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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT**

Report on Implementation of the Hague Programme for 2007

{SEC(2008) 2048}

{SEC(2008) 2049}

(presented by the Commission)

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

Report on Implementation of the Hague Programme for 2007

1. This Communication addresses the European Council's wish for the Commission to submit an annual report on implementation of the Hague Programme and its Action Plan¹. The methodology follows the one used in the first (2005) annual report².
2. The purpose of this exercise is to **monitor adoption of the measures** envisaged in the Hague Programme both at **institutional level** (Part I and Annex 1) and their implementation at **national level** (Part II and Annex 2). This includes the drugs action plan, the strategy covering the external aspects of the area of freedom, security and justice, and the action plan to fight against terrorism, which supplement the Hague Action Plan, in accordance with the set timetable.
3. All the measures proposed for 2007, and those still not achieved since 2005, are therefore explored. The Communication also makes reference, where relevant, to some supplementary actions which, although they were not scheduled in the Action Plan, have nonetheless complemented the work done in the respective policy areas of the Hague Programme.

1. MONITORING THE ADOPTION OF MEASURES SCHEDULED FOR 2007 UNDER THE HAGUE PROGRAMME

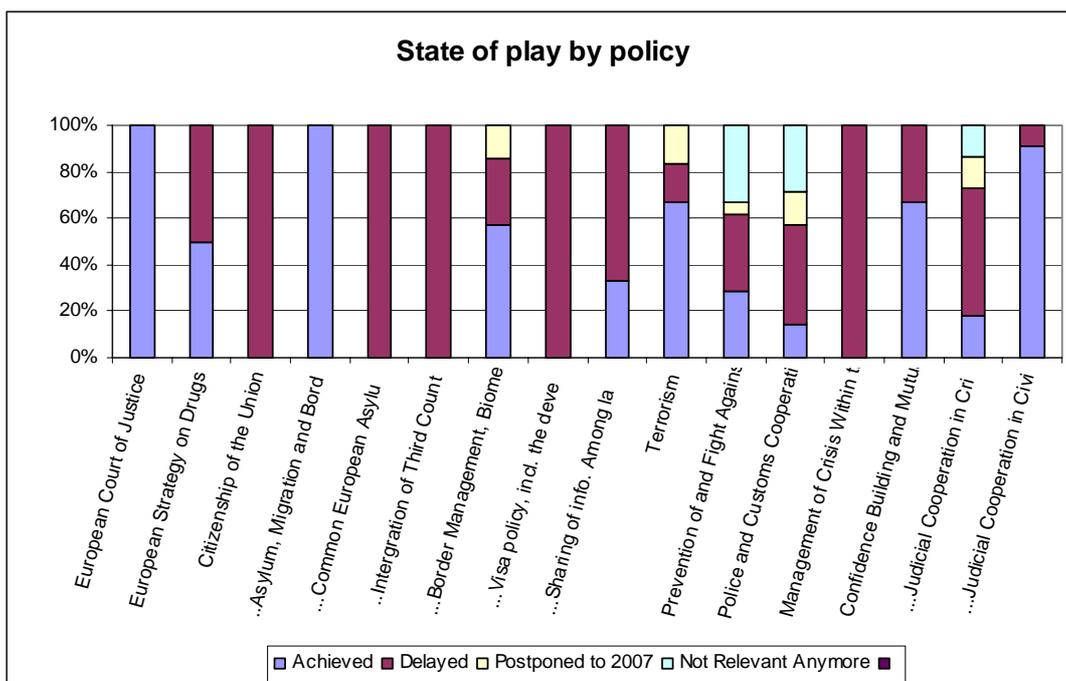
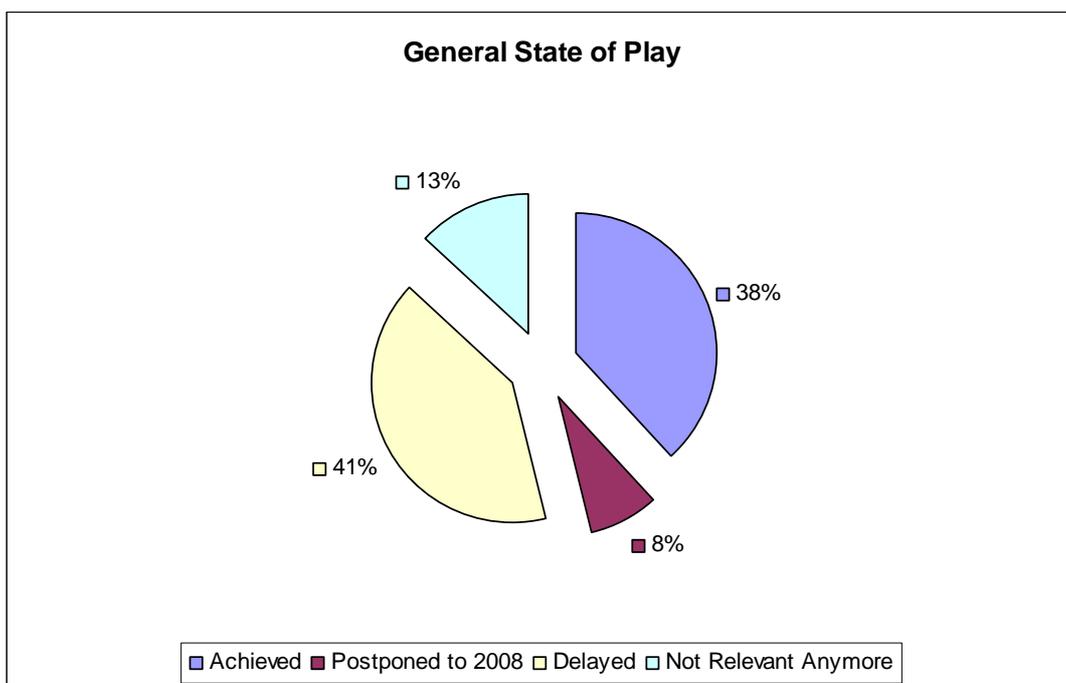
4. **The general overall assessment is *rather unsatisfactory***³. A significant number of actions envisaged in the Action Plan (see, in particular, measures under sections 1.3.3. and 1.4.2.) had to be abandoned or delayed, either because they were superseded by events or because priorities shifted to other areas. Moreover, the timing of some actions had to be reconsidered, taking into account possible developments in the institutional context.
5. The 2007 report reveals a **lower rate of achievement (38% of measures achieved)** compared to 2006 (53% achieved), with a substantial increase in actions that had to be delayed: 41% compared to 27% in 2006.
6. **Table 1** presents the state of play for institutional measures planned for 2007 (or actions not achieved in previous years) or ongoing actions⁴ in the Hague Action Plan.

