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SUOMEN EDUSKUNTA
FINLANDS RIKSDAG

PROGRAMME

JOINT PARLIAMENTARY MEETING
on the initiative of the European Parliament and the Parliament of Finland

FROM TAMPERE TO THE HAGUE: MOVING FORWARD?
PROGRESS AND SHORTCOMINGS IN THE AREA OF FREEDOM, SECURITY AND JUSTICE

Monday 2 and Tuesday 3 October 2006

Hemicycle
European Parliament, Brussels

The Presidency Conclusions of the Tampere European Summit in October 1999, the first ever to be dedicated solely to the area of freedom, justice and home affairs, formed what was called the 'Tampere Programme'. When it came to an end, in 2004, the Commission published an evaluation which highlighted the major obstacles to further progress, such as the predominant requirement for unanimity in the Council and the problems with ensuring that the adopted measures were effectively implemented by the Member States. The successor to the Tampere Programme was adopted in November 2004 in The Hague under the Dutch Presidency.

In its Communication[1] assessing the state of implementation of the Hague Programme published in June 2006, the European Commission affirms that many shortcomings of the Tampere Programme are still in place. It underlines that there are some deficiencies in the transposition of EU legislation in the Member States, which undermine its effectiveness. The Commission also highlights that the implementation of the Hague Programme is confronted with many difficulties, mainly due to the particularity of the decision-making process, such as the separation between 'first' and 'third' pillars[2] or the unanimity which is required in some areas ('third pillar' or legal migration for example).

[1] COM(2006)331, *"Implementing the Hague Programme: the way forward"*
[2] The first pillar refers to the policies that are included in the Treaty establishing the European Community (TEC) such as visas, asylum, immigration and other policies related to movements of

The Commission considers that the 'bridging clauses' (provided for in Article 42 TEU and Article 67 TEC) constitute a solution to overcoming these difficulties in applying the 'Community method' to the policies in the area of freedom, justice and security.
The European Parliament has repeatedly called for the implementation of these clauses[3]. The European Council of 15 and 16 June 2006 also called upon the Finnish Presidency *"to explore (...) the possibilities of improving decision-making and action in the area of Freedom, Security and Justice on the basis of existing Treaties"*. The Finnish Presidency organised an informal Council on Justice and Home Affairs on 20-22 September 2006 where EU Ministers discussed this issue.

Following the Commission's Communication and the informal JHA Council, it seems important to evaluate what has been done until now to implement the Tampere and Hague Programmes and to assess what can still be achieved in the near future to foster European cooperation and to increase efficiency and democratic accountability of measures already adopted in the area of freedom, security and justice. 2006 also marks the tenth anniversary of the "Appel de Genève" and is an opportune moment to assess the progress that has been made in the area of judicial cooperation.

In each session, the discussion could focus on assessing:
- the **effectiveness** of the policies in the area of freedom, security and justice;
- the balance between fundamental **rights and security needs** in these policies.

Practical guidelines for the debate

• Presentations opening each session should be limited to 8 minutes.
• During the discussion, so as to make it possible for the highest possible number of parliamentarians to intervene, speaking time will be limited to three minutes per contribution or question.
• Speakers wishing to supplement their speeches may do so in writing by submitting a document (preferably in English or French) in advance to the secretariat (email: amalia.nicolaidou@europarl.europa.eu). This document will be circulated during the meeting.
• Members requesting the floor are kindly asked to inform the chair indicating their name and Parliament on a special sheet. The floor will be given to Members in the order in which requests are received, and in turn to two Members of national Parliaments, followed by one Member of the European Parliament, and so forth.
• At the end of each session a short amount of time will be reserved to allow some Members to react to what has been said in an intervention limited to one minute (by means of a blue card).

persons (Title IV). The third pillar relates to police and judicial cooperation in criminal matters and these provisions are integrated in the Treaty on European Union (Title VI).
[3] see for example the European Parliament resolution on the next steps for the period of reflection and analysis on the Future of Europe, 14.06.2006, P6_TA-PROV(2006)0263

Monday 2 October 2006

15.00 - 15.30 OPENING SESSION

Welcome by **Mr Jean-Marie CAVADA**, Chairman of the EP Committee on Civil Liberties, Justice and Home Affairs, **Ms Tuija BRAX**, Chairwoman of the Committee on Legal Affairs of the Parliament of Finland and **Mr Matti VÄISTÖ**, Chairman of the Committee on Internal Affairs of the Parliament of Finland

Opening speeches by Mr. **Josep BORRELL FONTELLES**, President of the European Parliament (to be confirmed), and **Mrs Sirkka-Liisa ANTTILA**, Deputy Speaker of the Parliament of Finland

15.30 - 17.00 SESSION 1

DATA EXCHANGE AND DATA PROTECTION: WHAT ARE THE OBSTACLES TO THE IMPLEMENTATION OF THE PRINCIPLE OF AVAILABILITY?

