

External dimension of the area of freedom, security and justice

European Parliament resolution of 21 June 2007 on an area of freedom, security and justice: Strategy on the external dimension, Action Plan implementing the Hague programme (2006/2111(INI))

The European Parliament,

- having regard to Articles 2, 6 and Title VI of the Treaty on European Union (TEU) and Title IV of the Treaty establishing the European Community (TEC) dealing with the strengthening of the European Union as an area of freedom, security and justice (AFSJ),
- having regard to the Presidency Conclusions and the objectives defined by successive European Councils since 1999 in the field of the external dimension of the AFSJ, including the Council of 14 and 15 December 2006,
- having regard to the proposal from the Commission on a Council framework decision on certain procedural rights in criminal proceedings throughout the European Union (COM(2004)0328),
- having regard to the proposal from the Commission on a Council framework decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (COM(2005)0475),
- having regard to the Communication from the Commission on a Strategy on the External Dimension of the area of freedom, security and justice (COM(2005)0491) and to the Commission's progress report on the implementation of that strategy (SEC(2006)1498),
- having regard to the Council's Strategy for the External Dimension of Justice and Home Affairs: Global Freedom, Security and Justice, adopted on 1 December 2005 (hereafter called "the Strategy") and to the Council's report on the implementation of that Strategy for the year 2006, endorsed at the 2768th JHA Council of 4 and 5 December 2006,
- having regard to the JHA external relations Multi-Presidency Work Programme (5003/1/7) adopted on 23 January 2007, to the Council's Action-Oriented Paper on improving cooperation on organised crime, corruption, illegal immigration and counter-terrorism between the EU and the Western Balkans (9360/06), the Action-Oriented Paper on increasing EU support for combating drug production in and trafficking from Afghanistan, including transit routes (9305/06) (both adopted by the JHA Council on 1 and 2 June 2006) and to the Action-Oriented Paper on Implementing with Russia the Common Space of freedom, security and justice (15534/06), adopted on 11 November 2006,
- having regard to its previous annual debates on AFSJ and resolutions focused on the external dimension thereof (terrorism, CIA, data protection, migration, trafficking, fighting drugs, money laundering),
- having regard to its recommendation of 14 October 2004 to the Council and to the

European Council on the future of the area of freedom, security and justice as well as the measures required to enhance the the legitimacy and effectiveness thereof ¹,

- having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A6-0223/2007),
- A. whereas the external dimension of the AFSJ is growing as the internal area of freedom, security and justice progressively takes shape under the pressure of an increasingly interconnected world and of the inherent international character of threats such as terrorism, organised crime and challenges such as migration flows; and whereas the external projection of values underpinning the AFSJ is essential in order to safeguard the respect of the rule of law, fundamental rights, security and stability inside the EU,
- B. whereas, by adopting and implementing a coherent strategy for the external dimension of the AFSJ, the EU increases its credibility and its influence in the world and whereas the Strategy can only be accomplished in close cooperation with third countries, including allies such as the United States, and international organisations,
- C. whereas this strategy is an important step towards establishing an internal AFSJ by creating a secure external environment as well as advancing the EU's external relations by promoting the rule of law, democratic values, respect for human rights and sound institutions,
- D. whereas the reinforcement of a true balance between security and justice should be reflected during the preparation and implementation of all the various policies carried out for the purpose of attaining a real and sustainable area of freedom, security and justice,
- E. whereas the political coherence and efficiency of the EU's external action is currently hindered by:
- the complexity of the internal institutional framework within which external agreements and programmes are decided according to the procedures of the first, second and third pillars,
 - the insufficient involvement of Parliament, despite the existing obligations of the Council and Commission to consult and inform Parliament,
 - the power-sharing arrangements between the Community institutions and the 27 Member States,
- F. whereas the EU has a number of policy instruments at its disposal to help implement the Strategy on the external dimension of the AFSJ, such as bilateral agreements (association agreements, partnership and cooperation agreements, stabilisation and association agreements), the EU's enlargement and pre-accession process, the European Neighbourhood Policy (ENP) Action Plans, regional cooperation, individual agreements (with the United States, Japan, China, etc), operational cooperation, development policy and external aid,

¹ OJ C 166 E, 7.7.2005, p. 58.