¹ The Hague Programme: strengthening freedom, security and justice in the European Union (OJ C 53, 3.3.2005, p. 1), and the Council and Commission action plan implementing the Hague Programme on strengthening freedom, security and justice in the European Union (OJ C 198, 12.8.2005, p. 1).
² COM(2006) 333 final.

³ The assessment of the level of achievement refers both to presentation of Commission proposals and initiatives and their adoption by the Council and the European Parliament.

⁴ Akin to previous reports, ongoing actions have not been included in the graphs. Nevertheless, details of these actions can be found both in the annexes and the main text of the Communication.

7. A **satisfactory level of achievement** occurred mainly in the following areas: Migration and Border Policy, Terrorism, Confidence Building and Mutual Trust and Judicial Cooperation in Civil Matters.
8. An **insufficient level of achievement** was evident in the following areas: Visa Policy, Sharing of Information among Law Enforcement and Judicial Authorities, Prevention of and the Fight against Organised Crime, Management of Crises within the European Union, Police and Customs Cooperation and Judicial Cooperation in Criminal Matters.



1.1. General Orientations

1.1.1. European Court of Justice

9. On 1 March 2008, the European Court of Justice adopted a new procedure to enable it to **deal more quickly** with very urgent questions referred for a preliminary ruling. This innovation, whose need emerged during the Hague Programme discussions, will reduce the time taken to hear cases involving the interpretation of Title IV of Part Three of the EC Treaty of Title IV of the Union Treaty.

1.1.2. European Strategy on Drugs

10. **Actions** for 2007 outlined in the 2005-2008 EU Action plan on Drugs have been **partially achieved**.
11. A Communication on the 2007 Progress Review of the Implementation of the EU Action Plan on Drugs (2005-2008) was adopted on 10 December. The final evaluation and a proposal for a new Action Plan will be submitted in 2008.
12. Some delays have been experienced in publication of the report on the implementation and functioning of the Framework Decision on drugs trafficking scheduled for 2007. The Commission will submit it by May 2009 because it has been decided that it is in the interest of a proper evaluation to keep to the timetable set out in Article 9(2) of the Framework Decision.

1.2. Strengthening Freedom

1.2.1. Citizenship of the Union

13. **Some progress** has been made in this area. The Commission presented a Communication on effective consular protection in third countries on 5 December 2007⁵, which followed its 2006 Green Paper. However, a European citizens' initiative, envisaged for 2007, could not be presented because the current treaties do not provide the legal basis for establishing the provisions and conditions required for such an initiative.

1.2.2. Asylum, Migration and Border Policy – Common Analysis of migratory phenomena in all their aspects

14. Developments in this area have been **satisfactory**. The proposal establishing the European Migration Network (EMN) was put forward by the Commission on 10 August 2007 and, consequently, the Justice and Home Affairs Council agreed to a general approach on a draft Decision establishing the EMN on 6 December 2007. Formal adoption by the Council should take place during the first half of 2008.

⁵ *Effective consular protection in third countries: the contribution of the European Union. Action Plan 2007-2009, COM(2007) 767 final.*

1.2.3. *Common European Asylum System*

15. Some progress towards further development of the Common European Asylum System (CEAS) can be reported, but overall the **results** in this field are nonetheless **mixed**.
16. An evaluation of the transposition and implementation of the legal instruments (including the ones on migration) of the first phase of the CEAS was carried out in 2007. Notably, reports evaluating the Dublin System and the Directive on reception conditions were published in 2007. The final results will be assessed and made available in 2008 as a part of the Policy Plan (see below, paragraph 17).
17. In 2007 a Green Paper on the second phase of the CEAS was published and the results of a wide consultation are being turned into an Asylum Policy Plan to be presented in 2008. Moreover, an amendment to the Long-Term Residents Directive⁶ was tabled in order to extend its scope of application also to the beneficiaries of international protection.
18. Studies on the joint processing of asylum applications initially intended for 2006 have been delayed.

