

EN

EN

EN



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.6.2009
COM (2009) 262 final

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

An area of freedom, security and justice serving the citizen

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

An area of freedom, security and justice serving the citizen

Wider freedom in a safer environment

1. Introduction

People want to live in a European Union that is prosperous and peaceful, where their rights are respected and their security protected. They want to be able to travel freely, and to move temporarily or permanently to another European country in order to study, to work, to found a family, to set up a business or to retire. But they are disturbed to see that the context of stability and security that has prevailed in Europe in recent years is threatened by worldwide developments.

The economic and political difficulties facing the European Union and the world, and the complex challenges of the future, call for solutions that are global and lasting. At a time when mobility is growing on a worldwide scale, Europeans are entitled to expect effective and responsible action at European level in areas that affect them so strongly.

Towards a citizen's Europe in an area of freedom, security and justice

Freedom, security and justice are key values that form an integral part of the European model of society. They are a cornerstone of European integration. The Union has already succeeded in providing its citizens with a single market, economic and monetary union, and the capacity to meet global political and economic challenges. It has also made substantial progress towards an area of freedom, security and justice; the priority now has to be to put the citizen at the heart of this project.

Substantial progress made

The Maastricht Treaty brought justice and home affairs into the European Union framework: they had previously been dealt with only at intergovernmental level. Since then justice and home affairs have experienced a steady increase in the degree of integration between Member States and in the role of the European Parliament and of the Court of Justice. The consolidation of these policies, which are of fundamental importance to the ordinary citizen, was given strong political impetus by the Tampere and Hague programmes.

There have been numerous successes in the last ten years:

- The removal of controls at internal borders in the Schengen area allows more than 400 million citizens of 25 countries to travel without border control from the Iberian peninsula to the Baltic states and from Greece to Finland. The Union's external borders are being managed in a coherent fashion, especially as a result of the establishment of the Frontex agency.
- The foundations have been laid for a common policy on immigration. In particular, there are rules that make legal immigration fairer and easier to understand, a

common agenda has been agreed for facilitating integration into European societies, and stronger action is being taken against illegal immigration and human trafficking. Partnerships have also been established with non-Union countries so that questions associated with migration can be managed in a concerted fashion.

- The foundations have likewise been laid for a common European system of asylum for people needing international protection, with a practical mechanism in the form of an Asylum Support Office. A common visa policy has been successfully developed, increasing clarity and legal certainty for all those involved.
- Steps have been taken to establish a high level of confidence between the authorities in different Member States. There have been particularly marked improvements in the exchange of information in the criminal sphere. For example, police forces can obtain information from other Member States, if it is available, without any major constraints. The European arrest warrant has greatly reduced the effort required in order to extradite criminals: it has brought the time taken to secure an extradition from about a year to between 11 days and six weeks.
- There have been measures to combat organised crime, including cybercrime, and to protect critical infrastructures.
- Progress has also been made in civil and commercial law. EU citizens now have simpler and more rapid channels for enforcing their claims in cross-border situations. Common rules have been drawn up on the law governing civil liability and contracts. The protection of children has been improved, in particular so as to ensure that following a separation they can maintain regular contact with their parents and to deter child abduction in the EU.

But in some fields progress has been slow and less clear-cut

Progress has been comparatively slow in some fields, especially criminal law and family law. These policies require unanimity in the Council, which has often led to long debate with no clear outcome, or to the enactment of legislation that is less ambitious than it might have been.

Securing proper implementation of the legislation is an additional challenge. Especially in the criminal law sphere the jurisdiction of the Court of Justice is limited, and the Commission is unable to bring infringement proceedings. This has led to considerable delay in the transposal of EU legislation at national level, which gives it a somewhat ‘virtual’ character.

Leaving aside the procedural and institutional constraints, there are major efforts that have still to be made. Civil and commercial cases, involving contested claims for example, still require intermediate proceedings that are an obstacle to the free movement of judgments. There are gaps in the protection afforded to citizens and firms in the event of disputes with parties domiciled in non-Union countries. There are still obstacles to the cross-border recognition of civil status documents. There is some way to go before the Directive on freedom of movement for persons has been fully implemented by all Member States. There are still differences in the level of protection of persons in criminal proceedings. Minimum procedural guarantees for criminal cases have not been agreed. Exchanges of information between Member States’ authorities regarding persons convicted of offences are not yet fully effective. And at an operational level, there are many obstacles in the way of police action across borders.

