis*. It did not work out that way. Frankly, I have little hope that this will be achieved with the current programme's list of priorities either. Commissioner, I would like to hear whether you support my belief that what Europe needs is less forced harmonisation, and more cooperation and more simplification of processes – that we should be fixing what is currently broken and building on our successes instead of overprescribing, and thereby underachieving.

2-014

Viviane Reding, Commissioner designate. – Yes, that is a discussion which I have had for many years with the honourable Member.

I am a firm believer in the internal market for goods and in the Community of internal markets and free movement for citizens. If our rules are not in accordance with this, I pledge here that I will try to change them. This will be rather easy under civil-law discussions, where we have already taken significant steps forward. It will be very difficult, understandably, in the field of criminal law, because systems have developed over centuries. We have lawyers and judges who have applied those systems and it is very understandable that they will try to stick with their system. That is the reason why the first thing we have to do here is to build confidence – to build confidence so that those practitioners, those who

utilise those laws, know that the law in the neighbouring state is also a good law so that this mutual recognition and working together is efficient.

I have been enhancing Erasmus for students and I have made out of it Erasmus Mundus. Why cannot we do an Erasmus for judges for instance? I think that would be a way to enhance this trust – this mutual trust.

But on civil law I am very clear. On civil law I will advance. I will advance with European rules when citizens do not have free movement; and I will advance with infringement procedures when European laws are not applied as they should be.

2-015

Rui Tavares (GUE/NGL). – Mrs Reding, what you have said related to a time when Parliament's opinion was not taken into account - to the time when you yourself were an MEP, over ten years ago.

I also remember such a time, and I have only been an MEP for a few months.

Even very recently, we were asked to meet on a Friday in order to be informed of the content of an agreement on SWIFT which was to be signed the following Monday, a mere 24 hours after the entry into force of the Treaty of Lisbon.

This is not the way things should be. Parliament had called for the SWIFT issue to be negotiated under the codecision procedure, and had repeatedly drawn attention to the need for this. It is hard to see how Parliament could comply with its responsibilities other than by rejecting this agreement. I ask you the following: should Parliament reject this agreement and should you as Commissioner be obliged to renegotiate it from zero, what measures will be included which are not part of the existing agreement with the US and which you would wish to see implemented?

2-016

Viviane Reding, Commissioner-designate. – Now you have seen for yourself how it was all those years before. That was exactly the way it worked, behind closed doors, and Parliament had no say. Now, this changed as from 1 December last year: Parliament will have a say.

Let us look at the SWIFT agreement. It has been agreed now for a period of nine months. Parliament has to give its consent to this but, at the same time, we will have to negotiate the new SWIFT agreement, and this new SWIFT agreement, in order to be put in place after nine months, will go under the rules of Lisbon. So, there, Parliament will be fully involved and the Commissioner for Justice will be fully involved. And, as I have already said very clearly, I will ask the questions – if all this is necessary, if all this is going against the right of privacy of our citizens, if all this is proportionate, if all this is linked to the fundamental rights of our Charter or not. It is in this way that Cecilia Malmström and I will work together, and together with Parliament, in order to set up a new SWIFT agreement.

2-017

Kinga Gál (PPE). – This is a new era for human rights in Europe with the entry into force of the Lisbon Treaty, as you have already mentioned. The appointment of a Commissioner for Fundamental Rights is a specific responsibility, but also a possibility. You could conclude during recent years that there is still a lot to do in this field, especially in some new Member States, where, in tense situations, the protection of human rights failed in practice.

I would ask you to follow closely the protection of traditional and autochthonous minorities during your work, as they are the most vulnerable people, and I would like to ask you how you intend to apply the EU Charter of Fundamental Rights, which is now legally binding, and when you envisage that the EU can accede to the European Convention on Human Rights.