1.2.4. *Legal Migration*

19. Apart from assessment and monitoring of the transposition and implementation of the first-phase directives on legal migration (see paragraph 16 above), **several initiatives** not included in the Action Plan were **undertaken in 2007, in particular** a Communication on circular migration and mobility partnerships between the European Union and third countries⁷ and two major legislative proposals tabled on 23 October⁸. Informal contacts have already taken place with Moldova and Cape Verde towards the possible establishment of Mobility Partnerships with each of these countries.

1.2.5. *Integration of Third-Country Nationals*

20. In September 2007, the Commission adopted the **Third Annual Report on Migration and Integration**. The development of a **website on integration**, which was initially scheduled for 2006, has been delayed and will now be launched during the fourth quarter of 2008.

1.2.6. *Fight Against Illegal Immigration*

21. Progress in this area has been **constant** and **consistent** with the idea that, unless effective measures are taken to combat illegal immigration, the credibility of Europe's migration policy will be irreparably undermined. To this end, the most

⁶ COM(2007) 298 final.

⁷ COM(2007) 248 final.

⁸ Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (COM(2007) 637 final), and proposal for a Council Directive on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (COM(2007) 638 final, Brussels, 23.10.2007).

significant initiative has been a proposal for a Directive providing for sanctions against employers of illegally staying third-country nationals⁹. Although actions against illegal employment were not included in the Action Plan for 2007, the Commission decided to put forward this proposal, as it considers illegal employment to be the major driving force behind illegal immigration. The aim of the proposal is to ensure that all Member States introduce similar preventive measures and penalties, and enforce them effectively. In fact, it is vital that all EU Member States take all the necessary measures to ensure respect for the rule of law and legality across the EU.

22. Further activities were launched during 2007, namely further work on the possibility of **greater FRONTEX involvement** in the development of liaison officer networks, and the publication of the second annual report on the common policy on illegal migration.
23. The negotiations and conclusion of **six readmission agreements** with Ukraine, Moldova, Serbia, the Former Yugoslav Republic of Macedonia (FYROM), Bosnia and Herzegovina, and Montenegro were accomplished by the end of 2007. All those agreements entered into force on 1 January 2008.

1.2.7. Border Management, Biometrics, Information Systems and Visa Policy

24. **Good progress** was made in this area.
25. **Evaluations of the Schengen Information System** were carried out in September 2007 in full compliance with the relevant Schengen evaluation procedures. Likewise, the Council Decision on the **lifting of controls at land and sea borders with and between the new Member States** was adopted on 6 December 2007. The dismantling of **air borders was completed** on 31 March 2008. Nine Member States (CZ, EE, HU, LT, LV, MT, PL, SI, SK) joined the Schengen area in December 2007.
26. A Commission proposal establishing a mechanism for creating **Rapid Border Intervention Teams** was adopted by the European Parliament and the Council on 11 July 2007. Moreover, an evaluation report on the **External Border Agency** was submitted on 13 February 2008 as part of the Commission's border package, which also includes two Communications, one on possible new tools for developing border management and a second one on a European border surveillance system.
27. Formal adoption of the Council Regulation amending Regulation (EC) No 1030/2002 laying down a **uniform format for residence permits for third-country nationals** took place on 17 April 2008.

1.2.8. Visa Policy, including the Development of the Visa Information System (VIS)

28. Results in this field are **mixed**.
29. The visa facilitation agreement with Russia entered into force on 1 June 2007. Moreover, the visa facilitation agreements with Ukraine, FYROM, Serbia, Montenegro, Bosnia and Herzegovina, Albania and Moldova were negotiated and signed in 2007 and entered into force on 1 January 2008.

⁹ COM(2007) 249 final.

30. The Commission has continued its efforts to ensure that the citizens of all Member States can travel without a short-stay visa to all third countries whose nationals can travel to the EU without a visa. Despite progress in relation to some third countries (Australia, Canada), there still remain other third countries in connection with which reciprocal visa-free travel for citizens of all Member States has not yet been achieved.
31. Following the **political agreement** on the VIS legal package in June 2007, a new project schedule has been drawn up under which the central VIS is planned to be “available for operation” at the end of May 2009.
32. The Hague Programme provides for the establishment of **common visa offices** in the long term, taking into account discussions on the establishment of a European External Action Service. As a first step, it invited the Commission to submit a proposal on the establishment of common application centres. An amendment to the Common Consular Instructions envisaging such a possibility was submitted by the Commission in 2006 and is currently under discussion in the Council and in the European Parliament. However, the Commission has been actively involved in establishing the first two such centres hosted at Member States’ consulates in Moldova and Montenegro.