The challenges ahead

The objective is to provide the best possible service to the citizen. The growing diversity of a Union made up of 27 or more Member States has to be reflected in the way in which justice, freedom and security are managed. The right to move and to stay freely throughout the Union is now open to 500 million people. Personal and commercial situations with a cross-border dimension consequently arise more and more often. In addition, migratory pressures have grown strongly.

The following examples are representative of the many challenges ahead:

- More than eight million Europeans are currently taking advantage of their right to live in another Member State of their choice, and the trend can be expected to intensify in the future. But although this right is an important reflection of their Union citizenship, they often encounter obstacles to its exercise.
- Questions of civil justice can be expected to grow more important. One succession in ten in the Union already has an international dimension.
- Cybercrime knows no borders, and is mutating constantly. In 2008, 1 500 internet sites with child pornography content were identified, both commercial and non-commercial.
- Terrorism remains a threat to the Union. In 2007 there were almost 600 terrorist attacks — failed, foiled or successfully executed — in 11 Member States.
- There are 1 636 designated points of entry to the Union, and in 2006 the number of people crossing was about 900 million. In an open world, with growing mobility, ensuring effective management of the Union's external borders is a major challenge.
- In 2006 there were 18.5 million non-EU nationals registered in the Union, which is about 3.8% of the total population. Migratory pressures can be expected to grow further. This is due to population growth and poverty in many of the countries of origin, and to the ageing of the population of Europe: between 2008 and 2060 the number of people of working age is expected to fall by 15%, or about 50 million.
- According to estimates there are about eight million illegal immigrants living in the Union, many of whom work in the informal economy. Tackling the factors that attract clandestine immigration and ensuring that policies for combating illegal immigration are effective are major tasks for the years to come.
- Despite the existence of a common system of asylum, there is a need for greater uniformity in Member States' handling of asylum applications: the rates of acceptance of applications are currently very variable. In 2007, 25% of first decisions granted protection in the form of either refugee status or subsidiary protection. Behind this average figure there are wide variations: some Member States allow protection in only very few cases, while others have a recognition rate close to 50%.

A new multiannual programme

The Union needs a new multiannual programme that builds on the progress made so far and learns the lessons of the current weaknesses in order to make an ambitious push forward. The

new programme should define the priorities for the next five years, take up the challenges of the future, and make the benefits of the area of freedom, security and justice more tangible to the ordinary citizen.

The area of freedom, security and justice cannot be built without a strong external dimension which is consistent with the Union's general external policy and helps to promote our values in compliance with international human rights obligations. None of the objectives being pursued here can be achieved without effective use of the appropriate tools of external policy. And by engaging with non-EU countries in partnerships and international organisations with regard to justice and home affairs, the Union will make its external policy more effective.

The political priorities

The main thrust of the new programme will be **'building a citizen's Europe'**. All action taken in future should be centred on the citizen, and should work towards the following main priorities:

1. ***Promoting citizens' rights — a Europe of rights:*** The area of freedom, security and justice must above all be a single area in which fundamental rights are protected, and in which respect for the human person and human dignity, and for the other rights enshrined in the Charter of Fundamental Rights, is a core value. For example, the exercise of these freedoms and the citizen's privacy must be preserved beyond national borders, especially by protecting personal data; allowance must be made for the special needs of vulnerable people; and citizens must be able to exercise their specific rights to the full, even outside the Union.
2. ***Making life easier — a Europe of justice:*** The achievement of a European area of justice must be consolidated so as to move beyond the current fragmentation. Priority should be given to mechanisms that facilitate people's access to the courts, so that they can enforce their rights throughout the Union. Where contracts and commerce are concerned, this should give those involved in economic life the tools they need to take full advantage of the opportunities offered by the single market. Cooperation between legal professionals should also be improved, and resources should be mobilised to put an end to barriers to the recognition of legal acts in other Member States.
3. ***Protecting citizens — a Europe that protects:*** A domestic security strategy should be developed in order further to improve security in the Union and thus to protect the life and safety of European citizens. The strategy should be aimed at strengthening cooperation in police matters and law enforcement and making entry to Europe more secure.
4. ***Promoting a more integrated society for the citizen — a Europe of solidarity:*** A major priority in the next few years will be consolidating and putting into practice a policy on immigration and asylum that guarantees solidarity between Member States and partnership with non-Union countries. The policy should offer legal immigrants a clear and uniform status. A closer match should be developed between immigration and the needs of the European labour market, along with targeted integration and education policies. The practical use of the tools available to combat illegal immigration should be improved. For the management of these policies it is crucial

that there be consistency with the Union's external policy. The Union should confirm its humanitarian tradition by offering its protection generously to those who need it.

