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## **MOTION FOR A RESOLUTION**

further to Questions for Oral Answer B6-0489/2008 and B6-0494/2008

pursuant to Rule 108(5) of the Rules of Procedure

by Gérard Deprez

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

on the annual debate on the progress made in 2008 in the Area of Freedom,  
Security and Justice (AFSJ) (Articles 2 and 39 of the EU Treaty)

**B6-0192/2009**

**European Parliament resolution on the annual debate on the progress made in 2008 in the Area of Freedom, Security and Justice (AFSJ) (Articles 2 and 39 of the EU Treaty)**

*The European Parliament,*

- having regard to Articles 2, 6 and 39 of the EU Treaty and Articles 13, 17 to 22, 61 to 69, 255 and 286 of the EC Treaty, which form the main legal bases for the development of the EU and the Community as an area of freedom, security and justice,
- having regard to Oral Questions to the Council (B6-0489/2008) and to the Commission (B6-0494/2008), debated in plenary on 17 December 2008<sup>1</sup>,
- having regard to Rule 108(5) of its Rules of Procedure,

A. whereas ten years after the entry into force of the Treaty of Amsterdam:

- the EU acquis on justice, freedom and security has been growing significantly, thereby confirming the choice made by the Member States to involve the European Union institutions extensively in policy-making in this area so as to ensure freedom, security and justice to Union citizens,
- a majority of Union citizens, according to Eurobarometer periodic surveys, increasingly feel that EU-level actions have an added value compared to those taken solely at a national level and two thirds of citizens support EU-level actions which promote and protect fundamental rights (including children's rights), as well as the fight against organised crime and terrorism, and only 18% consider that EU-level actions have had no extra benefit,

B. whereas the positive factors mentioned above cannot offset:

- the persistent legal weakness and complexity of the EU decision-making process, notably in areas such as police and judicial cooperation in criminal matters, which lack an appropriate democratic and judicial control at EU level,
- the reluctance of a majority of the Member States to strengthen policies linked to fundamental rights and citizens' rights; at the same time it appears increasingly essential to focus not only on cross-border cases, in order to avoid double standards within the same Member State,
- the continuing need to further develop and correctly implement the EU common immigration and asylum policy, which is facing delays in relation to the timetable agreed on in the Hague Programme and the European Immigration and Asylum Pact,

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<sup>1</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+PV+20081217+ITEM-014+DOC+XML+V0//IT&language=EN>

- the difficulties faced by the Commission in ensuring the timely and correct implementation of much recently adopted Community legislation, together with managing a high volume of correspondence, complaints and a growing infringements case-load,
- the need for a more extensive involvement of the European Parliament and national parliaments in assessing the real impact of EU legislation on the ground,
- the still underdeveloped network of representatives of civil society and stakeholders in each AFSJ policy; it is worth noting that only recently the Ministers of Justice of the Member States decided to build a network aimed at mutually strengthening their national legislation and the same should be done for the other AFSJ areas,
- the fact that, even between EU agencies, cooperation is developing slowly and the situation risks becoming even more complex with the multiplication of other bodies with operational tasks at EU level,

C. whereas it is necessary to recall:

- the continuing prudent position taken by the Council and by the Commission following the adoption by Parliament of its resolution of 25 September 2008 on the annual debate on the progress made in 2007 in the Area of Freedom, Security and Justice (AFSJ)<sup>1</sup>, and during the plenary debates in December 2008 on the protection of fundamental rights in the European Union and on progress in the AFSJ,
  - the support given by national parliaments to wider inter-parliamentary cooperation notably in the AFSJ, as demonstrated by their contributions to the general debates and on specific occasions such as to the revision of the EU rules on transparency, Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism<sup>2</sup>, the new EU-PNR legislation<sup>3</sup>, the implementation of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States<sup>4</sup>, the assessment of Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers<sup>5</sup> and to the implementation of judicial cooperation in criminal and civil matters,
1. Calls on those Member States which have not ratified the Treaty of Lisbon to do so as soon as possible, as it will overcome the more significant shortcomings in the AFSJ by:
- creating a more coherent, transparent and legally sound framework,
  - strengthening the protection of fundamental rights by giving binding force to the

<sup>1</sup> Texts adopted, P6\_TA(2008)0458.

<sup>2</sup> OJ L 164, 22.6.2002, p. 3.