1.3. Strengthening Security

1.3.1. Sharing of Information among Law-Enforcement and Judicial Authorities while Striking the Right Balance between Privacy and Security

33. Strengthening freedom, security and justice requires an innovative approach to the cross-border exchange of law-enforcement information. **Some progress** has been accomplished in this area.
34. A political agreement was reached in June 2007 on the German initiative for a Decision to transpose most of the non-Schengen-related Third-Pillar part of the **Prüm Treaty** into the institutional mechanism of the European Union, including fingerprints, DNA and vehicle registration data. Once the text is adopted, this can be considered as partial implementation of the principle of availability. Further implementing legislation was also presented in October 2007 (refer to Annex 1).
35. After extensive consultations with Member States, national and international associations, the proposal concerning a common EU approach on the use of passenger data to fight terrorism and organised crime (**EU PNR**) was adopted by the Commission on 6 November 2007, as part of a comprehensive Counter-Terrorism Package (see below, paragraph 41).
36. Moreover, the development of links between SIS II and the Europol information system, which was launched in 2006, is ongoing. It should be noted that **Europol is already connected to SISone4all**.

1.3.2. Terrorism

37. **A considerable effort** has been made in this field. It is worth noting that implementation of the EU Action Plan on Combating Terrorism has continued in all four areas (prevention, protection, prosecution and response).

38. On the basis of information collected in a study report on a Cross-Border Crisis Network for Member States concluded in January 2008, the Commission decided not to pursue the creation of a **European Law Enforcement Network (LEN)**.
39. Throughout 2007, the Council discussed the report on the **peer evaluation mechanism presented** by the Council General Secretariat. In the light of the recommendations of the peer evaluation of national anti-terrorism arrangements, various actions were identified for strengthening national capabilities to combat terrorism.
40. The Commission's work on thwarting the production and spread of chemical, nuclear and biological arms is ongoing. The Commission is preparing a **comprehensive policy package on CBRN** for June 2009, encompassing the expertise of all the respective Commission services. It will consist of a communication on CBRN, an Action Plan on bio-preparedness, an Action Plan on radiological and nuclear threats, a Commission staff working paper covering security and health, as well as a Green Paper on containment of chemical threats.
41. Finally, it needs to be mentioned that **additional initiatives** designed to complement those outlined in the Hague Action Plan have been taken on board, namely through the adoption on 6 November 2007 of a comprehensive Counter-Terrorism Package, including the proposal concerning an **EU PNR** (see above, paragraph 35), an Action Plan on explosives, and a proposal revising the Framework Decision on the Fight against Terrorism (on the basis of the evaluation report concerning the Framework Decision). The latter initiative — on which the Council agreed a common approach already in April 2008 — is intended to harmonise national provisions on public provocation to commit a terrorist offence, recruitment and training of terrorists, so that these forms of behaviour are punishable throughout the EU also when committed through the Internet, and to ensure that existing provisions on penalties, liability of legal persons, jurisdiction and prosecution applicable to terrorist offences apply also to such forms of behaviour.

1.3.3. Prevention of and the Fight against Organised Crime

42. **A number of actions have been completed in this area** — the adoption of the annual Organised Crime Threat Analysis (OCTA) report by Europol (June 2007); the setting-up of a Financial Investigation Steering Group; the review of the implementation of legislation concerning trafficking in human beings; the report on implementation of the Framework Decision on Confiscation of Crime-Related Proceeds, Instrumentalities and Properties; and the report on the work programme concerning customs cooperation.
43. However, globally, progress in this field has been **largely unsatisfactory**. The main reason behind this lack of progress is that after examination by the Commission, several actions (such as the issuance of a working paper on criminal-intelligence-led law enforcement, the development of recommendations for a standard methodology for vulnerability in crime-proofing, a recommendation and/or proposal for enhancing transparency of legal entities to reduce vulnerability to infiltration by organised crime) were deemed to be no longer feasible, or as measures to be better developed at Member State level.

44. Some other actions had to be **delayed**. Amongst these, the presentation of a comprehensive European Crime Report, the setting of common standards in financial investigation skills (envisaged for 2009), and the adoption of a Framework Decision on participation in a criminal organisation, which was agreed at political level at the June 2006 JHA Council but has not yet been formally adopted due to one parliamentary reservation in a Member State.

1.3.4. *Police and Customs Cooperation*

45. **Insufficient progress** has been made in this area. After careful consideration, the Commission concluded that some actions were **no longer feasible** (the Communication on the fight against illicit cross-border trafficking in restricted or prohibited goods), or superseded by other actions (this is the case of the proposal for a Directive on improved transport safety and increased security through the creation of an area of police and judicial cooperation on the trans-European transport networks, superseded by the initiative mentioned in paragraph 58 below). Other measures have been **delayed**.

46. In 2007 the Council presented its report on the implementation and evaluation of the work programme concerning customs cooperation for the period 2004-2006.

47. Commission-led discussions on the development of a common methodology and setting up short-duration joint customs and police operations and/or multidisciplinary joint teams are still ongoing.

48. The German proposal for a **network of European anti-corruption authorities** was politically agreed at Council level in June 2007. The setting-up of this network had to be postponed as adoption in Council is expected in 2008, following consideration of the opinion of the European Parliament.

