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Committee on Legal Affairs
Committee on Civil Liberties, Justice and Home Affairs
Committee on Constitutional Affairs

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DRAFT REPORT

on the mid-term review of the Stockholm Programme
(2013/2024(INI))

Committee on Legal Affairs
Committee on Civil Liberties, Justice and Home Affairs
Committee on Constitutional Affairs

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(Joint committee meetings – Rule 51 of the Rules of Procedure)

PR_INI

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION	3

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the mid-term review of the Stockholm Programme

(2013/2024(INI))

The European Parliament,

- having regard to its resolution of 25 November 2009 on the Communication from the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen – Stockholm programme¹,
- having regard to the European Council’s Stockholm Programme – An open and secure Europe serving and protecting citizens²,
- having regard to Rule 48 of its Rules of Procedure,
- having regard to the joint deliberations of the Committee on Legal Affairs, the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Constitutional Affairs under Rule 51 of the Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs, the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Constitutional Affairs and the opinions of the Committee on Foreign Affairs and the Committee on Women’s Rights and Gender Equality (A7-0000/2013),

I. The Stockholm Programme and the Treaty of Lisbon

1. Believes that the Treaty of Lisbon brought important positive elements to the area of freedom, security and justice but deplores certain shortcomings in its implementation; is no longer willing to accept that the Council and the Commission, in many instances, continue to act as if the Treaty of Lisbon had not entered into force; requests the fulfilment of the obligation to inform the Parliament ‘immediately and fully at all stages of the procedure’ leading to the conclusion of international agreements; regrets the unacceptable delays in bringing the acts of the former third pillar in line with the Treaty of Lisbon; calls for a case-by-case assessment of the former third pillar acts with regard to how they impact on fundamental rights, with a view to bringing them in line with the new hierarchy of norms of basic, delegated and implementing acts;

The Commission’s right to propose legislation and the ordinary legislative procedure

2. Takes the view that the use of the ordinary legislative procedure has brought lawmaking closer to the people and has given the European Parliament, the only democratically elected Union institution, a greater degree of influence;
3. Notes that, in its communication of 20 April 2010 entitled ‘Delivering an area of freedom,

¹ OJ C 285 E, 21.10.2010, p. 12.

² OJ C 115, 4.5.2010, p. 1.

security and justice for Europe's citizens - Action Plan Implementing the Stockholm Programme'¹, the Commission argued in favour of a more ambitious response to the day-to-day concerns and aspirations of EU citizens and emphasised that the Union must be able to react to unexpected events and be swift in seizing opportunities and in anticipating and adjusting to future trends;

4. Points out that with those very aims in mind the Commission has on several occasions made use of its right to propose legislation under Article 76 of the Treaty on the Functioning of the European Union;
5. Takes the view that the era of large-scale multiannual programmes based on the intergovernmental approach is over, given the array of legal bases provided for by the Treaties in the policy spheres covered by the area of freedom, security and justice, the scope for the Commission to make use of its right to propose legislation and its stated ambition to do so;
6. Encourages the Commission, therefore, to assume its role in framing policies and setting legislative priorities and to make use of its right to propose legislation whenever necessary; states, at the same time, its opposition to any return to the intergovernmental approach which characterised the era prior to the entry into force of the Treaty of Lisbon;

National parliaments

7. Takes the view that the greater role played by national parliaments in the activities of the European Union, as enshrined in Protocols No 1 (on the role of the national parliaments in the European Union) and No 2 (on the application of the principles of subsidiarity and proportionality) annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, has had a positive impact on the development and functioning of the area of freedom, security and justice in particular, not only because the subsidiarity principle is now more likely to be complied with, but also because the broader and closer involvement of the peoples of Europe in the democratic process has made a significant contribution to lawmaking and European policy-making;

Uniform electoral law

8. Notes that, even in the absence of an agreement on a uniform electoral procedure, electoral systems are gradually becoming more similar, in particular as a result of the establishment of political parties at European Union level², the work on drawing up a European statute based on the Commission proposal for a reform of the rules governing European political parties³ and the ban on holding a dual mandate⁴, which has made the office of Member of the European Parliament incompatible with that of Member of a national parliament;

¹ COM(2010)0171.

² Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding (OJ L 297, 15.11.2003, p. 1), as amended by Regulation (EC) No 1524/2007.

³ COM(2012)0499.

⁴ Council Decision 2002/772/EC, Euratom, Article 1(7)(b).

9. Takes the view that the public should be made more aware of Parliament's democratic role and that European election campaigns should focus on genuinely European issues;
10. Takes the view, therefore, that a reform of the electoral procedure will be required in the future in order to enhance the legitimacy and effectiveness of Parliament by strengthening the democratic dimension of Europe and dividing up the seats in Parliament more proportionally among the Member States, in accordance with the principles laid down in the Treaties; considers that a reform of this kind will encourage EU citizens to take part in European elections in their Member State of residence if they are not nationals of that State;
11. Welcomes, nevertheless, as a first step, the adoption of Council Directive 2013/1/EU of 20 December 2012 amending Directive 93/109/EC as regards certain detailed arrangements for the exercise of the right to stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals¹, in that it relaxes the requirements which EU citizens resident in a Member State of which they are not nationals must meet if they wish to stand as candidates in European elections;

Citizens' initiative

12. Welcomes the adoption of the regulation on the European citizens' initiative², which grants EU citizens the same powers to make policy proposals as those already enjoyed by Parliament and the Council;
13. Takes the view that the citizens' initiative can play a key role in identifying matters which should be dealt with at EU level;
14. Deplores, however, the technical problems encountered by the organisers of citizens' initiatives and calls on the Commission to resolve the problems in question;

II. Evaluation of the Stockholm Programme and its implementation

Fundamental rights

15. Is of the view that, in general terms, the implementation of the Stockholm Programme does not live up to its ambition to promote citizens' rights;
16. Calls urgently for measures to address the so-called Copenhagen dilemma, describing a situation in which the Union sets high standards for candidate countries to meet but lacks tools for Member States; announces its intention to set up a Copenhagen Commission within the Committee on Civil Liberties, Justice and Home Affairs;
17. Fears that the economic crisis may develop into a crisis of democracy and believes that strong political leadership is necessary to defend democratic achievements;

¹ OJ L 26, 26.1.2013, p. 27.

² Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative, OJ L 65, 11.3.2011, p. 1.

18. Emphasises that the accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms, as provided for by Article 6(2) of the Treaty on European Union, will strengthen even further the protection of fundamental rights in the Union, as guaranteed by the Charter of Fundamental Rights and the case law of the Court of Justice;
19. Notes that acceding to the Convention will provide citizens with protection in the context of Union action similar to that which they already enjoy in the context of action by individual Member States; points out that this is all the more relevant because the Member States have transferred significant competences to the Union, in particular in the policy spheres covered by the area of freedom, security and justice;
20. Welcomes the fact that acceding to the Convention will offer citizens vital extra protection, in particular in the context of the area of freedom, security and justice;
21. Considers the continued blockage of the review of the Access to Documents Regulation unacceptable;

Judicial cooperation in civil and criminal matters

22. Notes that the Stockholm Programme aims to facilitate the free movement of European citizens by defending and respecting all the rights deriving from a European area of justice, and that judicial cooperation represents the main tool to achieve this objective;
23. Recognises that initiatives in the field of the mutual recognition of legal situations, judgments and documents play a very important role in this respect, as mutual recognition leaves the legal systems of Member States unchanged, but reduces the inconvenience which differences in regulation cause for individual citizens;
24. Considers that mutual recognition requires that citizens and legal professionals trust each other's legal institutions; notes that the strengthening of a truly European legal culture that is fully respectful of the principles of subsidiary and of judicial independence, the establishment of common standards and an understanding of other legal systems plays a very important role in underpinning mutual recognition and trust; points out that mutual recognition and trust can lead to gradual changes in national civil law traditions through an exchange of best practices between Member States;
25. Notes that legislative initiatives in the field of civil law have so far largely been focused on substantive law, to the detriment of procedural law; calls for a greater focus to be put on procedural law in the future;
26. Acknowledges the progress made with the roadmap for procedural rights in criminal proceedings, but regrets that key proposals on legal aid and vulnerable suspects are outstanding and that the level of ambition of the Council seems to be decreasing more and more;
27. Strongly believes that consistency in principles applied in the development of an EU criminal justice area should be a priority and that the EU institutions should cooperate closely with each other in this respect, as outlined in Parliament's resolution on an EU

approach to criminal law¹;

