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REPORT

on the Council report on justice and home affairs: EU priorities and policy objectives for external relations
(7653/2000 – C5-0102/2001 – 2001/2051(COS))

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

Rapporteur: Adeline Hazan

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PROCEDURAL PAGE

By letter of 28 June 2001, the Council forwarded to Parliament a report on justice and home affairs: EU priorities and policy objectives for external relations (7653/2000 – 2001/2051(COS)).

At the sitting of 15 March 2001 the President of Parliament announced that she had referred the report to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy for its opinion (C5-0102/2001).

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had appointed Adeline Hazan rapporteur at its meeting of 25 April 2001.

The committee considered the Council report and the draft report at its meetings of 15-16 October and 20-21 November 2001.

At the last meeting it adopted the motion for a resolution unanimously.

The following were present for the vote: Graham R. Watson, chairman; Adeline Hazan, rapporteur; Mary Elizabeth Banotti, Alima Boumediene-Thiery, Charlotte Cederschiöld, Carlos Coelho, Gérard M.J. Deprez, Francesco Fiori (for Marcello Dell'Utri, pursuant to Rule 153(2) of the Rules of Procedure), Daniel J. Hannan, Jorge Salvador Hernández Mollar, Anna Karamanou, Sylvia-Yvonne Kaufmann (for Giuseppe Di Lello Finuoli), Margot Keßler, Timothy Kirkhope, Eva Klamt, Alain Krivine (for Pernille Frahm), Jean Lambert (for Patsy Sørensen), Baroness Sarah Ludford, William Francis Newton Dunn (substitute), Elena Ornella Paciotti, Paolo Pastorelli, Hubert Pirker, Jürgen Schröder (for Hartmut Nassauer pursuant to Rule 153(2) of the Rules of Procedure), Joke Swiebel, Anna Terrón i Cusí and Christian Ulrik von Boetticher.

The opinion of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy is attached.

The report was tabled on 21 November 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

MOTION FOR A RESOLUTION

European Parliament resolution on the Council report on justice and home affairs: EU priorities and policy objectives for external relations (7653/2000 – C5-0102/2001 – 2051/2001(COS))

The European Parliament,

- having regard to the Council report (7653/2000 – C5-0102/2001¹),
 - having regard to Article 37 of the EU Treaty,
 - having regard to Rule 47(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy (A5-0414/2001),
- A. having regard to the conclusions of the Tampere European Council of 15 and 16 October 1999, calling for stronger external action in the area of justice and home affairs,
- B. having regard to the worrying development of organised crime in all its forms (trafficking in human beings, forgery, drug trafficking, cybercrime, etc.),
- C. whereas the establishment of priorities for external relations in the area of justice and home affairs must above all give impetus to a deepening of the European area of freedom, security and justice, inter alia through firm support for moving forward preparations for the introduction of the instruments provided for in these areas at Tampere,
1. Stresses the importance of the external dimension of EU policy in the area of justice and home affairs, in establishing an area of freedom, security and justice, and reiterates the need to integrate justice and home affairs issues into the implementation of other Union policies, most notably in the protection of human rights;
 2. Considers that a synergistic approach should be taken in international cooperation and that this should be introduced as a matter of extreme urgency in order to create a common front with effective operational means to combat international terrorism, which constitutes a global threat to peace and democracy;
 3. Notes that, mainly as a result of the diversity of the legal bases and the multiplicity of institutional players and procedures involved, the EU has hitherto restricted itself to isolated measures and has proved incapable of implementing a genuine external strategy in the area of JHA;