49. Work is progressing on implementing the 2004 Council Conclusions related to the fight against organised crime in the **Western Balkans**. The new SECI Convention (Southeast European Cooperative Initiative), which will enable SECI to cooperate more closely with Europol, is being finalised for adoption under the Slovenian Presidency.

1.3.5. *Management of Crises within the European Union*

50. The Commission wants to coordinate efforts in Member States and ensure that efficient alert and information systems are in place to protect the main elements of critical infrastructure. A Commission legislative proposal creating a **critical infrastructure warning information network** (CIWIN), originally envisaged for 2005, **has been delayed** and might be presented by end 2008. A prototype system was delivered in January 2008 and presented to Member States.

1.3.6. *General Crime Prevention*

51. **There have been ongoing developments in this area**. Several expert groups have met over the past two years to discuss the establishment of European instruments for collecting, analysing and comparing information on crime and victimisation, also taking into account the respective trends in Member States. The groups study the feasibility of using different tools in this respect. Specific actions have been carried

out, in particular to prevent violence in sport (hooliganism): the Commission organised a high-level conference on the matter on 28 and 29 November and actively participated in the various expert groups on security and safety at sport events.

1.4. Strengthening Justice

1.4.1. Confidence Building and Mutual Trust

52. Progress in this area has been **satisfactory**. Judicial cooperation both in civil and criminal matters could be further enhanced by strengthening mutual trust and by progressively developing a European judicial culture based on the diversity of Member States' legal systems and unity through European Law.
53. The **European Judicial Training Network (EJTN)** was formally established in accordance with Belgian law in 2006. Various EU workshops to promote cooperation between members of the legal professions with a view to establishing best practices are provided on a regular basis by the European Training Institute (ETI) and the EJTN.
54. A Commission Communication **on the creation of a Forum for discussing EU justice policies and practice** was adopted on 4 February 2008. This Forum will bring together practitioners, academics and representatives of justice administrations to provide the Commission with feedback and input for the evaluation mechanism.

1.4.2. Judicial Cooperation in Criminal Matters

55. The rate of achievement in this policy field has been **rather low**.
56. The timing for several actions (such as the proposal on driving disqualifications, the proposal on completing the European Evidence Warrant, and the Green Paper on the handling of evidence) had to be reconsidered in order to take account of possible institutional developments in these areas.
57. In other cases, actions have been superseded by other measures which were considered to be more suitable (such as the Green Paper and the proposal on *in absentia* judgments, following the presentation of a legislative initiative by the Slovenian Presidency). In other cases, it was considered not advisable to proceed with legislation at EU level given insufficient proof of EU added value (for example, following the results of the Impact Assessment of the proposal on the protection of witnesses and collaborators of justice).
58. On 19 March 2008 the Commission adopted a proposal for a Directive aimed at facilitating the cross-border enforcement of **traffic offences through technical measures** which will enable EU drivers to be identified and thus sanctioned for offences committed in a Member State other than the one where the vehicle is registered.
59. The Commission adopted on 11 July 2007 the second report on the implementation of **the Framework Decision on the European Arrest Warrant and the surrender procedures** between Member States.

60. The report on the implementation of the 2003 Framework Decision on the execution in the European Union of orders freezing property or evidence had to be postponed to 2008 due to non-transmission of information by several Member States.
61. The Commission proposal on the conclusion and on the signature of the **Council of Europe Convention against money laundering and terrorist financing** (Warsaw Convention) on behalf of the EC is not making progress in the Council due to disagreements between Member States, and thus its adoption had to be delayed.
62. Regarding the Commission proposal on conclusion of the United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, delays are caused by the need to await the implementation of relevant legislation by Member States, notably Directive 91/477/EC and the draft Regulation on an export/import licensing system. Therefore, ratification of the UN Firearms Protocol will be possible once the provisions of the Directive are transposed into national legislation (by 2010) and the Regulation is adopted and in force (in principle not before the end of 2009).

1.4.3. Judicial Cooperation in Civil Matters

63. There has been **substantial progress** in this field.
64. The **Regulation on the law applicable to non-contractual obligations (“Rome II”)** was adopted by the European Parliament and the Council on 11 July 2007.
65. Similarly, on 7 February 2007 the Commission adopted the Green Paper on the *acquis* review concerning the common frame of reference in the field of European consumer contract law. The adoption of the second Green Paper on the effective enforcement of judgments in the European Union, concerning the transparency of debtors’ assets, took place on 6 March 2008.
66. The **Directive on certain aspects of mediation in civil and commercial matters** should be formally adopted by June 2008 following a second-reading agreement between the co-legislators (the European Parliament endorsed the Council Common Position on 23 April 2008).
67. In November 2007, a final agreement was reached regarding the negotiations on the Convention on Maintenance Obligations at the XXI Plenary (Diplomatic) Session of the Hague Conference on Private International Law. The new **Lugano Convention** on Jurisdiction, Recognition and Enforcement of Judgments in Civil and Commercial Matters concluded by the Community and Norway, Iceland and Switzerland was signed on 30 October 2007. The Commission has already proposed its ratification by the Community.