28. Believes that mutual trust between the Member States must be strengthened and that mutual recognition and harmonisation of EU criminal law cannot progress without serious feed-back on the implementation of these rules at Member State level;
29. Believes that an effective justice system is a powerful driver for a prosperous economy;

Internal security

30. Notes with satisfaction the progress made by the Member States and the Commission in the context of the Internal Security Strategy (ISS) and the EU policy cycle on organised and serious international crime; points out, however, that further progress needs to be made, for instance in the fields of cybercrime, protection of critical infrastructure and the fights against corruption, money laundering, terrorist funding and the trade in illegal firearms;
31. Recalls that Parliament is now a fully-fledged institutional actor in the field of security policies, and is therefore entitled to participate actively in determining the features and priorities of the ISS and in evaluating those instruments, including through regular monitoring exercises on the implementation of the ISS, to be conducted jointly by the European Parliament, national parliaments and the Council under Articles 70 and 71 TFEU;
32. Believes that a proper analysis of the security threats to be addressed is an essential prerequisite for an effective ISS;
33. Points out that the current ISS will come to an end in 2014; calls on the Commission to start preparing a new ISS for the period 2015-2019 which takes account of the entry into force of the Treaty of Lisbon and the incorporation of the Charter of Fundamental Rights into Union law; calls on the Council to take Parliament's input for the new ISS properly into account before adopting the new strategy;
34. Acknowledges that cross-border crime is on the increase in the EU and therefore underlines the importance of European law enforcement information exchange; believes that the current 'landscape' of the different instruments, channels and tools is complicated and scattered, leading to inefficient use of the instruments available and to inadequate democratic oversight at EU level; calls for a future-oriented vision on how to shape and optimise law enforcement data sharing in the EU while guaranteeing a robust level of data protection;
35. Calls on the Commission quickly to bring forward proposals to bring cross-border police cooperation instruments adopted under the former third pillar – such as the Prüm Decision and the Swedish Initiative – under the legal framework of the Lisbon Treaty;
36. Welcomes the Commission's proposal for the new Europol Regulation and hopes for a quick advancement of this important legislative dossier so that Europol can be brought

¹ Texts adopted, P7_TA(2012)0208.

into line with the Lisbon Treaty as soon as possible;

Borders and visas

37. Welcomes the conclusion of the negotiations on the Schengen Governance Package; calls on the Commission fully to play its roles as coordinator of the Schengen evaluations and as guardian of the Treaty, in order to avoid any situation that could endanger the functioning of the Schengen area; repeats its position that the Schengen area should, without further delay, be enlarged to include Romania and Bulgaria;
38. Considers the absence of controls at internal borders as one of the major achievements of European integration; requests the Commission to pay particular attention to the absence of controls at internal borders, and firmly rejects all attempts to limit the freedom of movement of persons;
39. Acknowledges that the Schengen area is a kind of laboratory that so far has been developed step by step; is nevertheless of the opinion that a long-term reflection about its further development is necessary; believes that the Schengen external borders should in the future be guarded by European border guards;
40. Welcomes the reform of the mandate of FRONTEX and the agreement on Eurosur; considers that the new rules for the surveillance of sea borders need to be agreed on as soon as possible, that priority should be given to saving the lives of migrants and that the principle of non-refoulement is to be fully respected;
41. Welcomes the successful migration to the Schengen Information System II, the continued roll-out of the Visa Information System and the setting-up of the agency eu-LISA for their operational management; underlines that these new systems now need to stand the test of everyday use; recalls its request that ‘new border management instruments or large-scale data storage systems should not be launched until the existing tools are fully operational, safe and reliable’; is looking forward to the evaluations of the systems foreseen in the respective legal instruments;
42. Calls for a much better implementation of the visa *acquis* and greater harmonisation of visa procedures and practices; believes that common visa application centres should become the standard; calls for an interinstitutional discussion on the objectives of the common visa policy;