2-018

Viviane Reding, Commissioner-designate. – The Charter, and most of all Article 6 of the Charter, are legally binding. That means that it is one of the most important innovations of the new Treaty. I think we can be very proud of this Charter because it shows unity in diversity. It does not come top-down. It has taken into consideration the national constitutions, the case-law of the European Court and the rich collection of decisions of the Council of Europe. So all this, blended together, means that now Europe is going to be united by law and by values. It is the most modern codification of fundamental rights in the world. Maybe we do not say that often enough, but it is the case. There are the classical civil liberties, there are the economic and social rights, and there is a third generation of rights, like data protection, bioethics and transparent administration. I think we can be proud of this Charter.

Now, we have to put it into practice in all our decisions. That is the reason why all our decisions will be analysed before they go out of the Commission as to their compliance with this Charter. That will be a specific impact assessment on fundamental rights.

We will also see whether the Member States, in their implementation of EU law, are applying the Charter. I can tell you there will be a zero-tolerance policy as regards violations of the Charter. For your intervention in this, I think it would be a good idea – if you so agree – to have an annual report on the application of the Charter, with summaries of the many complaints which I receive, which you receive, and of the many parliamentary questions you are going to ask.

You asked me about the coexistence of the Charter and the Strasbourg Convention: I think we should start the negotiations on the basis of a mandate as quickly as possible. I clearly cannot tell you when we are going to finish this negotiation, but I will keep you informed throughout the course of this negotiation.

2-019

Monika Flašíková Beňová (S&D). – In the written answers you listed the development of a strong and

coherent European area of fundamental rights as one of your main priorities and you say that you would ask the assistance of the Fundamental Rights Agency in order to achieve this priority.

Do you agree that this would call for an enlargement of the mandate of the Agency, as the former third-pillar issues of law enforcement and criminal justice matters are now incorporated in the normal legislative procedure, or would you see the mandate of the Agency already thus amended by the coming into force of the Lisbon Treaty?

You also state that it will be your core task to ensure compliance of all proposed EU legislation with the Charter of Fundamental Rights. What concrete measures will you propose to ensure the compliance and promotion of fundamental rights by the EU institutions and by Member States?

2-020

Viviane Reding, Commissioner-designate. – The Fundamental Rights Agency is a very important tool because it is a tool which analyses the situation and which allows us, in our future decision-making, to have a sound basis on which to set ourselves in order not to make mistakes when we propose decisions in the future.

The second element is that there are several instruments for looking at citizens' complaints. You as European parliamentarians privately receive complaints from your constituents and I think that those are very important. In the Petitions Committee, which I believe is one of the most important committees of this House – I was its chairman 20 years ago – you really understand where the heart of the citizens beats. Then, of course, we have the Ombudsman for all cases linked to administration. That is the reason why I said that we have to bring those three together, as well as the complaints – and there are hundreds of those – which I and my fellow Commissioners receive, and analyse them in this yearly report in order to see where the main problems are and where we should go. Then together we can have a debate in this House in order to see where action is needed.

We cannot have action everywhere because there are so many problems, but we should choose one or the other. For instance, I said that I would like to go very quickly ahead with the questions concerning marriage, free movement on the basis of nationality and residence, divorce, children and violence against women. There are many areas where we have to set our priorities. Then I believe together we have to single out those areas where we think that concrete action needs to be taken on top of those priorities.

2-021

Roberta Angelilli (PPE) – Madame Commissioner, I have always appreciated the importance you attach to the value of citizenship. As you know, over 30% of European citizens are under the age of 18.

In the last parliamentary term, at the Commission's proposal, Parliament approved a project to develop a

European strategy on children's rights, to make space for children's rights in all EU policies and programmes and to combat effectively all forms of violence, exploitation and discrimination.

My question is simple: what specific measures will you take to give priority to children's rights, bearing in mind that with the Lisbon Treaty and the Charter of Fundamental Rights we finally have a legal basis?

Furthermore, how do you intend to deal with the skyrocketing problem of international child abduction, that is of children who are fought over by separated or divorced parents of different nationalities?

Lastly, I hope the Commission will re-submit as soon as possible its legislative proposal on combating the sexual abuse, sexual exploitation of children and child pornography.