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4. Considers it essential, therefore, to take the measures needed to establish a coherent, coordinated and proactive European strategy in this area and to integrate justice and home affairs issues into the definition and implementation of other Union policies and measures;
5. Considers it important, despite the inherent complexity of distributing competencies in this area between the first, second and third pillars, to seek greater coherence between international activities in the area of JHA, particularly between initiatives of the Member States in accordance with Article 37 of the Treaty on European Union and the Commission's action programme;
6. Takes the view that it is also necessary rapidly to undertake a simplification of the existing administrative structures, inter alia by reducing the excessive number of committees involved;
7. Supports, therefore, the suggestion made in the report of mobilising all the human resources available in the EU institutions and the Member States (diplomatic and consular missions, Commission delegations) and of making them aware of JHA issues;
8. Wishes these administrative reforms to be put in place rapidly so that the EU can develop an external strategy in the area of JHA in accordance with clearly defined priorities;
9. Is of the opinion that this external strategy must be based on measures meeting the criteria of subsidiarity and Community added-value and forming part of a long-term plan, while nevertheless being capable of implementation within a reasonable time;
10. Takes the view that the priorities of the external JHA policy should include:
 - coordination amongst EU Member States and candidate countries as regards training for the judiciary and police authorities, thereby assisting in facilitating the effective adoption of the JHA acquis by applicant states;
 - reinforcement of the dialogue between EU Member States and third countries examining the causes of migration, readmission clauses and external border controls, in addition to addressing the needs of asylum seekers; with this in mind, consideration could be given to establishing a policy of codeveloping and extending information measures and campaigns in and with countries of origin and transit;
 - support for the development and implementation of a broad and cohesive anti-discrimination policy on the basis of Article 13 of the EC Treaty, to include the fight against racism and xenophobia, in cooperation with the NGOs working in these areas;
 - preventing and effectively combating organised crime in all its forms (trafficking in arms, drugs and human beings, cybercrime, etc.);
 - enhanced cooperation in aiming to prevent all forms of organised crime, especially trafficking in human beings;
 - establishing close forms of cooperation with third countries in fighting racism, xenophobia and all forms of discrimination;

- extending the competence of Eurojust in coordinating anti-terrorist cooperation with third countries;
 - developing joint efforts to protect children's rights, with full application of the International Convention on the Rights of the Child of 20 November 1989 as the ultimate aim;
11. Considers that the EU's external policy is an important tool for exerting a positive influence over the development of non-Member State partners in the area of justice and home affairs and calls on the Commission to make full use of all the possibilities for judicial and police cooperation available within the various agreements (association agreements, partnership and cooperation agreements, Stability Pact, Cotonou Agreement); also hopes that these measures will be supplemented by other forms of flexible cooperation in which civil society is involved (the collective and industrial realms) in order to combat effectively scourges such as organised crime, trafficking in human beings, money laundering, illegal trafficking and fraud, which are a threat to the European Union, the States concerned and their societies;
 12. Considers it vital to establish a strong link between the European Union's immigration policy and development aid policy by attempting to reduce, through international agreements, potential conflicts of interest between countries of origin, transit and destination and by promoting the economic and social development of the least developed countries;
 13. Supports the idea of a European initiative to encourage the return of skilled immigrants working in the European Union to their countries of origin and of preventing, as far as possible, the 'brain drain' from these countries, particularly through the use of various instruments such as the integrated development aid programmes;
 14. Stresses the need to adopt a common asylum policy containing minimum standards for the reception and temporary protection of asylum seekers;
 15. Notes with concern that a certain level of corruption persists in the administrations of the countries applying for membership which, if care is not taken, may compromise the efforts made by these countries to achieve reform and also the impact of the Community's financial aid; in this respect, supports a joint initiative launched by the Council of Europe and the European Commission (the Octopus project);
 16. Considers that the fight against money-laundering at the international level must be waged on all fronts simultaneously (legal, educational, political) and at all levels (national, European, international) in order to be effective;
 17. Stresses the need to place more emphasis on non-military aspects of security through police cooperation with regions in crisis.
 18. Takes the view that it is the job of the European Parliament to exercise effective controls over external JHA policy, inter alia by means of:
 - periodic consultation regarding the overall strategy pursued, priorities and results;

- specific democratic oversight of the activities of Europol;
- reinforcement of the role of Members of the European Parliament in EU delegations to international conferences;

19. Instructs its President to forward this resolution to the Council and Commission and the parliaments of the Member States.

