5 September 2000

OPINION

of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

for the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy

on the enlargement of the European Union

Draftsman: Ozan Ceyhun
PROCEDURE

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Ozan Ceyhun draftsman at its meeting of 6 June 2000.

It considered the draft opinion at its meetings of 12 and 13 July 2000 and 4 September 2000.

At the last meeting it adopted unanimously the conclusions below.

The following were present for the vote: Graham R. Watson (chairman), Robert J.E. Evans (vice-chairman), Bernd Posselt (vice-chairman), Ozan Ceyhun (draftsman), Jan Andersson (for Martin Schulz), Roberta Angelilli, Maria Berger (for Sérgio Sousa Pinto), Alima Boumediene-Thiery, Rocco Buttiglione, Marco Cappato, Michael Cashman, Carlos Coelho, Thierry Cornillet, Gérard M.J. Deprez, Giuseppe Di Lello Finuoli, Olivier Duhamel, Francesco Fiori (for Marcello Dell'Utri pursuant to Rule 153(2)), Glyn Ford (for Gerhard Schmid), Adeline Hazan (for Gianni Vattimo), Jorge Salvador Hernández Mollar, Margot Kessler, Ewa Klamt, Alain Krivine (for Fodé Sylla), Sarah Ludford, Hartmut Nassauer, William Francis Newton Dunn (for Daniel J. Hannan), Elena Ornella Paciotti, Hubert Pirker, Martine Roure (for Joke Swiebel), Ingo Schmitt (for Mary Elizabeth Banotti), Anna Terrón i Cusi, Maurizio Turco (for Frank Vanhecke) and Christian von Boetticher.
SHORT JUSTIFICATION

Introduction

will oblige them to satisfy the requirements concerning respect for human rights and incorporation of the *acquis communautaire* in the area of justice and home affairs. It is therefore appropriate to assess their situation and how the pre-accession strategy is working in those areas. Ultimately, the success of the enlargement process must be measured by its contribution to the general democratic development of the European Union. Accordingly, the highest priority must be accorded to the human rights instruments of the *acquis communautaire* in the accession negotiations on justice and home affairs.

I. Evaluation of human rights in the candidate countries

In accordance with Article 49 of the Treaty on European Union, 'any European state which respects the principles set out in Article 6(1)' may apply to become a member of the Union. While the candidate countries have made progress in consolidating the rule of law and respect for human rights, the fact remains that the situation is still unsatisfactory in some respects. For example, two candidate countries (Poland and Turkey) have not yet abolished the death penalty. Similarly, the situation of children often leaves much to be desired in Romania and Bulgaria. The same applies to women's rights, the status of homosexuals and conscientious objectors in several countries.
With regard to ethnic minorities, despite some progress, the rights of the Roma in several countries of Central and Eastern Europe and those of the Kurds in Turkey are flouted. These minorities are the victim of discrimination, not to say police brutality (Bulgaria and Turkey). In several cases minorities do not enjoy full freedom of association, freedom of the press or freedom to use their own language. Nevertheless, it is satisfying to note that some progress has been made on citizenship and integration of minorities, notably in Estonia, Lithuania, Latvia and Slovakia.

II. Integration of the *acquis communautaire* and the candidate countries’ potential to implement it effectively

Integration of the *acquis communautaire* is a major task. In particular, candidate countries need both to update their legislation and to implement new laws effectively.

They also need to ratify the international conventions in these areas, if they have not already done so. They should also create the institutions and infrastructure required and invest in the training of human resources to ensure a just and democratic police system, an independent judiciary which respects democratic guarantees and a lively civil society. The important role of NGOs in implementing the *acquis* should be stressed. More account should be taken in the accession negotiations of their significance as advocates of democratic values and human and minority rights.

Harmonisation of asylum procedures and the creation of a humane system of sharing the financial burden is all the more urgent against the background of enlargement. A charter of fundamental rights incorporated in the Treaty would be of key importance in protecting human rights in an enlarged Union.

Asylum policy

Broadly speaking, transposition of the EU standard in respect of the right of asylum will have a positive impact on the protection of refugees in the candidate countries. There are numerous large discrepancies between the standard of protection in the candidate countries and the standard in the EU. The most pressing problems are legislative inadequacies, excessive application of the exclusion clauses, administrative shortcomings and the refusal of entry at the border, the lack of independent legal advice for asylum seekers and their arbitrary detention. When EU standards are incorporated in legislation it is important to bear in mind that in some respects the EU standards do not match international standards.

Cooperation in the area of justice and home affairs between the EU and the candidate countries pays little attention at present to the right of asylum. For example, the repatriation agreements of the EU Member States with the candidate countries ignore fundamental guarantees of protection, such as the guarantee that an asylum seeker will have access to a fair and efficient asylum procedure in the reception country. The same applies to the conclusion of agreements between the candidate countries and third countries on the return of refugees.

In accordance with the Dublin Convention, following their accession the applicant countries will also have to handle a disproportionately large number of asylum applications because of
their geographical location. A reform of the rules of the Dublin Convention is therefore advisable in the run-up to enlargement.

EU acquis in respect of checks at external borders

The accession countries are required to adopt the EU acquis in respect of checks at external borders. However, implementation of the border protection measures cofinanced by the EU does not take adequate account of refugees' access to asylum procedures. For example, a guide to effective checks on individuals at external borders, issued by the Council to candidate countries, fails to explain how to handle requests for asylum at the border.