2-022

Viviane Reding, Commissioner-designate. – If we do not care for children, we have not done our job properly. They are the most vulnerable in our society. They need the most help. Most of all there are those children who nobody ever speaks about. These are the invisible children – children in detention centres and children in the street. We have a real responsibility here, and that is why I would like to enhance the EU strategy on children.

In terms of concrete actions, we will also come back to these when discussing their implementation. As regards criminal child abduction, I will insist on child alert systems, with cross-border cooperation. As regards parental child abduction, there will be 'Brussels II bis', with the Member States' cooperation – a proposal in 2011, after in 2010 having made the analysis, not least because it takes too long for final court decisions on these cases and before those court decisions are applied. I will look into further harmonisation of procedural law.

As regards Rome III and bi-national situations, there is a delay here and I will go for enhanced cooperation, as I have already said, because we cannot wait any longer. As regards sexual abuse, sexual exploitation and trafficking, I will make future proposals for directives in close cooperation with Cecilia Malmström, who has the core responsibility.

If you agree, I will try to address all these questions together with children themselves, involving children in the public consultation, with information in child-friendly language being handed out beforehand. You can help me in this integration of children into the public consultation.

2-023

Carmen Romero López (S&D). – Mrs Reding, as matters stand the globalisation of crime is placing our citizens in two situations at once, even if they are apparently contradictory. We are all potential victims, but we are also all potential suspects. This is even more so should one's profile be that of a dark-skinned person, a southerner or a Muslim.

Europe lacks any credibility that might justify it in asking the US to improve the coordination of its own police and judicial services. Our citizens are paying the price for our own inefficiency and lack of coordination.

Do you believe we need a crime prevention instrument such as the European victim protection order which you will present during the Spanish presidency?

Do you believe we can create a European judicial area unless we can introduce maximum flexibility into the administrative procedures relating to procedural rights such as the rights to legal aid, to interpretation and translation facilities, and to information? One year surely does not imply enough security for fundamental rights, and here we are talking about democracy in its full dimension.

2-024

Viviane Reding, Commissioner designate. – I completely agree with you. We have to have credibility in our external actions and in our internal actions. That is exactly the reason why the President has given this responsibility in a horizontal way to one Commissioner.

I said in my introduction that I will have to work together with the Commissioners responsible for external relations so that in external relations our actions are on the same level as they are in our internal relations. In our internal relations, the fact that the Charter of Fundamental Rights is now an integral part of our Treaty gives us a tool which we did not have in that way before. Now we have the tool in our hands and we must use it. We will use it, as I said in my introductory remarks, for those criminal actions when there is a suspect. As I said in my introductory remarks, we will also ensure that the victims are really cared for. We need to have practical measures to provide help in that area. We must ensure that national victim support organisations exist in all countries and that they are equipped in such a way that they can help. Maybe we will need specific organisations for the victims of sexual exploitation and domestic violence. This help has to be given from the moment that the crime is committed, throughout the judicial process, and beyond the trial sentencing. So you can see we have a lot of work to do here, but it has to be done in collaboration with the national governments.

2-025

Sophia in 't Veld (ALDE). – Fundamental rights are among the core responsibilities of the European Union, and the ALDE Group expects the Commissioner to make full use of all legal and policy instruments.

However, Mrs Reding, you seem to hold a fairly minimalist and passive view on the role of the EU regarding fundamental rights, essentially leaving it to the Member States and the courts.

Can you explain how you will actively enforce fundamental rights throughout Europe? Specifically, what action will you take against homophobia, hate

crimes and state-sponsored discrimination of LGBT people? Will you take initiatives for the recognition of marriages and registered partnerships for LGBT couples?

What initiatives will you take to ensure freedom of religion and freedom of thought? Will you submit proposals for the implementation of Article 17 on the dialogue with churches and non-confessional organisations?