EXPLANATORY STATEMENT

I. EXTERNAL RELATIONS: A MAJOR COMPONENT OF THE AREA OF FREEDOM, SECURITY AND JUSTICE

1. A wider field of action

The EU's external policy in the area of JHA is particularly important. It constitutes the essential counterpart to measures carried out inside the EU. Whether in the areas of European immigration policy, the fight against large-scale crime or respect for fundamental rights, implementation of European measures is indivisible from an external strategy, given that these matters, by their very nature, involve non-EU-members or, indeed, the whole international community.

External relations in the area of JHA fall into three major categories:

- consolidating the rule of law both in the context of enlargement and in that of the EU's commitments vis-à-vis states in democratic transition (Balkan stability pact, Barcelona process with the Mediterranean countries, partnership with the Russian Federation, etc.);
- immigration policy (partnership and co-development agreements with countries of origin; external border controls and the fight against illegal immigration);
- the fight against large-scale crime in all its forms (drug trafficking, trafficking in human beings, money laundering, the fight against terrorism, etc.).

2. Complex implementation

(a) A multiplicity of legal bases

An external JHA strategy is essential. But its implementation is complicated by the large number of legal bases applicable and the many institutional and administrative constraints arising from them.

The EC Treaty includes a number of provisions on which the international competence of the Community is based. Thus the Community (Article 310) is empowered to conclude association agreements with third countries or international organisations. The Commission is instructed to maintain all appropriate relations with the United Nations, the Council of Europe and the OECD (Articles 302 to 304).

Under the Treaty on European Union the Presidency of the Union represents the EU and assumes responsibility for implementing external policy (Article 18 TEU). Specifically, as regards Title VI (police and judicial cooperation on criminal matters, Article 37 TEU), it is for the Member States to adopt and defend common positions in this area. Mention should also be made of the link between JHA and development policy (Title XX EC Treaty) and commercial policy (Article 133 EC Treaty).

This large number of legal bases inevitably results in great administrative complexity, which in its turn results from the variety of institutional players (Council: the groups and committees concerned; Commission: different Commissioners and DGs) and the many different procedures involved.

(b) the need for reinforcement of the EU's external activities in the area of JHA

The Tampere European Council (15-16 October 1999), conscious of the need to reinforce the external dimension of JHA, called on the Council to draw up specific recommendations along these lines.

This request led to a report to the Feira European Council (June 2000). This report defines the priorities and the appropriate means of incorporating JHA matters fully in the EU's external policy.

It is this report, which was forwarded for information to the EP, which we are currently considering. The Laeken European Council in December should be presented with a report on the progress of work in this area.

II. TOWARDS AN EXTERNAL STRATEGY IN THE AREA OF JUSTICE AND HOME AFFAIRS

For the reasons set out above, external JHA measures have hitherto been reactive, fragmented and lacking in any capacity for anticipation. In order to remedy this situation, an external EU strategy in the area of JHA must be devised using new methods, with new tools and bearing in mind a number of priorities.

1. New methods

(a) Criteria for establishing priorities

In order to establish priorities for an external strategy for JHA the report lists five criteria. In order to be ranked as priorities, EU measures should:

- be necessary for the establishment of policies agreed in the framework of the area of freedom, security and justice;
- give Community added-value in accordance with the subsidiarity principle;
- contribute to the general political objectives of the EU's external policy;
- be achievable within a reasonable period;
- form part of a long-term plan, i.e. be applicable for longer than the six-month period of a Presidency.

(b) Improving administrative structures

The current working structure of JHA includes no group, with the exception of the high-level working group on asylum and immigration, with an external-relations remit allowing of a 'cross-pillar' approach combined with overall coherence of the EU's external policy in this area. As a first step, the excessive number of committees should be reduced.