2. MONITORING NATIONAL TRANSPOSITION

2.1. Methodology

68. This exercise concerns first of all the legislative instruments that require transposition by the Member States — **Directives** and **Framework Decisions**. For the purposes of this report, the cut-off date was **31 March 2008**.

69. The table in Annex 2 covers all the instruments with a transposition deadline that expired on the cut-off date.

70. The **methodology** adopted for the purposes of this Report is the same as that explained in the Report on Implementation of the Hague Programme for 2005.

2.2. Monitoring Policy-by-Policy

2.2.1. General Guidelines

71. As regards **fundamental rights**, Directive 95/46/EC on personal data protection has met its objectives. However, some Member States are still failing to incorporate a number of important provisions of the Directive, while in others, transposition or practice has not been in line with the Directive. A number of non-compliance or incorrect application infringement proceedings have been opened, with one Member State being referred to the Court.

2.2.2. Union Citizenship

72. From 30 April 2006, the key Directive 2004/38/EC (which consolidates and updates the free movement rights of EU citizens and their family members) repealed and replaced a number of legal instruments concerning free movement of EU citizens and third-country nationals. After an initial delay in transposition, transposition efforts have been stepped up. However, a number of Member States have only partially fulfilled their communication obligation. As a result, a number of infringements proceedings are still open, with some Member States having reached the stage of litigation¹⁰.

73. Concerning previous Community legislation on free movement rights of persons, which Directive 2004/38/EC consolidated, infringement proceedings for non-compliance or incorrect application are still pending for three Member States. All these cases are at the advanced litigation stage, ranging up to that of a reasoned opinion under Article 228 of the EC Treaty.

2.2.3. Asylum, Migration, Borders

74. In the field of **asylum**, the notification of transposition measures is generally **rather slow**. The Directive laying down minimum standards for the reception of asylum seekers has been transposed satisfactorily in the majority of Member States by now. However, nine Member States have not yet fulfilled their communication obligation regarding the Directive on minimum standards for the qualification and status of refugees or persons who need international protection. Measures fully transposing the more recent Directive on asylum procedures have not been communicated by thirteen Member States.

75. As regards **legal migration**, efforts have been geared towards stepping up notifying measures transposing Directives on family reunification and on the status of long-term-resident third-country nationals. However, respectively one and three Member

¹⁰ Although the “old” free movement instruments have expired, their provisions have been taken over and consolidated by Directive EC/2004/38.

States have not yet fulfilled their obligation, which is more than two years after the transposition deadline. The Court has ruled against most of these Member States for non-communication. For three Directives, two on the conditions of admission of third-country nationals for, on the one hand, studies and similar activities and, on the other, for scientific research, and another on third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, respectively three, ten and two Member States still lag behind the transposition deadline.

76. As for illegal immigration, progress has been achieved in completing transposition of the three least recent instruments¹¹. Concerning more recent instruments, **transposition progress is mixed**. Three Member States appear to have particular difficulties in fully transposing the Directive on assistance in cases of transit for the purposes of removal by air, and the Court has ruled against them for non-communication. As regards the Directive on the obligation of carriers to communicate passenger data, two Member States still lag behind the transposition deadline.

2.2.4. *Security*

77. Implementation of the instruments for fighting against organised crime and for police and customs cooperation, in particular the conventions and protocols adopted on the basis of Title VI of the EU Treaty, is difficult to evaluate because of the nature of the instruments concerned, which make no provision either for a formal duty for Member States to notify or for reports monitoring national implementation. **Their speedy ratification remains the first priority**.

78. Thus, compliance and/or application at national level of legal instruments concerning terrorism and prevention of and the fight against organised crime is **very difficult to assess**, as often there are neither any reports provided for by these instruments, nor any obligation for the Member States to communicate appropriate national measures. Concerning the Framework Decision on cooperation between financial intelligence units, most Member States can be largely considered to be legally compliant with most of the Decision's key requirements.

79. Concerning police and customs cooperation, progress has been achieved in ratifying the Naples II Convention. Further efforts are required by a number of Member States regarding the level of transposition of the Common Position on exchanging data with Interpol.

2.2.5. *Justice*

2.2.5.1. Criminal Justice

80. As in the area of 'security' (2.2.4 above), the assessment of national implementation in this policy field is difficult, given the nature of the instruments adopted and the more limited powers of the Commission and the Court of Justice.

¹¹ The Directive on mutual recognition of decisions on expulsion of third-country nationals, the Directive supplementing the Convention implementing the Schengen Agreement, and the Directive on facilitation of unauthorised entry, transit and residence.