You said you will be a very tough negotiator in negotiations on topics such as PNR, SWIFT etc. I welcome this, but as a member of the European Commission you have supported data transfer agreements with the US. What has changed?

2-026

Viviane Reding, Commissioner-designate. – There are 10 questions! Let me try to answer one or two.

First the one about data transfer. Those in this room who have been on the ITRE Committee know perfectly well that I have spoken up against the Data Retention directive. The ITRE Committee was against it and the Council of Ministers of Telecommunications was against it. It was the Council of Interior Ministers which pushed it through. And I hope that the Parliament, next time such a decision is to be taken, will think twice before saying 'yes' to such a decision.

Having said that, I think that I can only repeat my replies to different questions which have been raised on the new Treaty. As from December 2009 we will see, in a horizontal way, that fundamental rights are applied in all our new proposals and that fundamental rights will be applied in the Member States when the Member States put EU law into practice.

Homophobia has no place in Europe. The free movement of persons does not take account of the sexual orientation of a person. The European Union cannot intervene in the marriage law in national states, but it can intervene when a citizen goes from one country to another on the basis of the rights he has acquired in country 'A'.

2-027

Csaba Sógor (PPE). – What measures do you intend to take in order to make sure that, in accordance with the Stockholm Programme concerning basic human rights, you put an end to any form of discrimination against traditional national minority communities within the EU Member States and ensure that persons from such communities – traditional national minority communities – can contribute as fully protected EU citizens to the creation of the proposed EU area of freedom, security and justice?

2-028

Viviane Reding, Commissioner-designate. – We have two new elements in the new Treaty.

The first one is that Article 2 of the Treaty for the first time underlines the rights of persons belonging to minorities – not minorities in general but the individual right of persons belonging to a minority. We can add to this the Charter, in Article 21.

I intend to uphold these fundamental rights within the scope of the application of EU law, including when Member States implement EU law. Therefore, on two levels: when we create EU law – i.e. the content of EU law – and when this EU law is applied. The European Agency for Fundamental Rights has a key role to play here in order to analyse what is going on and to provide us with the necessary information.

I will have one person in my team who will be responsible for fundamental rights for minorities and who will be completely dedicated to this issue so that you parliamentarians will have somebody with whom you can speak. I am sure each of you will have a lot of proposals to put on the table here. I would like to solve those questions in a very down-to-earth way, to utilise our legislation when necessary and, when really indispensable on the basis of the rights conferred to us by the Treaty, to create new legislation.

2-029

Renate Sommer (PPE). - As regards the issue of security versus data protection, you have already told us quite a lot in connection with Dr. Swift. My impression is that you intend to act with great self-assurance in this area.

You have also spoken at length about body scanners. I believe that this apparatus represents a genuine threat to the individual rights of the person and also to human dignity. I take the view that it is far from certain that it will be used on a voluntary basis. Our citizens will be scanned, but - and this is where the problem lies - the cargo itself which is carried by air will not be checked as thoroughly. In addition, after passengers have passed through the passport controls they are, of course, free to buy very many articles in the duty-free area which, if they had had them in their possession earlier, would have been confiscated. I would not want to abolish this either.

Are body scanners not then superfluous and should they not be rejected? Is this not just action for actions sake? Do you intend to look into the use of this apparatus from an EU legislative point of view, if appropriate, or do you wish to leave it to Member States to decide whether to use it or not?

Viviane Reding, Commissioner designate. – I think I have already made my position very clear concerning body scanners, but body scanners are only one part of a whole ensemble. There is also PNR; there is SWIFT; there is everything which is in the pipeline and which will come out one day.

That is why we have to have a very clear line on this. We must never be driven by fear, but we must put our values – on which the Union is founded and which now

have become part of the Treaties – in the forefront, including when we negotiate international agreements.

I could not agree more with you when you say that human beings are not a parcel. Human beings have a dignity, and every measure which is going to be taken has to be clarified first: Does it respect human dignity? Does it respect the right to privacy? Does it respect the right to health? All these three elements have not, unfortunately, been tested, and they are now on the agenda.