The higher coordination groups (the committee under Article 36 on police and judicial cooperation on criminal matters; the strategic committee on immigration, frontiers and asylum; the committee on civil law issues) have no overall view of JHA since they have only

partial competence in the area.

Only Coreper is in a position to provide this coherence, since it has all the relevant information provided by the Commission and the groups and bodies concerned, as well as assistance from the JHA and External Relations advisors.

The objective, therefore, would be to give Coreper the task of supervising external action in the area of JHA and to establish long-term planning and a process of periodic evaluation of results.

(c) New tools

As regards the new tools to be employed to reinforce external action in the area of JHA, the report recommends:

- *from the institutional point of view*

seeking greater coherence between the various procedures, i.e. between the general rules that are applicable to negotiation in international bodies and for the conduct of bi- or multilateral relations (subjects covered by Title IV of the EC Treaty: visas, asylum, immigration) and those governing the adoption of common positions (Title VI of the EU Treaty: police and judicial cooperation in criminal matters; Article 37). Initiatives by the Member States should be rationalised and made coherent with the Commission's scoreboard.

- *role of the EP*

It is also essential to give the PE oversight of external policy in the area of JHA, which is not the case at the moment.

Inter alia, therefore:

- the EP should be regularly consulted on the Council's external JHA policy (annual report);
- in the framework of the revision of the Europol Convention, democratic controls over this body should be established (cf. for example, the power of Europol's director to negotiate agreements);
- the role of EP Members in EU delegations to international conferences should be strengthened.
- *from an administrative point of view*

Mobilisation of the human resources working in the EU institutions and in the Member States. It is recommended that the Member States' diplomatic and consular missions and Commission delegations to third countries should be made more aware of justice and home affairs issues.

- *from a financial point of view*

The establishment, over and above existing general programmes already having a JHA aspect

(Phare, Tacis, Meda), of flexible financial instruments to handle one-off cooperation objectives with applicant countries or third countries.

2. Priorities

We will restrict ourselves here to briefly mentioning the main priorities.

(a) consolidation of the rule of law

Consolidation of the rule of law in the applicant countries (incorporation of the JHA *acquis*) is a condition of membership. Technical assistance from the Member States with judicial and police training should be reinforced and more effectively coordinated. In addition, the applicant countries should be involved forthwith in all EU work in the area of JHA, as the Belgian Presidency intends to do.

The same objective of cooperation and coordination of measures by the Member States should be pursued as regards consolidation of the rule of law in, for example, the Balkans, Russia, Ukraine and the Mediterranean, in order to implement a genuine EU strategy. Also, the EU should be provided with a capacity for civil crisis management (deployment of a force of 5 000 police for international conflict-prevention and conflict-management missions).

(b) immigration and asylum

In the area of immigration and asylum the main objectives of EU external policy relate to gathering information on the geopolitics of migrations and establishing dialogue with third countries of origin of migrants and asylum seekers. At present five action plans are in operation (with Afghanistan, Morocco, Somalia, Iraq and Sri Lanka).

The EU is also cooperating with the UNHCR, the Balkan States, the Mediterranean countries and the developing countries with a view, in particular, to harmonising readmission clauses.

Controls on the EU's external borders in particular in the context of enlargement is also an important aspect of the fight against illegal immigration.

(c) the fight against large-scale crime

The pressure of large-scale crime, particularly the emergence of new forms of crime (cybercrime), makes international cooperation essential to the establishment of a European area of freedom, security and justice. It is the subject, for example, of the strategy to prevent and control organised crime adopted in 2000, and of the negotiations between Europol and third countries.

As far as the fight against drugs is concerned, external action is also vital because of the international nature of the phenomenon.

7 November 2001

**OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS, HUMAN RIGHTS,
COMMON SECURITY AND DEFENCE POLICY**

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

on European Union priorities and policy objectives for external relations in the field of justice and home affairs

(7653/2000 – C5-0102/2001 – 2001/2051(COS))

Draftsman: Patsy Sørensen

PROCEDURE

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy appointed Patsy Sørensen draftsman at its meeting of 20 March 2001.