<sup>3</sup> Proposal for a Council framework decision on the use of Passenger Name Record (PNR) for law enforcement purposes (COM(2007)0654).

<sup>4</sup> OJ L 158, 30.4.2004, p. 77.

<sup>5</sup> OJ L 31, 6.2.2003, p. 18.

Charter of Fundamental Rights of the European Union<sup>1</sup> (hereafter 'the Charter') and by allowing the EU to accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms,

- empowering citizens of the Union and civil society by involving them in the legislative process and granting them greater access to the Court of Justice of the European Communities (ECJ),
- involving the European Parliament and national parliaments in the evaluation of EU policies, thereby making European and national administrations more accountable;

2. Calls on the European Council, the Council and the Commission to:

(a) formally involve the newly elected European Parliament in the adoption of the next multiannual AFSJ programme for the period 2010-2014, as this programme, after the entry into force of the Treaty of Lisbon, should be mainly implemented by the Council and Parliament by way of the codecision procedure; given that such a multiannual programme should also go far beyond the suggestions contained in the reports of the Council Future Groups, national parliaments should also be involved as they should play an essential role in shaping the priorities and in implementing them at national level;

(b) focus on the future multiannual programme, and primarily on the improvement of fundamental and citizens' rights, as recently recommended by Parliament<sup>2</sup>, by developing the objectives and principles laid down in the Charter, which the institutions proclaimed in Nice in 2000 and again in Lisbon on 12 December 2007;

3. Considers it urgent and appropriate that the Commission:

(a) take urgent initiatives to improve the protection of citizens' rights such as data protection, diplomatic and consular protection and freedom of movement and residence;

(b) develop a mechanism to ensure a more extensive involvement of citizens in the definition of the content of citizenship of the Union by developing consultation mechanisms and supporting stakeholder networks;

(c) submit a fully fledged programme of EU measures strengthening the procedural rights of defendants and the necessary safeguards in the pre-trial and post-trial phases, notably when they involve a non-national of the country concerned, and more generally develop screening of European criminal justice and security measures with regard to the protection of citizens' rights;

(d) collect and disseminate, on a regular basis, all the relevant neutral data on the

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<sup>1</sup> Text of the Charter: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:303:0001:0016:EN:PDF> Explanations: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:303:0017:0035:EN:PDF>

<sup>2</sup> See its resolution of 14 January 2009 on the situation of fundamental rights in the European Union 2004-2008 (Texts adopted, P6\_TA(2009)0019).

evolution of the main AFSJ policies such as migratory flows, the evolution of organised crime and in particular of terrorism (see the EU Organised Crime Threat Assessment (OCTA) and the EU Terrorism Situation and Trend Report (TE-SAT) by Europol);

- (e) present as soon as possible the pending legal instruments on other 'EU blue card' categories of third-country workers such as seasonal workers, intra-corporate transferees and remunerated trainees and on FRONTEX's mandate; in particular, ensure that FRONTEX has adequate resources in order to meet its objectives and to keep Parliament fully informed of the negotiations on agreements in the field of immigration with third countries;
- (f) establish a European Internal Security Policy, which should complement national security plans so that citizens of the Union and national parliaments have a clear idea of the added value of EU action; in particular, reinforce EU policy regarding the fight against certain types of organised crime such as cybercrime, trafficking in human beings, sexual exploitation of children and corruption, by taking effective action and using all available cooperation tools to achieve measurable results, including action with a view to the adoption of a legislative instrument on the confiscation of financial assets and property of international criminal organisations and on their re-use for social purposes;
- (g) continue to implement the principle of mutual recognition of legal decisions in both the civil and criminal justice spheres, at all stages of the judicial procedure, in particular as regards criminal justice, to ensure a Europe-wide system of recognition and mutual acceptability of evidence, taking the utmost account of respect for fundamental rights;
- (h) supplement the development of mutual recognition by a series of measures reinforcing mutual confidence, in particular by developing some approximation of substantive and procedural criminal law and of procedural rights, improving the mutual evaluation of the functioning of justice systems and improving ways of developing mutual confidence within the judicial profession, such as increasing judicial training and supporting networking;
- (i) build a transparent and efficient EU external strategy in the AFSJ, based on a credible policy, in particular where the Community has exclusive competence, for example in readmission agreements, external border protection and visa policies (as is the case concerning the US visa waiver issue);
- (j) invite the Council to consult Parliament regularly even in the case of international agreements dealing with judicial and police cooperation in criminal matters, as the current refusal by the Council to do so is contrary to the principle of loyal cooperation and of the democratic accountability of the EU; calls on the Commission in particular to present criteria on the development of a proper European policy regarding agreements with third countries on mutual legal assistance or extradition in criminal matters, taking account of the principle of non discrimination between EU citizens and the citizens of the third country concerned;