Presents the following recommendations to the Council and Commission for their consideration:

Improving democratic accountability in the external dimension of the AFSJ

1. Urges the European Council to follow Parliament's present and future recommendations dealing with the EU's external strategy in the AFSJ; recalls that Parliament has an essential role to play in strengthening the accountability of the EU's external action;
2. Urges the Council Presidency and the Commission:
 - to consult Parliament in respect of each international agreement based on Articles 24 and 38 TEU when the agreements affect the fundamental rights of Union citizens and the main aspects of judicial and police cooperation with third countries or international organisations,
 - to keep Parliament regularly informed of the negotiations on agreements dealing with the AFSJ and to make sure that Parliament's views are duly taken into consideration, as provided for by Articles 39 and 21 TEU and by Article 300 TEC;
3. Urges the Council to activate the *passerelle* clause in Article 42 TEU, simultaneously with the constitutional process going forward, which would bring the provisions concerning police and judicial cooperation on criminal matters within the scope of the Community framework, leading to greater efficiency, transparency and accountability, as well as democratic and judicial control; therefore urges the Commission to submit to the Council before October 2007 a formal proposal for a decision activating Article 42 TEU; considers that internal coherence could be improved by the entry into force of the Treaty establishing a Constitution for Europe, in particular by the establishment of the office of the Minister of Foreign Affairs and an external diplomatic service;
4. Calls on the Council to expedite in particular the adoption of framework decisions with regard to the storage, use and exchange of information on criminal convictions and to the codification of procedural rights in criminal proceedings throughout the EU, such as the above-mentioned Commission proposal (COM(2004)0328);

As far as the main objectives of the Strategy are concerned

5. Welcomes the principles set out in the Strategy, especially the need for a partnership with third countries in order to tackle common problems and meet shared policy objectives; stresses the need to coordinate the broad range of instruments at the EU's disposal in order to deliver a tailored and coherent response; emphasises, in addition, the need to coordinate the actions of the Member States and the Commission in order to ensure complementarity and to avoid duplication; considers, given the importance attached by the EU and the Member States to the construction of the AFSJ, that a high level of third-country cooperation in these fields should have a positive impact on their relations with the EU;
6. Highlights the need for the EU to use its conventional relations and instruments with third

countries as an incentive for them to adopt and implement relevant international standards and obligations on JHA issues;

7. Recalls the need to rationalise the work of the Community institutions and the use of existing instruments, and to coordinate the actions of the Member States and actions at EU level in order to ensure a coherent and effective response in the EU's relations with third countries and to avoid duplication; stresses the need for balanced development of the internal and external dimensions of AFSJ;
8. Stresses the need for Parliament to improve the coherence of its external relations activities, which involve a wide array of actors; therefore, calls for the streamlining of activities pertaining to human rights, democratic governance and the rule of law in third countries and in the external dimension of security;
9. Calls on the Council to further clarify its policies as regards the external dimension of the AFSJ and to ensure coordination between geographic Council working groups and groups dealing with justice, freedom and security matters;
10. Notes that it is essential to improve cross-pillar coordination between, and to avoid the duplication of, the various instruments belonging to the AFSJ, the European Security and Defence Policy (ESDP), the Common Foreign and Security Policy (CFSP) and the Community; stresses that the effectiveness of such coordination should be subject to constant review by Parliament; welcomes the steps taken towards improved coherence in integrated civil-military cooperation of the ESDP, particularly in the field of crisis management;
11. Stresses that the planning process of ESDP operations should take into account various flanking or follow-on measures provided by Community instruments in areas pertaining to the rule of law, arms and drugs trafficking, trafficking of women and children, the prevention and the fight against terrorism and organised crime and post-conflict stabilisation, particularly with regard to the Stability Instrument and the European Neighbourhood and Partnership Instrument;
12. Believes that the time is ripe to overcome political impediments to deeper transatlantic cooperation in the broader dimension of freedom and security, on a basis of respect for fundamental rights, for example in the areas of the fight against drug trafficking, organised crime and terrorism, in particular in view of the future civilian ESDP operations in Kosovo and Afghanistan, and in the areas of women's rights and the exchange and protection of personal data; recalls, in this connection, Parliament's calls for the closure of the jail at Guantánamo, stressing that its existence is sending out a negative signal on how to combat terrorism;
13. Urges the promotion, by Member States individually, collectively, and in all appropriate bilateral and international fora, of the diplomatic and peaceful resolution of conflicts around the world, while avoiding the use or the perception of the use of double standards in the pursuit of Europe's foreign, security and human rights policies;
14. Calls for better cooperation between the EU and international organisations, in particular with the Council of Europe and the Organisation for Security and Cooperation in Europe, and stresses the need for enhanced regional dialogue and cooperation on justice, freedom and security issues;