Asylum and migration

43. Recalls that in the Stockholm Programme the European Council had underlined ‘that well-managed migration can be beneficial to all stakeholders’; regrets the limited progress made in the adoption of legislation in the field of legal migration, and calls for greater efforts in the future in view of the demographic challenges and the needs of the economy; believes, at the same time, that the integration of migrants requires greater attention;
44. Welcomes the adoption of the asylum package; calls on the Commission to monitor the correct implementation of the package by the Member States as from the date of application;

45. Deeply deplores the failure to make the principles of solidarity and fair sharing of responsibility, as laid down in Article 80 TFEU, a reality; believes that accentuated and more concrete measures will be necessary in the future;
46. Believes that the external dimension of asylum should be expanded, especially in relation to resettlement;

Methods, tools and processes

47. Profoundly deplores the low quality of the policy-making process; observes that the definition of problems, the discussion of possible solutions and the choice between possible options usually does not follow a sequential order, as would be correct, but is rather often done simultaneously; calls on the Commission first to present reports on the issues to be addressed, then to invite a discussion on possible solutions and finally to present legislative proposals;
48. Deplores the absence of an objective evaluation of the progress towards an area of freedom, security and justice and of reliable information on the Member States' implementation of the *acquis*;
49. Proposes a systematic and independent *ex-post* evaluation of new legislation that should also assess the continuing need for legislation in this area;
50. Welcomes the initiative of the Commission in drawing up the EU Justice Scoreboard which aims at ensuring a high-quality justice system in the area of civil, commercial and administrative law since, at the end of the day, the concrete application of laws is in the hands of the courts; calls for the justice scoreboard exercise to assess all justice areas, including criminal justice and all horizontal issues; proposes that data regarding the state of the rule of law, democracy and fundamental rights, and the fulfilment of European values (Article 2 of the Treaty on European Union (TEU)) in all Member States be included as well;
51. Requests the Commission to put more emphasis on overseeing and ensuring the concrete implementation of EU legislation by the Member States; notes that, when the rights of citizens are concerned, this needs to be done as of the first day an act enters into force; considers that more needs to be done in this area, and that the reasons for any failure to implement EU legislation should be identified;
52. Is of the opinion that improving the quality of EU legislation in the area of freedom, security and justice requires a joint effort by the Member States and the European institutions in order to improve the exchange of information on each national system and to provide accurate legal information (on national/regional applicable legislation and standards) as well as information on implementation and practises;
53. Deplores the Council's frequent recourse to strategy documents, such as the drugs strategy and the internal security strategy, which are adopted without any involvement of Parliament;
54. Considers that the development of a European judicial culture is a key prerequisite for

making the area of freedom, security and justice a reality for citizens; calls, with this in mind, for much greater emphasis on, and funding for, EU judicial training for all legal professionals; notes the importance of using a ‘bottom-up approach’ for judicial training schemes, of ensuring the greater accessibility of European law information resources via web technology (i.e. an e-justice portal), of improving knowledge of European law among the judiciary as well as of the linguistic skills of judicial practitioners, and of establishing and maintaining networks in this field; notes that the training of police forces with a European perspective is equally important;

III. Next steps

55. Is of the opinion that guidance, coherence and benchmarks for the area of freedom, security and justice are necessary, and should be ensured in accordance with Article 17(1) TEU; proposes that the multiannual programming be agreed by the three institutions in accordance with this provision of the TEU; looks to the Commission to take appropriate steps to bring this about and to submit a proposal on that basis;
56. Demands that any future programming be prepared in the spirit of the Treaty of Lisbon in a joint exercise of Parliament, the Council and the Commission; takes note of the European Council conclusions of 27/28 June this year according to which the European Council ‘will hold a discussion at its June 2014 meeting to define strategic guidelines for legislative and operational planning in the area of freedom, security and justice (pursuant to Article 68 TFEU)’, considers the envisaged timing as inappropriate;
57. Instructs its President to forward this resolution to the Council and the Commission.