- (k) introduce specific legislation granting diplomatic and consular protection for all Union citizens whether or not the Member State in question is represented in the third country's territory;
- (l) submit new proposals in order to comply with the ECJ rulings on the protection of fundamental rights in the case of the freezing of assets of natural and legal persons, also with reference to the ECJ rulings relating to the persons listed in the Annex to Council Decision 2008/583/EC of 15 July 2008 implementing Article 2(3) of Regulation (EC) No 2580/2001 adopting restrictive measures directed against certain persons and entities with a view to combating terrorism<sup>1</sup>, notably in Cases T-284/08 PMOI v Council and T-256/07 PMOI v Council;
- (m) strengthen mutual trust and solidarity between the Member States' administrations by:
- setting out, in cooperation with the Council of Europe, higher standards of quality for both justice<sup>2</sup> and police cooperation;
  - strengthening and democratising the mutual assessment mechanisms already provided for in the context of Schengen cooperation and in the fight against terrorism;
  - extending the model of mutual evaluation and assistance between the Member States established for Schengen to all AFSJ policies where citizens from other Member States or from third countries are concerned (such as for migration and integration policies but also for implementing anti-terrorism and anti-radicalisation programmes);
- (n) establish more extensive coordination and complementarity between the existing and future EU agencies such as Europol, Eurojust, FRONTEX and Cepol, as these bodies should go beyond their embryonic and uncertain cooperation and establish closer links with the corresponding national services by reaching higher standards of efficiency and security and being more accountable and transparent before the European Parliament and national parliaments;
- (o) continue to develop and strengthen, on an ongoing basis, the common Union policy on border management, while stressing the need to define, as rapidly as possible, a global architecture for the Union's border strategy, as well as the way in which all related programmes and projects should interact and function as a whole, with a view to optimising the way they interrelate and avoiding duplication or inconsistency;
4. Urges the Commission to make all the necessary efforts with a view to completing the projects concerned and ensuring that the Visa Information System (VIS) and the second-generation Schengen Information System (SIS II) can enter into force as quickly as possible;

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<sup>1</sup> OJ L 188, 16.07.2008, p. 21.

<sup>2</sup> European Parliament recommendation to the Council on the quality of criminal justice and the harmonisation of criminal law in the Member States (OJ C 304 E, 1.12.2005, p. 109).

5. Recommends that the Commission refrain from prematurely submitting any legislative proposals to introduce new systems - in particular the Entry/Exit System - until the VIS and the SIS II are up and running; advocates evaluating the actual need for such a system, given its evident overlap with the set of systems already in place; believes that it is essential to examine any changes needed to the existing systems and to provide a proper estimate of the actual costs of the entire process;
6. Invites the Commission to include in its proposal for a multiannual programme the recommendations outlined above and those submitted by Parliament in its above-mentioned resolution of 25 September 2008, as well as in the following resolutions:
  - resolution of 14 January 2009 on the situation of fundamental rights in the European Union 2004-2008<sup>1</sup>,
  - resolution of 2 April 2009 on problems and prospects concerning European citizenship<sup>2</sup>,
  - resolution of 27 September 2007 on the application of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin<sup>3</sup>,
  - resolution of 10 March 2009 on the next steps in border management in the European Union and similar experiences in third countries<sup>4</sup>,and
  - resolution of 10 March 2009 on the future of the Common European Asylum System<sup>5</sup>;
7. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

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<sup>1</sup> Texts adopted, P6\_TA(2009)0019.

<sup>2</sup> Texts adopted, P6\_TA(2009)0204.

<sup>3</sup> OJ C 219 E, 28.8.2008, p. 317.

<sup>4</sup> Texts adopted, P6\_TA(2009)0085.

<sup>5</sup> Texts adopted, P6\_TA(2009)0087.