15. Calls on the Commission to strengthen its efforts to support regional cooperation on justice, freedom and security issues through existing bodies, such as the African Union, by encouraging new initiatives in areas where regional cooperation is weak, such as the Middle East and Eastern Europe;
16. Calls on the Commission to continually monitor implementation against the objectives and priorities set in the Strategy and to report on it every 18 months; calls on the Commission to regularly assess the effectiveness of the use of funding in the fields covered by the Strategy; calls on the Council to review progress and priorities on a regular basis, since the external dimension of the AFSJ is growing rapidly;

Strengthening security and human rights

17. Urges the Council, the Commission and the Member States:
 - to make the promotion of democratic standards, human rights, political freedoms and sound institutions an indispensable dimension of relations between the EU and third countries; stresses that this is central to the overall goals of the external dimension of the AFSJ,
 - to keep the European Convention for the Protection of Human Rights and Fundamental Freedoms as the basis for all the negotiations and agreements of the EU and its Member States with third countries,
 - to integrate, in dialogues with third countries on the AFSJ, evidence drawn from human rights international organisations and the verdicts of the European Court of Human Rights,
 - to ensure that fundamental rights form an integral part of any instrument, programme or operational measure linked to the fight against terrorism, organised crime, migration, asylum and border management,
 - to include a human rights clause in agreements with third countries and to assess the effectiveness of these human rights clauses and other AFSJ clauses,
 - to include in every Action Oriented Paper, a section on the human rights situation in the third country concerned; considers that the European Union Agency for Fundamental Rights should help the EU institutions in assessing the compliance of EU agreements with human rights;
18. Advises the Commission, the Member States and the Council to consider the possibility of supplementing activities funded in the field of freedom, security and justice with third countries and regions by providing specific funding for human rights protection and compliance projects;
19. Expresses its concern over the lack of commitment to fundamental rights in the case of certain third countries with which the EU has close links, especially the countries benefiting from the neighbourhood policy and the Russian Federation, where breaches of

the freedom of the press and freedom of expression, in particular, occur, and calls for a more intensive dialogue with those countries on that issue;

20. Is also concerned about compliance with human rights standards by the EU itself, noting the recent example of the CIA-led rendition programmes and all the related questionable practices of several Member States;
21. Calls on the EU and Member States to fully observe the principle of non-extradition to countries where the persons extradited would suffer torture and/or the death penalty; calls on the Council and the Commission to urge the countries with which it has close relations to abolish such practices and to ensure that all persons have a right to a fair trial;
22. Expresses its deep concern at the inadequate legal safeguards in place for EU citizens in cases of personal data being made available to third countries, notably in cases such as PNR, SWIFT and the collection of telecommunication records by the FBI; reiterates its request to the Commission to carry out an inquiry into which categories of personal data belonging to Union citizens are being accessed and used by third countries in their own jurisdictions; stresses that data sharing must take place on a proper legal basis, with clear rules and criteria, in line with Community legislation on the adequate protection of privacy and civil liberties; believes that data sharing with the US must take place in the proper legal context of transatlantic cooperation, and on the basis of EU-US agreements, while bilateral agreements are not acceptable;
23. Regrets the lack of democratic oversight in EU-US relations created by the High Level Contact Group which is composed of representatives of the Commission, the Council and US governmental representatives of the Departments of Justice and of Homeland Security and excludes the European Parliament, national parliaments as well as the US Congress from this dialogue;
24. Recommends a single data protection policy covering both the first and the third pillar; recalls that discrepancies between them affect not only citizens' rights to the protection of their personal data, but also the efficiency of law enforcement and mutual trust between the Member States; to that effect, calls on the Council to adopt, as soon as possible, the proposal for a Council framework decision on the protection of personal data (COM(2005)0475);

Providing Union citizens with a high level of security against terrorism and organised crime

25. Considers that EU counter-terrorism policy should comply fully with the principles of democratic legitimacy, proportionality, efficiency and respect for human rights, in line with the conclusions of Parliament's abovementioned resolution of 14 February 2007 on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners²;
26. Calls on the Commission and the Council to apply, in the context of the fight against international terrorism, the conclusions of the Temporary Committee on Alleged use of European countries by the CIA for the transport and illegal detention of prisoners, as adopted by Parliament on 14 February 2007; recommends, in particular, that all the Community institutions should exercise vigilance in order to ensure that the Member

² *Texts Adopted*, P6_TA(2007)0032.