When border checks are intensified, there is also a need to strike a balance between the legitimate objectives of crime prevention and those of support for traditional relations between the populations on both sides of the border. Sealing off external borders is a dubious policy and it ignores the scope for cross-border cooperation which can be of great political and economic benefit for both the candidate countries and for the enlarged Union. Cross-border cooperation should be encouraged and flexible forms of movement of individuals in border areas should be retained. However, no encouragement should be given to the inhuman activities of gangs smuggling people across the borders.
Visa policy

Regulation (EC) No 2317/95 establishes a list of countries whose citizens require a visa when crossing the external borders of the EU. The accession countries must bear this in mind when they accede. However, some countries included on the list stand accused of systematic human rights violations. When the list is applied it is important to ensure that asylum seekers from such countries are not disadvantaged in terms of access to asylum procedures in the Member States.

Police cooperation

Cooperation between EUROPOL and the competent police authorities of the accession countries is to be subject to scrutiny by Parliament and the courts. With regard to data protection, the scope of directive 95/46/EC should be extended and made binding on third pillar areas.

III. Pre-accession strategy

As part of the pre-accession strategy the candidate countries will receive aid under the PHARE programme and the European initiative for democracy and they will be able to participate in specific programmes in the field of justice and home affairs such as Odysseus, Grotius or Falcone. The 'twinning' schemes under which the Member States of the Union have provided their technical assistance have generally proved very valuable. These programmes should be continued and improved, subject to regular re-evaluation.

CONCLUSIONS

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs calls on the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, as the committee responsible, to incorporate the following points in its draft resolution:

1. Recalls that pursuant to Article 49 TEU and the Copenhagen criteria, candidate countries must satisfy the requirements concerning respect for human rights and incorporation of the acquis communautaire; considers, moreover, that the Union Member States cannot credibly impose the above requirements on candidate countries unless they themselves are beyond reproach where respect for human rights is concerned and accordingly make the necessary advances to that end;

2. Recognises the difficulty faced by the applicant countries in adapting their procedures to conform with an acquis in the field of justice and home affairs which is growing rapidly;

3. Notes that despite the undisputed progress achieved in several candidate countries, respect for human rights continues to be unsatisfactory with regard to:
- the continued use of the death penalty in certain countries, the status of children (in Romania and Bulgaria, in particular), women, homosexuals and conscientious objectors;
- the political, economic, social and cultural discrimination still suffered by certain minorities, in particular Roma in several countries of Central and Eastern Europe and Kurds in Turkey;
- the position of Russian-speakers in some Baltic States, while noting the language-training and other integration programmes which are improving their situation;

4. Calls on the states concerned, as a matter of urgency in the light of this unacceptable situation, to adopt strategies for integrating these minorities and recognising their legitimate rights, and to introduce legislation against discrimination pursuant to Article 13 of the Treaty establishing the European Community; calls on the Observatory in Vienna to draw up concise reports indicating the measures to be taken in the fight against racism;

5. Notes that substantial progress has been achieved in terms of integrating the acquis communautaire in updated legislation in the candidate countries, and calls on the countries concerned to complete their work rapidly both in terms of legislation and in terms of ratification of the international conventions;

6. Notes that virtually all candidate countries still have much more work to do to improve
the operating efficiency of the judiciary and the internal security authorities;

7. Notes that greater commitment apparently needs to be brought to bear in some candidate countries to combat drug trafficking and the production of synthetic drugs in particular;

8. Notes that despite progress in the reform of the courts and the police forces in the candidate countries, significant improvements are still needed in terms of the way in which democracy operates, the independence of the judiciary, co-ordination between departments and the qualifications of officials, for example in the fight against economic and financial crime;

9. Points in particular to the inadequate nature of asylum policy in the candidate countries, notably with regard to statutory provisions and procedures, access to asylum procedures (refugees refused entry at the order or arbitrarily detained), and the lack of co-ordination and unclear division of responsibilities at administrative level; calls on the candidate countries to be guided by best practices in those areas where EU standards are lacking or do not meet international standards:

10. Calls for training programmes for police officers, border guards and court officials to focus on issues of democracy, human rights and the right of asylum; the programme of the future European police academy should be similarly designed;

11. Confirms the need for a common humane asylum system with appropriate respect for the Geneva Convention and the New York Protocol of 1967 which, by creating a refugee fund, makes available to the host countries including the accession countries funds for appropriate reception procedures;

12. Takes the view that reform of the Dublin Convention is a major component of the EU's internal preparations for enlargement to avoid a disproportionately large number of asylum applications in the future Member States because of their geographical location;

13. Draws the attention of the Commission and the Council to the fact that the control measures at the future external borders need to pay due consideration to traditional cross-border economic and cultural relations between frontier populations;

14. Calls for a better balance between programmes for developing border checks and those for the reception and protection of refugees; calls therefore on the Commission to involve international organisations and NGOs in planning, implementing and evaluating these programmes; calls for an increase in pre-accession aid for these areas;

15. Is of the opinion that police cooperation requires appropriate scrutiny by Parliament and the courts and that the EUROPOL convention should be modified accordingly; with regard to data protection, an instrument should be adopted to establish a standard of safeguards under the third pillar equivalent to the guarantees afforded by Directive 95/46/EC;
16.  Calls on the candidate countries concerned to crack down more firmly on corruption;

17.  Calls on the Commission to treat as priority matters, in the future accession partnership with Turkey, the strengthening of fundamental and human rights and recognition of the rights of Kurdish and other minorities;

18.  Expects to be informed regularly by the Council and the Commission on the progress of the enlargement negotiations and on the work of the expert group set up by the Council in 1998 to assess the adoption and efficient transposition of the acquis\(^1\) in the candidate countries.

\(^1\) OJ L 191, 7.7.1998, p. 8