81. In the **mutual recognition** field, the European Arrest Warrant is operational in all Member States, although a considerable number of them need to make an effort to fully comply with the Framework Decision.
82. The implementation of the Framework Decision on execution of orders freezing property or evidence remains disappointing. More than two years after the implementation deadline, twelve Member States have not yet fulfilled, or only partially fulfilled, their communication obligation.
83. No information has been available so far on the Framework Decision on financial penalties.
84. Concerning harmonisation instruments in the field of judicial cooperation in criminal matters, a limited number of Commission reports were released during the period examined by this Communication. Thus, reports on instruments related to protection against euro counterfeiting, corruption in the private sector, instrumentalities and proceeds from crime generally indicate overall unsatisfactory transposition in the Member States assessed. Also, the number of Member States that have not yet fulfilled their communication obligation varies, but remains high.
85. As for the Framework Decision on combating terrorism, all Member States have communicated their transposition measures. Implementation of the main provisions can be considered satisfactory, although some deficiencies remain.
86. Progress has been achieved by another four EU-12 Member States¹² in ratifying the Convention on the Protection of the European Communities' Financial Interests and its protocols. Regrettably, the second protocol is not yet in force because of lack of ratification by one Member State.

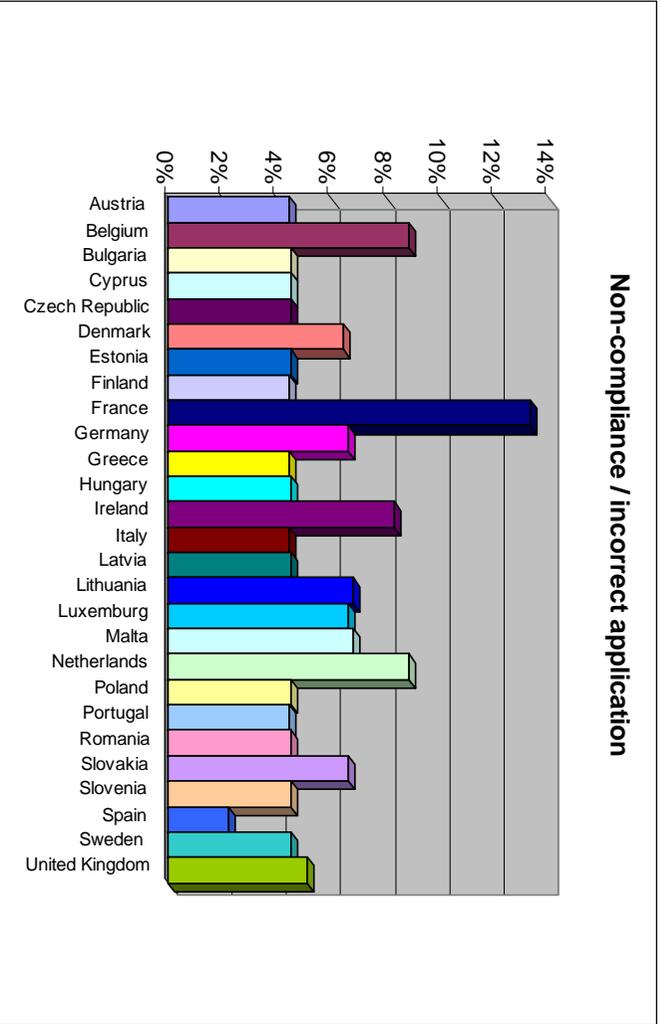
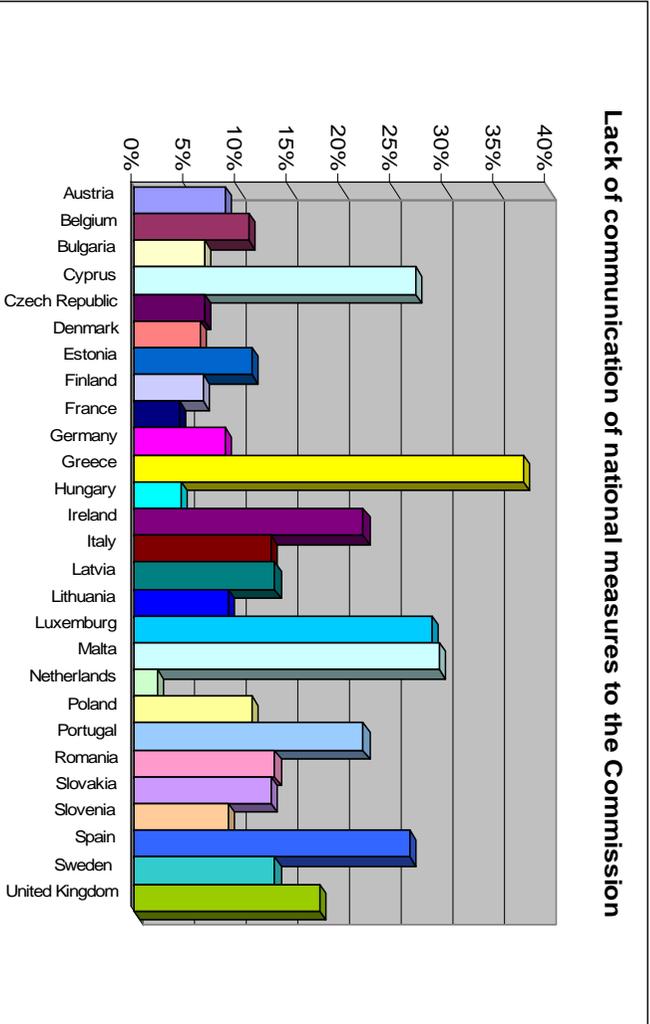
2.2.5.2. Civil Justice