It considered the draft opinion at its meetings of 10 September and 6 November 2001.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote: Elmar Brok, chairman; Baroness Nicholson of Winterbourne and Catherine Lalumière, vice-chairmen; Patsy Sørensen, draftsman; Alexandros Baltas, Bastiaan Belder, André Brie, John Walls Cushnahan, Rosa M. Díez González, Monica Frassoni (for Daniel Marc Cohn-Bendit), Bertel Haarder, Joost Lagendijk, Cecilia Malmström (for Paavo Väyrynen), Pedro Marset Campos, Hugues Martin, Linda McAvan, Philippe Morillon, Sami Naïr, Arie M. Oostlander, Reino Paasilinna (for Magdalene Hoff), Doris Pack (for Michael Gahler), Hans-Gert Poettering, Jacques F. Poos, Jacques Santer, Amalia Sartori, Ioannis Souladakis, Hannes Swoboda, Geoffrey Van Orden, Demetrio Volcic (for Pasqualina Napoletano), Matti Wuori, Christos Zacharakis and Robert J.E. Evans (for Gary Titley pursuant to Rule 153(2)).

SHORT JUSTIFICATION

In a globalised world where borders are becoming an irrelevance and the concept of security is changing its emphasis ('democratic security'), phenomena such as organised crime, trafficking in drugs and people, corruption and illegal immigration can only be successfully combated if all parties involved work together: the Member States, the partner countries, civil societies there and the European Union. The latter can and must use external action to help to meet these challenges, which require a united and concerted long-term and consistent approach.

The document drafted by the Council in cooperation with the Commission, adopted by the Feira European Council, contains specific recommendations on the priorities, objectives and measures for this area. Your rapporteur considers it a useful and important contribution which goes in the right direction. However, its implementation should be closely focused on the objectives set, and measures should be taken to ensure that Parliament is regularly informed of progress. In addition, there are some aspects which need particular emphasis and careful analysis.

When dealing with immigration and asylum issues, in particular, it is necessary to enquire into the fundamental causes of these phenomena taken within the socio-economic and political context as a whole, and to adapt our development policy accordingly, making it both coherent and imaginative. More emphasis should be placed on more intensive and open dialogue with non-Member States concerning the prospects for development in their countries and initiatives promoting work opportunities in countries of origin. The new innovations introduced in the Cotonou Agreement with the ACP countries are welcome, since they should encourage democracy, respect for human rights and sustainable development.

Peace in the Balkans is still extremely fragile. Important efforts and initiatives, such as the Stability Pact, run the risk of failure if the rule of law together with the democratic practices that must accompany it, cannot be restored. It is thus essential that in our external policy towards countries in this area the 'justice and home affairs' dimension is fully integrated. The stabilisation and association agreements which act as the contractual basis for relations between the EU and these countries should lay down in concrete terms cooperation methods, and should, for example, include regional cooperation agreements to strengthen judicial powers.

The Mediterranean basin is also arousing grave concerns, particularly as a result of political and economic instability, together with a rise in illegal immigration which often end in a dramatic fashion. The Barcelona process is at a standstill. The implementation of the common strategy towards the region, adopted at the Feira European Council, should provide a framework for deepening political dialogue. But in order to make sure that this does not remain a dead letter, all the parties involved must display determination and there must be adequate resources for the implementation of cooperation projects relating to judicial and police activity.

On the eve of enlargement to the countries of Central and Eastern Europe, we can see a worrying level of corruption in most of them. We must help them to eradicate this by making use of all the forms of cooperation available within the framework of the pre-accession strategy (pre-accession pact on organised crime), including parliamentary political dialogue.

This involves both purely technical work, aiming to plug gaps in the law, and the creation of a civic sense. It is vital for the applicant countries to make a commitment to putting the new legislation adopted in accordance with the international conventions and the *acquis communautaire* into practice through administrative agreements, and to apply them.