States' security concerns under no circumstances undermine respect for the human rights of all individuals, including terrorist suspects;

27. Calls on the Community institutions and the Member States to take all possible measures to limit cooperation with third countries that protect and/or fund terrorist organisations; and stresses that a state must fully renounce terrorism before it may benefit from better relations with the EU; urges those states that have not done so to sign and/or ratify all of the UN conventions on terrorism;
28. Emphasises the multifaceted nature of the responses available to the EU, in the field of external action, to combat terrorism and emphasises the need to coherently use all available means; calls on Member States to further work towards a common UN definition of terrorism;
29. Recalls the need to assess the effectiveness of international initiatives in the field of anti-terrorism measures (e.g. current revision of the US Patriot Act); emphasises the importance of a proper Community policy on terrorism, as the effectiveness of counter-terrorism measures will improve significantly if the EU speaks with one voice when negotiating such measures with third countries;
30. Recalls the need to enhance cooperation with all leading regional States in fields concerning the fight against terrorism, terrorist recruitment and financing and the protection of critical infrastructure, in a context of respect for fundamental rights and the values of the Union;
31. Calls on the Council to enhance the dialogue with other third countries, to support the development of institutional and capacity building, to further develop and implement the national action plans to counter corruption effectively and to insert counter-terrorism clauses in agreements signed with third countries; considers that greater funding and the use of the newly created Community instruments are needed in this area;
32. Urges those States that have not done so to sign and/or ratify instruments such as the UN Convention Against Corruption, the UN Convention against Transnational Organized Crime and the three Protocols thereto against the Smuggling of Migrants, Trafficking in Persons and the Illicit Manufacturing of and Trafficking in Firearms, and the International Convention for the Protection of All Persons from Enforced Disappearance;
33. Calls on the Council to require the EU's third-country partners to conclude, if they have not already done so, unified extradition agreements using as a model the agreements negotiated with the US on extradition and mutual legal assistance in penal matters for the extradition of alleged terrorist and criminal suspects to stand trial;
34. Stresses the need to ratify the Council of Europe Convention on Cybercrime in order to prevent the misuse, for terrorist and criminal purposes, of data and telecommunications networks accessed from computer systems in third countries;
35. Calls on the Commission and the Council to create standardised procedures for monitoring the production, storage, trade, transport, import and export of arms, explosives and weapons in order to prevent their misuse both within the EU and in third countries;

Strengthening police and judicial cooperation and borders management

36. Calls for more effective police and judicial cooperation, including improved common use of national resources such as liaison officers; stresses that, while the development of institutional capacity and operational cooperation are important in those fields, the EU's activities should be carried out in support of universal standards in relation to human rights;
37. Recommends that Europol should soon be given the power to organise and coordinate operational actions and investigations, to participate in joint investigation teams and to deploy its own liaison officers in priority regions, such as the Western Balkans;
38. Recommends that the EU should negotiate, on the basis of Article 30 TEU, standard police cooperation agreements with the US, ENP countries and other partners; demands that Parliament, as the legitimate democratic representative of the citizens concerned by such an agreement, be actively involved in the dialogue with the US Congress during the negotiations on the future agreement;
39. Supports the progress made as regards the information exchange between the EU and Russia but recalls that improvements are still possible, especially in the field of organised crime and terrorism;
40. Observes that significant improvements are necessary in EU-Russia cooperation in order to reduce the sources of instability in the EU and the ENP area, such as frozen conflicts in Moldova and Georgia and the violent radical tendencies among the Russian minorities in the EU Member States;
41. Urges the Council Presidency and the Commission to conclude international private law conventions which are necessary to safeguard the interests of European citizens in third countries and to work towards the reinforced credibility of the Union and its Member States in this process;
42. Welcomes the agreements on extradition and on judicial cooperation in criminal matters between the EU and the US, which can be considered as a true success; notes that Congress has begun the ratification process for those agreements, and calls on all the EU Member States to do the same; welcomes, in addition, the Eurojust-US cooperation agreement;
43. Calls on the US and all other countries which impose entry visa requirements on selected EU Member States to immediately lift the visa requirement and to treat all citizens of EU Member States equally; regrets the inclusion of an additional "information sharing clause" (a PNR clause) in the proposed changes to the US Visa Waiver Programme;
44. Considers that the EU and the US are crucial and loyal allies in the fight against terrorism and that an international agreement must be concluded in order to ensure that SWIFT complies with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data³; calls for that international agreement to enshrine the necessary safeguards against any misuse of data for economic and commercial purposes; points out that SWIFT should cease its current practice of