I will see, together with my colleague Cecilia Malmström, that those elements and those questions are put in the forefront before the EU takes any decision or makes any proposal in that respect.

2-031

Kinga Göncz (S&D). – We know your dedication to promoting equality between women and men. However, what concrete measures are you going to take in order to ensure that Member States fully implement the existing directives and promote the principles of equality and non-discrimination, especially concerning LGBT people, migrants and the Roma?

Despite the existing anti-discrimination directives, there are constantly high levels of discrimination and violence against the most vulnerable groups, such as immigrants, Roma, in many Member States.

In 2009 Parliament adopted the horizontal directive on non-discrimination. What are you going to do to ensure its adoption as EU law? Furthermore, how are you going to ensure that there is no national legislation that is discriminatory against LGBT people or other vulnerable groups?

2-032

Viviane Reding, Commissioner-designate. – I will certainly not have the time in two minutes to explain the whole action on the basis of the anti-discrimination directive, which will give the new equal treatment, outside the labour market, not only to vulnerable groups but also – and very importantly – to old people, handicapped people and so on. We have a lot of elements here on which we can go ahead. I know that the Parliament is very positive on this directive and I know that there are many problems still to overcome with Council. We have to discuss this thoroughly.

I would like to take out of your question – because there were many different elements – only the element of the Roma. A survey by the Fundamental Rights Agency has underlined that a Roma person is discriminated against once a year with regard to housing, justice and the labour market. This is simply not acceptable under our fundamental rights charter.

I will work on this subject very closely with Commissioner Andor. We will utilise our Structural Funds in a more sustainable way. Looking at what has worked well, I give you the example of the ACCEDER programme in Spain, on vocational training, which has

been a real success story. We will try to utilise the money in order to get other success stories put in place. There is a racial equality directive and the European Platform for Roma Inclusion, which brings together key actors.

I would like to tell you that, in order to have very concrete results, the policy will be developed during the European Roma Summit in April in Córdoba. I will certainly discuss the different concrete measures to be taken with this committee.

2-033

Wim van de Camp (PPE). – The Lisbon Treaty heralds a new era for cooperation among European countries in the area of justice and criminal law in particular. We are very keen on this new area of common EU action because we want more security for our citizens and we want less freedom for criminals. Can you give us three concrete initiatives that you intend to take in the area of criminal justice to make Europe a safer place for citizens?

2-034

Viviane Reding, Commissioner designate. – I think I already said in my introduction what needs to be done practically. It is also a difficult issue, because, although it might be easy in civil justice to go ahead, with all the elements which have already been put into practice in that field, it is difficult in the field of the criminal justice, where the subsidiarity question is very high on the agenda. Also – and this is very important for Parliament – the national parliaments will have a specific say, and Member States can block initiatives taken by the Commission.

That is why I think it will be very important to be cautious in this domain. We should not advance too quickly. We really have to choose where we should go ahead. Mutual recognition will be one of these elements; eliminating the *exequatur*, because it does not make sense; having a specific initiative on the attachment of bank accounts; and on the defamation question in Rome II, we should see to it that libel tourism, ‘shopping around’, will not be possible any more, because it is very detrimental.

All these are very difficult questions. They have to be discussed in great detail with the national parliaments and with the nation states. You can perhaps help in the specific discussion with the national parliaments.

2-035

Stavros Lambrinidis (S&D). – About a month ago the head of a major internet service provider stated that, if you have nothing to hide, you have nothing to fear concerning the use of your data by private companies or governments. I submit to you that, if you have nothing to hide, you do not have a life!

We all have something to hide – something legal to hide – whether it is the full nexus of our personal relationships or lifestyle choices, political beliefs or health issues. The mere fact that we exercise those

choices through the internet does not mean that we have consented for private companies or governments to survey us constantly and see what we believe.