Chair: **Mr. Jean-Marie CAVADA**, Chairman of the EP Committee on Civil Liberties, Justice and Home Affairs

Many initiatives are being developed at the European level to facilitate the exchange of data between Member States' authorities[4] as well as with third countries, especially for police and judicial cooperation.

The main proposal of the Hague Programme in this regard is to create a legal basis and an implementation mechanism for the 'principle of availability': the Commission issued a proposal on the exchange of information under this principle in October 2005[5] but negotiations in the Council on this issue seem in a deadlock. Member States and the European Commission are thus trying to develop alternative approaches, either by restricting the number of countries involved (the Prüm Treaty[6], outside the EU framework) or by 'segmenting' the availability obligation by type of data (see the two recent proposals of the European Commission on the consultation of DNA and fingerprints databases).

The recent ruling of the European Court of Justice on PNR (Passenger Name Records)[7] also shows how crucial the issues of data exchange and data protection are when those data are exchanged with third countries[8].

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[4] such as the proposal of a Framework decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, see the report of Mrs Martine Roure MEP, A6-0192/2006

[5] Proposal for a Council Framework decision on the exchange of information under the principle of availability, COM(2005) 490

[6] The Convention on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration (the Prüm Treaty) was negotiated on the basis of a German initiative and signed by Austria, Belgium, France, Germany, Luxembourg, the Netherlands and Spain on 27 May 2005.

[7] Judgment of the Court of Justice in Joined Cases C-317/04 and C-318/04, European Parliament v Council of the European Union and European Parliament v Commission of the European Communities, 30 May 2006

[8] see the European Parliament recommendation to the Council on the negotiations for an agreement with the United States of America on the use of passenger name records (PNR) data to prevent and combat terrorism and trans-national crime, including organised crime, 07.07.2006, P6_TA-PROV(2006)0354

Do national Parliaments support the implementation of the principle of availability? Is the Treaty of Prüm a desirable form of integration? Do national Parliaments support a rapid adoption and implementation of the Framework decision on the protection of personal data in the third pillar? What is the position of the national Parliaments on the PNR issue?

15.30-16.00: Presentations

Mr. Peter SCHAAR, German Federal Data Protection Commissioner and Chairman of the Article 29 Working Party
Lord AVEBURY, Member of the House of Lords Select Committee on the European Union, Sub-Committee on Home Affairs
Mr. Alexander ALVARO and **Mrs. Sophie IN'T VELD**, Members of the European Parliament Committee on Civil Liberties, Justice and Home Affairs

16.00-17.00 Discussion

17.00-18.30 SESSION 2

WHAT FUTURE FOR EUROPOL?

Chair: **Mr. Matti VÄISTÖ**, Chairman of the Committee on Internal Affairs of the Parliament of Finland

Europol, the European Police Office which became operational in 1999, aims to help the EU Member States cooperate more closely in preventing and combating organised international crime. As it is not part of the EU framework, Europol's activities are subject neither to the supervision of the European Parliament nor to judicial review by the European Court of Justice. Moreover, three protocols[9] amending the original Europol convention and intending to improve Europol's operational capacity have not been ratified by all Member States yet and consequently cannot enter into force.
The European Parliament and several national Parliaments have repeatedly asked for more accountability of Europol. In its communication on the assessment of the Hague Programme, the European Commission declares that it is considering presenting a proposal to replace the existing Europol Convention and that it will be necessary to improve parliamentary oversight and control over Europol's activities. How will this be organised? What can be the role of the national Parliaments? Why not set up a joint parliamentary committee with representatives of the European Parliament and of national Parliaments?

17.00-17.30 Presentations

Mr. Max-Peter RATZEL, Director of Europol
Mr. Hubert HAENEL, Chairman of the European Union Delegation, Senate, France
Mr. Claude MORAES, Member of the European Parliament Committee on Civil Liberties, Justice and Home Affairs

17.30-18.30 Discussion

19.30 Dinner in the Members' Restaurant (ground floor)

[9] According to the Europol Convention (Art. 43 of the Europol Convention) the protocols have to be ratified by Member States in accordance with their respective constitutional requirements.