The administration of borders is of course an important issue. The code of best practice and recommendations on the Schengen *acquis* could prove very useful to the applicant countries.

The three neighbouring countries of Russia, Belarus and Ukraine, with which the EU will share an eastern border after Poland's accession, have differing and complex political and economic landscapes. It is thus essential that all the possibilities contained within the partnership and cooperation agreements with these countries should be used to help them to consolidate the rule of law and effectively combat scourges such as organised crime, tax fraud and trafficking.

The list does not stop there. Other problems, such as data protection, industrial espionage and cyber-crime, are a sign of the times and demand concerted action from the European Union.

Since the terrorist attacks which shook the United States on 11 September 2001, we have been faced with terrorist acts on an international scale. The European Union will have to meet this challenge through external action, inter alia by developing international cooperation in the field of justice and home affairs. Its ultimate objective is still effectively and globally to combat the scourges which have become international and to 'globalise' legality, compliance with the law and individual freedoms.

CONCLUSIONS

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

1. Considers that a synergistic approach should be taken in international cooperation and that this should be introduced as a matter of extreme urgency in order to create a common front with effective operational means to combat international terrorism, which constitutes a global threat to peace and democracy;
2. Considers that the EU's external policy is an important tool for exerting a positive influence over the development of non-Member State partners in the area of justice and home affairs and calls on the Commission to make full use of all the possibilities for judicial and police cooperation available within the various agreements (association agreements, partnership and cooperation agreements, Stability Pact, Cotonou Agreement); also hopes that these measures will be supplemented by other forms of flexible cooperation in which civil society is involved (the collective and industrial realms) in order to combat effectively scourges such as organised crime, trafficking in human beings, money laundering, illegal trafficking and fraud, which are a threat to the European Union, the States concerned and their societies;
3. Considers it vital to establish a strong link between the European Union's immigration policy and development aid policy by attempting to reduce, through international agreements, potential conflicts of interest between countries of origin, transit and destination and by promoting the economic and social development of the least developed countries;
4. Considers that illegal immigration problems, which are becoming more and more acute, ought to be jointly tackled by the EU, its Member States and non-Member States in an effort to find effective solutions to eliminate the criminal networks whose activities, aided by phenomena such as unemployment, poverty and the lack of prospects, result in human tragedies while benefiting economic operators who have no scruples;
5. Supports the idea of a European initiative to encourage the return of skilled immigrants working in the European Union to their countries of origin and of preventing, as far as possible, the 'brain drain' from these countries, particularly through the use of various instruments such as the integrated development aid programmes;
6. Stresses the need to adopt a common asylum policy containing minimum standards for the reception and temporary protection of asylum seekers;
7. Considers that the free movement of persons, in combination with the free movement of goods and capital, which represents an essential component of the European Union's policy, may give rise, if care is not taken, to unwanted effects by facilitating illegal activity both in the economic and financial field and in the social realm, which may endanger the stability and smooth running of Member States and the confidence and security of citizens;

8. Notes with concern that a certain level of corruption persists in the administrations of the countries applying for membership which, if care is not taken, may compromise the efforts made by these countries to achieve reform and also the impact of the Community's financial aid; in this respect, supports a joint initiative launched by the Council of Europe and the European Commission (the Octopus project);
9. Considers that the fight against money-laundering at the international level must be waged on all fronts simultaneously (legal, educational, political) and at all levels (national, European, international) in order to be effective;
10. Thinks it advisable for specific international cooperation measures to be put in place to facilitate investigation of and action against cyber-crime;
11. Considers that the EU and its Member States should make use of all available synergies and make policies more consistent in order to help the countries of regions as vulnerable as the Balkans and the Mediterranean to achieve and consolidate the rule of law and respect for human rights;
12. Stresses the need to place more emphasis on non-military aspects of security through police cooperation with regions in crisis.