Do you plan, as the European Parliament asked in its Bill of Rights report in 2008, to examine and prescribe limits to the consent that can be requested, extracted or presumed by internet users to relinquish part of the privacy? I ask this because it is clear that both governments and private companies have much greater knowledge and power in that consent transaction than private individuals do.

2-036

Viviane Reding, Commissioner-designate. – I have worked extensively with the Vice-President on these questions, when we debated and decided on the Telecoms Package and where this question was very high on the agenda.

You will certainly recall – or if not I will tell you – that when the rights to privacy which already exist were not observed by a national state – that can be through a private organisation in the national state – I have taken action. I brought Great Britain before the Court in the famous *Phorm* case where the data of citizens were used without consent.

Our rules are very clear. You have to have prior, informed consent. So, only by applying our existing laws, things cannot be done as they are being done today in the internet world.

My colleague, Neelie Kroes, is responsible for this dossier but, as Justice Commissioner, I have this dual responsibility of setting a law in order to implement the rights of data protection. Data protection is today explicitly inscribed in the new Treaty. You can count on me to ensure the protection of individuals.

2-037

Nathalie Griesbeck (ALDE). - I am very happy about the creation of the specific post of Commissioner responsible for fundamental rights and justice and I wish you every success in undertaking this difficult task which you will be undertaking in conjunction, of course, with our Parliament, so that Europe increasingly becomes a Europe of rights and freedoms, as you recalled in your introduction.

A moment ago you repeatedly referred to the necessary complementarity between the Luxembourg Court of Justice and the European Court of Human Rights, in particular as regards one of the issues you raised: Article 6.

My question is very direct and, to some extent, repeats what has gone before. I would like to know when and how you predict accession to the European Convention on Human Rights as a whole, because while respect for compatibility with the Convention and our decisions is one matter, accession is quite another: it will be more than merely symbolic and have a more binding effect.

As far as civil law procedures are concerned, citizens must be certain that their rights will be protected and a range of procedural guarantees must be adopted. What specific initiatives will you be proposing and, in particular, what is your position on the principle of the mutual recognition of same-sex couples in Europe between the various countries?

2-038

Viviane Reding, Commissioner designate. – We will start these negotiations very quickly indeed, as soon as we have the mandate for negotiations. The obligation for doing this is very clearly stated in Article 6 of our Treaty, so it is not a question of whether we will do it: we will do it. And of course we will have to work together between the two courts in a very balanced way. We want to strengthen our courts in questions of human rights. We do not want to weaken them. Our Court in Luxembourg has to keep doing what it has been doing for decades. It is the institution that has helped us to make European law for the good of our citizens and for the good of our internal market.

So bringing these two courts together has to be a real strengthening process. It will not be an easy task, because it is an international agreement which has to be ratified not only by the 27 EU Member States, but also by the other members of the Council of Europe. There will be some kind of negotiations, and these might be difficult. I will work very closely on this with our Legal Service, with the Court in Luxembourg and with the Commissioner responsible for external relations.

2-039

Jacek Protasiewicz (PPE). – Madam Commissioner, allow me to raise a question concerning the ‘citizens’ initiative’, introduced by the Lisbon Treaty, which is, in my opinion, not only a new, very important right for European citizens, but also a significant step towards getting Europe closer to the people, since it enables them to participate more directly in the shaping and making of EU decisions. How do you intend to make this initiative work for citizens? What are your views on how this right could be exercised in practice?

2-040

Viviane Reding, Commissioner designate. – The citizens’ initiative is a new element that has been brought forward by the new Treaties. It can be a very important element for citizens to make themselves heard. It can also be a dangerous element, if we have not clarified, from the beginning, on which questions citizens can get an answer. If the citizens for instance were to tell us that they want the death penalty to be established in Europe, then, sorry –fundamental rights are a basic element of this Europe and cannot be changed, even by a citizens’ initiative, and that is the reason why, before this citizens’ initiative becomes a reality, we have to clarify the conditions and rules.