Tuesday 3 October 2006

09.00-10.30 SESSION 3

AN INTEGRATED MANAGEMENT OF BORDERS FOR A SAFER ENLARGED UNION?

Chair: **Mr. Jean-Marie CAVADA**, Chairman of the European Parliament Committee on Civil Liberties, Justice and Home Affairs

In recent years, considerable progress has been achieved in setting up a common policy on management of external borders: the common corpus of legislation was consolidated and further developed (notably by the adoption of the Schengen Borders Code); the new European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) was given the coordinating role and the idea of burden sharing between Member States is now firmly embedded with the creation of the Borders Fund.

FRONTEX was inaugurated slightly more than a year ago. What conclusions can be drawn from its activities so far and what are the challenges ahead?
The enlargement of the Schengen area to the new Member States is currently under consideration and an evaluation of the implementation of the Schengen acquis in these countries is taking place. It is expected that the Council will decide in 2007 on the lifting of controls at the borders with and between the new Member States. What are the challenges and the difficulties in this regard?

09.00-09.30: Presentations

Mr. Kari RAJAMÄKI, Minister of Home Affairs, Finland
Mr. Ilkka LAITINEN, Director of the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX)
Mr. Urmas REINSALU, Chairman of the Constitutional Committee, Riigikogu (Parliament of Estonia) and **Mr. Seán ARDAGH**, Chairman of the Irish Parliamentary Committee on Justice, Equality, Defence and Women's Rights
Mr. Henrik LAX and **Mr. Michael CASHMAN**, Members of the European Parliament Committee on Civil Liberties, Justice and Home Affairs

09.30-10.30 Discussion

10.30-12.00 SESSION 4

A BALANCE BETWEEN THE INTEGRATION OF LEGAL MIGRANTS AND THE FIGHT AGAINST ILLEGAL MIGRATION?

Chair: **Mr. Matti VÄISTÖ**, Chairman of the Committee on Internal Affairs of the Parliament of Finland

The recent mass influxes of immigrants in Malta, the Canary Islands and Lampedusa highlight the importance of the issue of migration and of the reception of migrants in the European Union. Since the Seville European Council in 2002 and more recently with the Hampton Court informal European Council in October 2005, migration issues are on top of the EU agenda. The Ministerial Euro-African Conference on Migration and Development held on 10-11 July 2006 in Rabat showed that migration policy is linked to development

issues and that the fight against illegal migration should go hand in hand with a policy in the field of legal migration.

On the contrary, over recent years, migration policies that have been developed at European level have focused on illegal immigration and on the development of repressive measures. However, the Hague Programme does not provide only for measures to counter illegal immigration, but also for measures to implement a common immigration policy and to promote the integration of legal migrants. The European Commission published in December 2005 an Action Plan for legal migration and legislatives measures are expected in the near future.
How do national Parliaments assess the implementation of the Hague Programme in this area? How can national Parliaments be involved in the follow-up of the Rabat Action Plan?
More specifically, are national Parliaments aware that the draft Directive on the return of illegal migrants will have a strong effect on national policy concerning detention/retention centres? What is the position of national Parliaments on this specific issue, which is now being negotiated between the European Parliament and the Council?

10.30-11.00 Presentations

Mr. Kari RAJAMÄKI, Minister of Home Affairs, Finland
Mr. Adan MARTIN MENIS, President of the Government of the Canary Islands
Mr. Brunson McKINLEY, Director General of the Internal Organisation for Migration (IOM) (to be confirmed)
Mr. John DENHAM, Chairman of the Home Affairs Committee, House of Commons
Mr. Manfred WEBER and **Mr. Stavros LAMBRINIDIS**, Members of the European Parliament Committee on Civil Liberties, Justice and Home Affairs

11.00-12.00 Discussion

12.00-14.00 Buffet lunch the Members' Restaurant (ground floor)

14.00-15.30 SESSION 5

10 YEARS AFTER THE 'APPEL DE GENÈVE': WHAT IS THE STATE OF JUDICIAL COOPERATION IN EUROPE?

Chair: **Ms. Tuija BRAX**, Chairwoman of the Committee for Legal Affairs of the Parliament of Finland