³ OJ L 281, 23.11.1995, p. 31.

reproducing all data on its US mirror site;

45. Insists on the fact that effective border controls are crucial to the fight against illegal immigration, and can prove useful in certain cases for combating organised crime and terrorism;
46. Recommends that Frontex should play an operational role in the management of the external borders through an increase in its operational capacities and the provision of sufficient financial, human and technical resources, in application of the principle of solidarity and mutual assistance between Member States that all should share the burden of managing the Union's external borders;
47. Calls for further support to be given to the new Member States in their continued efforts to secure the new eastern external borders of the EU;
48. Supports the increased role of Eurojust and the harmonisation of the powers of its national members, which should enhance its ability to efficiently coordinate and initiate investigations and prosecutions;

Strengthening international solidarity as regards migration, readmission and asylum policies

49. Recommends that the Council adopt a common EU migration policy, including relevant measures to meet effectively the challenges of both legal and illegal immigration; in this context calls for the implementation of the conclusions adopted eight years ago at the Tampere European Council and confirmed by the Lahti informal European Council, of the Hague Programme, and of the conclusions of the December 2006 European Council with regard to the need to apply the global immigration strategy adopted in 2005;
50. Points out that immigration can bring about considerable benefits if properly managed, in solidarity and partnership with third countries, and that the integration of immigrants should be a key component of future EU migration policy; stresses that the EU's actions, aimed at improving the capacity of third countries to manage migration flows and their borders, must be carried out within an effective development policy, taking into account the specific economic and social situation and tackling the real sources of both legal and illegal migration, such as poverty and inadequate human rights in the countries concerned, and should include both aid to assist their capacity to manage migratory flows and aid for effective development and co-development;
51. Calls on the Council to introduce co-decision and qualified majority voting in the fields of legal migration and integration in order to improve decision-making and to complete the process begun in 2005 when the Community method was extended to illegal migration and border controls;
52. Calls on the Council and the Commission to make all possible efforts to ensure that the authorities of the countries of origin and transit cooperate effectively with the EU in order to prevent illegal immigration and combat the organisations involved in the trafficking of people; also calls on the Council and the Commission to undertake a regular assessment of the degree of cooperation of the third countries concerned as regards illegal immigration; stresses, in this connection, the importance of the third-country monitoring and evaluation mechanism for the fight against illegal immigration created by the Council

in 2003 following the initiative of the European Council of 19 and 20 June 2003, held in Thessaloniki;

53. Calls for the establishment, without undue delay, of a common European asylum system and urges the Council to remove any barriers to its creation;
54. Considers the conclusion of readmission agreements as a priority within the wider strategy of combating illegal immigration; recalls the need to have clear, transparent and fair common rules on return; is concerned that readmission agreements signed on behalf of the EU do not explicitly exclude asylum seekers from the scope of the agreements and may, therefore, involve the readmission of asylum-seekers whose claims have not yet been determined on their merits, or whose claims have been rejected or deemed inadmissible pursuant to the application of the "safe third country" concept; calls for safeguards to ensure that the principle of *non-refoulement* is upheld;
55. Recommends negotiating directives on visa facilitation with third countries where possible and on the basis of reciprocity, with a view to developing a real partnership on migration management issues; calls on the Council to encourage the Member States to reduce the cost of visas in order to encourage democratic developments in ENP countries and to avoid creating, in the name of security, further barriers to the legitimate ordinary traveller;
56. Supports the Regional Protection Programmes developed by the Commission in close cooperation with the United Nations High Commissioner for Refugees and the third countries involved, and recalls that it is important to ensure that those who need protection are able to secure it as quickly as possible, regardless of which country or region they are in;

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57. Instructs its President to forward this resolution to the European Council, the Council, the Commission, as well as to the governments and parliaments of the Member States.