In order to make this citizens’ initiative a very positive element, an element which will show us where we can go ahead with changing our rules, with bettering our rules, where we can use utilise other instruments in order

to help solve the problems, my endeavour will be to act as quickly as possible to have those conditions under which a citizens’ initiative can operate clarified, and of course and that will be of utmost importance for me and for you. For me because I will have to utilise the communication possibilities in order to explain to the citizens what is at stake, and for you because you have to help in your constituencies by informing your constituents on this initiative, so here we will have a lot to work together on.

2-041

Manfred Weber (PPE). – We have already held six hearings, and I should like firstly to mention a criticism made at the other hearings, namely that the prospective Commissioners have made too few specific statements.

I should therefore like to congratulate you on your masterly performance and the clear statements you have made: every dossier in future to be vetted for fundamental rights, working documents in the EU to be genuinely transparent, etc. – Congratulations! In any case, after your 10 years as Commissioner, no one can claim that you are not personally qualified for the job.

I should like to ask a specific question: Stockholm and Lisbon - both stand for great opportunities, and one of the points is the creation of a new and fair system of justice in the European Union. May I ask once more: how confident are you that you will achieve a common and fair system of justice along these lines over the next five years?

2-042

Viviane Reding, Commissioner-designate. – We have a lot of fair judicial systems in our Member States. One should not forget that. So we are not starting from scratch: we are building on what has been built over centuries in our nation states.

Now we have a new reality coming up: citizens are moving from one state to another. In this case, legal certainty is no longer a given. Which law applies? Which court has jurisdiction? So, not only do we need to make the instruments place stronger, we also need citizens to be informed about what we are doing or what their rights are.

One in three citizens does not know about his or her rights if he or she is discriminated against. That is a shame. I have already mentioned that there is a need to reform our cross-border civil law, to enhance mutual recognition in criminal law, to get the rights of bi-national partners taken into consideration if they want to travel, settle or divorce: all this has to be done. At the same time we must throw all our weight behind communication, in order to tell citizens what their rights are and what the possibilities are if those rights are not taken seriously, so that those rights can be upheld. Without knowing about your rights, you do not have rights. We have to work more on this in the future.

2-043

Rosario Crocetta (S&D) – One of the Commission's objectives over the next five years should be the strengthening of judicial cooperation in the fight against organised crime.

What specific action do you intend to take to establish a European Public Prosecutor's Office, building on Eurojust? What proposals do you intend to make to strengthen that body and to ensure that it is subject to democratic scrutiny by Parliament, in accordance with the Lisbon Treaty?

As far as combating crime is concerned, what proposals do you intend to submit regarding the mutual recognition of decisions regarding the confiscation and freezing of assets seized from criminals and their re-use for social purposes?

What firm proposals do you intend to make with a view to providing uniform EU-wide protection of the victims of crime and court witnesses in criminal proceedings?

2-044

Viviane Reding, Commissioner designate. – You are absolutely right, and this is also very clear in the new Treaty. The end goal is to make out of Eurojust a European Prosecutor's Office.

I have not had time now to see to it, but what I have in my head is that it is mainly on financial aspects. I think we have to discuss, in the coming months and years, whether that is enough or if we must not go a step further. There are possibilities in the Treaties to go a step further, but this is like everything in criminal law, where we really have to have the Member States on board and where we really have to have the national parliaments on board. But I would personally think that it would be very important that this Public Prosecutor could enter into force for everything which concerns a cross-border crime, a serious crime – I think, for instance, of paedophilia as one example where I believe that we really have to reinforce our cooperation in order to find the solutions that are necessary.

In criminal matters there are always two elements. There is the element of the one who has committed the crime, or who is supposed to have committed this crime: he has fundamental rights, and in a democracy we have to guarantee those until he has been convicted. Then, when he or she goes to prison – and also when he or she is in prison – there are fundamental rights to be implemented. That is sometimes forgotten.

On the other hand there are the victims. I would not like us only to pay lip service to the victims, but we should also have, in parallel to all these systems, a serious system that takes care of those who have not been asked whether they want to be or not, but have been forced into being, a victim.