On 1 October 1996, seven anti-corruption European magistrates from Belgium (Benoit Dejemeppe), France (Renaud Van Ruymbeke), Italy (Edmondo Bruti Liberati and Gherardo Colombo), Spain (Baltasar Garzón Real and Carlos Jiménez Villarejo) and Switzerland (Bernard Bertossa) commonly launched an appeal for the creation of a "European judicial area" in order to tackle the trans-national nature of crime. Ten years later, what has been achieved?
Some progress has been made in this direction (for example the harmonisation of several crimes at the European level, the improvement of the principle of mutual recognition, the creation of the European Judicial Network and of Eurojust), but there are still obstacles to face (cf the European Arrest Warrant) or some issues are still being discussed (European Evidence Warrant).
The 1999 Tampere European Council concluded that the principle of mutual recognition should become the cornerstone of judicial cooperation within the Union. This presupposes

that Member States have mutual trust in each other's criminal justice systems and a common approach to fundamental rights. However, this seems problematic for some Member States: several proposals are blocked in the Council (e.g. the Council Framework Decision on combating racism and xenophobia[10] and the Framework Decision on procedural rights[11]) and in some cases, only agreements *a minima* were reached (e.g. European Evidence Warrant).

14.00-14.30 Presentations

Ms. Leena LUHTANEN, Minister of Justice, Finland
Mr. Bernard BERTOSSA, Mr. Edmondo BRUTI LIBERATI, Mr. Gherardo COLOMBO, Mr. Benoit DEJEMEPPE, Mr. Renaud VAN RUYMBEKE, European magistrates who initiated the 'Appel de Genève'
Mr. Michael KENNEDY, President of the College of Eurojust

14.30-15.30 Discussion

15.30-17.00 SESSION 6

FIGHT AGAINST TERRORISM: HOW TO IMPROVE EFFECTIVENESS AND CONSIDERATION OF FUNDAMENTAL RIGHTS?

Chair: **Ms Tuija BRAX**, Chairwoman of the Committee on Legal Affairs of the Parliament of Finland

Over the past few years, the fight against terrorism has been the basis for the adoption of many legal acts to reinforce European cooperation and set common standards in this field following the terrorist attacks in the US, Madrid and London. The Action Plan on Terrorism (updated in May 2006) detailed the actions to be taken in this area.
However, in the Report on the implementation of the Hague Programme, the European Commission highlighted that *"the EU determination to fight against terrorism does not appear to be correctly translated/relayed at national level where important delays in transposing essential Framework Decision on Terrorism remain in a number of Member States"*.
Moreover, the issues of PNR and Swift have shown that the fight against terrorism cannot be pursued without taking fundamental rights into consideration.

Is the legislation adopted at the European level effective and implemented in the Member States? Are new actions needed to improve and make more efficient the fight against terrorism? What can be done to improve the balance between fundamental freedoms and security needs?

15.30-16.00 Presentations

Mr. Gijs DE VRIES, EU Counter-Terrorism Coordinator
Mr. Martin SCHEININ, United Nations Special Rapporteur on the Protection and Promotion of Human Rights and Fundamental Freedoms while Countering Terrorism
Mr. Enzo BIANCO, Chairman of the Committee on Constitutional Affairs of the Italian Senate

[10] COM(2001)0270, 2001/0270/CNS
[11] COM(2004)328, 2004/0113/CNS, Council Framework Decision on certain procedural rights in criminal proceedings throughout the European Union

Mr. Jaime MAYOR OREJA and **Mr. Javier MORENO SÁNCHEZ**, Members of the European Parliament Committee on Civil Liberties, Justice and Home Affairs

16.00-17.00 Discussion

17.00-17.30 CLOSING SESSION

In this crucial phase for the area of freedom, security and justice, a regular and efficient dialogue between the European Parliament and national Parliaments is needed.
Such a dialogue should aim at an improved transparency in a domain which covers one fifth of the documents submitted to the European Parliament and the Council and should also focus on acts for which there is no clear parliamentary scrutiny such as the EU 'common positions' adopted in the second pillar but dealing with Freedom, Security and Justice issues (e.g. terrorism, fundamental rights...) or the EU international agreements based on articles 24 and 38 of the TEU (e.g. the agreements with Norway and Iceland on the European Arrest Warrant or with the USA on PNR).

Mr. Franco FRATTINI, Vice-President of the European Commission, Commissioner for Freedom, Justice and Security

Conclusions by **Ms. Tuija BRAX**, Chairwoman of the Committee on Legal Affairs of the Parliament of Finland, **Mr. Matti VÄISTÖ**, Chairman of the Committee on Internal Affairs of the Parliament of Finland and **Mr. Jean-Marie CAVADA**, Chairman of the EP Committee on Civil Liberties, Justice and Home Affairs.

29/09/2006