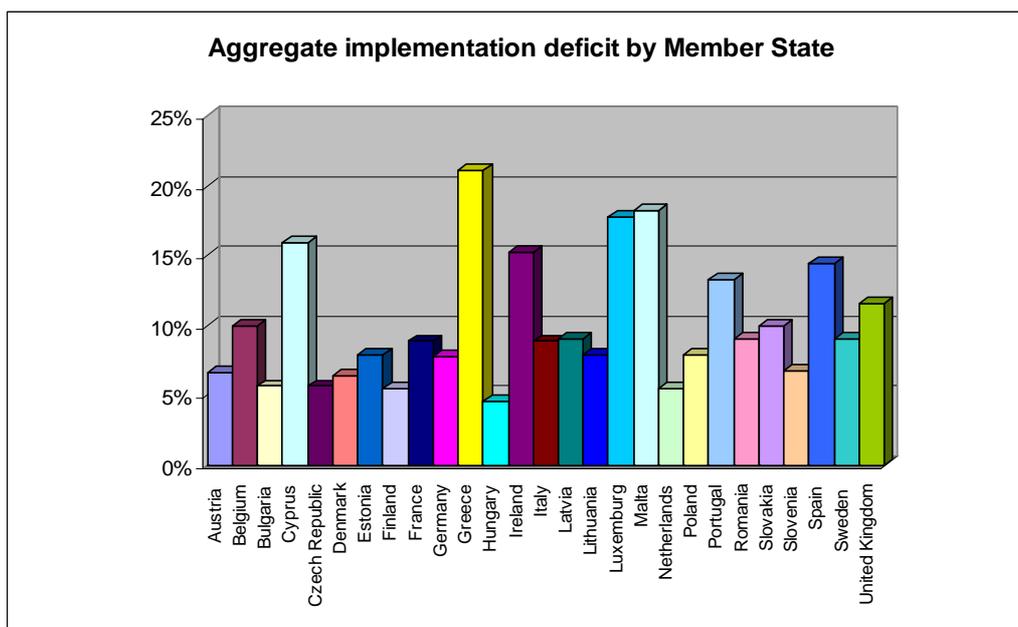
87. The transposition of two Directives relating to legal aid and to compensation for crime victims has progressed, but with one Member State appearing to have particular difficulties.
88. The general level of application of two Regulations — one on cooperation between courts in the taking of evidence in civil or commercial matters and the other on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters — can be considered satisfactory.

2.3. Monitoring by Member State

89. The following overall data, all instruments combined, can be derived from the two indicators appearing in the table in Annex 2. The first two tables reflect Member States' failures to notify transposition measures and cases of incorrect transposition or application respectively. The third table gives aggregate figures for the two categories.

¹² This refers to those Member States which acceded to the EU in 2004 and in 2007.





3. CONCLUSIONS

90. The third annual monitoring report concerning the Hague Action Plan **broadly confirms the trends of the previous reports.**

91. As in 2005 and 2006, **insufficient progress has been made, especially in areas mainly related to the “Third Pillar”**, such as prevention of and the fight against organised crime, police and customs cooperation and judicial cooperation in criminal matters. The only area under the Third Pillar in which good progress has been made is the **fight against terrorism**, which in fact continues to be one of the main political priorities in the Justice and Home Affairs area.

92. In line with the 2005 and 2006 results, the achievement rate in **“First Pillar”** actions is the highest. **Significant developments** were made in those areas where the political priority is high, such as migration, border management and civil judicial cooperation.

93. Concerning legal instruments under Title IV of the EC Treaty, and in terms of communication of national transposition measures, some Member States (such as Germany or Italy) have achieved considerable progress in comparison to the situation as examined in last year’s report. However, the situation remains disappointing for a number of Member States that fail to comply with the transposition deadline, with delays in transposition often exceeding one year and at times amounting to several years.

94. As for legal instruments under Title VI of the EU Treaty, efforts both for timely as well as complete implementation should be stepped up. Even though progress has been achieved by Member States for some of the legal instruments during the last year, lengthy delays in communicating transposition measures have been noted for Framework Decisions. Such delays sometimes amount to several years, and in the absence of transposition of EU instruments at national level, led to a “virtual” legislative framework in police and judicial cooperation on criminal matters.

Furthermore, transposition by the Member States examined is often incomplete or incorrect.

95. Although there are different reasons for the overall drop in progress during 2007, the slow progress in matters involving Title VI of the Treaty on the European Union confirms the concerns expressed by the Commission in its previous reports, and the **need to improve decision-making** in these areas.
96. In order to **re-launch and give new impetus to EU action**, particularly in those areas which have seen little progress in the past few years, the Commission intends to present a **Communication on the future of justice, freedom and security policies** during 2009. This Communication will constitute the basis for discussing and preparing the new multiannual programme in the JLS area for the period 2010-2014 and will be the successor to the Tampere and the Hague Programmes.
97. The **Immigration Communication and the Policy Plan on Asylum** adopted on 17 June, will serve as a basis for launching the debate on future developments in those areas, which will then feed into the 2009 Communication on the new multiannual programme.