The tools

If the next multiannual programme is to be implemented successfully, it must follow a **method** based on five main points:

(i) As the policies followed in the fields of justice and home affairs gradually reach maturity, they should support each other and grow in consistency. In years to come they should **fit smoothly together with the other policies of the Union**.

(ii) To narrow the wide gap between the rules and policies approved at European level and their **implementation at national level**, greater attention should be paid to national implementation. Beyond strict legal transposal, implementation should be followed up with practical support measures (such as an upgrading of professional networks).

(iii) Priority must also be given to **improving the quality of European legislation**. Action on the part of the Union should be focused where it can bring an appropriate response to citizens' problems. From the time when proposals are first sketched out, thought must be given to the potential impact on citizens and their fundamental rights, on the economy, and on the environment. The existing body of EU legislation is recent, but it is already large, and successive changes in the institutional structure in this field have increased its complexity. This is certainly one of the sources of the difficulties encountered in implementing it.

(iv) Citizens expect to see the action taken by the Union produce results. Priority should be given to **improving the use made of the evaluation** of the mechanisms created and the agencies set up.

(v) The political priorities must be accompanied by adequate **financial resources** which allow them to be implemented and which are clearly earmarked for the purpose. The budgetary resources of the future must be commensurate with the policy ambitions of the new multiannual programme, and must be based on an evaluation of the effectiveness of the mechanisms in place at present.

2. Promoting citizens' rights: a Europe of rights

Respect for the individual and for human dignity, referred to in the Charter, is a core value in the area of freedom, security and justice. In this area without internal borders citizens can move freely and enjoy their rights fully.

The system for protecting fundamental rights in the EU legal order is particularly well-developed. Both the Union and the Member States can, for example, draw on the expertise of the Fundamental Rights Agency. The **Union's accession to the European Convention on Human Rights** – a powerful political symbol – will complete this system of protection by encouraging the case-law of the Court of Justice of the European Communities and of the European Court of Human Rights to develop in step.

The Union is an area of shared values, values which are incompatible with the crimes of totalitarian regimes. In the interests of reconciliation, the memory of crimes against humanity must be a collective memory, shared by us all. The Union must play the role of facilitator, respecting the approach that each State adopts.

These values provide the basis for European citizenship and respect for them is an essential criterion for membership of the Union. European citizenship complements, but does not replace national citizenship. It confers rights and obligations specific to European citizens which must be given practical and effective expression.

2.1. Full exercise of the right to free movement

Citizenship of the Union facilitates the movement of citizens within the European Union. But people are faced with barriers when they decide to live or travel in a Member State other than the one of their nationality. The effective application of the directive on free movement of persons is a priority and the Commission intends to reinforce the policy supporting its implementation by ensuring that the current rules are properly transposed and applied in the Member States. Freedom of movement also entails obligations on those that benefit from it. The Commission will examine ways of helping Member State authorities to tackle abuse of this fundamental EU principle effectively. It will publish guidelines explaining its policy in this area.

Citizens must also be assisted in some of the administrative and legal procedures they are faced with when exercising their right to free movement. A system must therefore be introduced to allow them to obtain the main civil status documents easily and at no extra cost. The system must help overcome any language barriers and guarantee the evidential value of these documents. In the long run, further consideration must be given to mutual recognition of the effects of civil status documents.

2.2. Living together in an area that respects diversity and protects the most vulnerable

Diversity enriches the Union: it must provide a safe environment where differences are respected and the most vulnerable protected.

Measures to tackle **discrimination, racism, anti-Semitism, xenophobia and homophobia** must be vigorously pursued. The Union will make full use of the existing instruments, in

particular the financial programmes. Enforcement of the legislation, including the new framework decision on racism and xenophobia, must be strengthened.

The **rights of the child** – i.e. the principle of the primacy of the interests of the child, the child's right to life, survival and development, non-discrimination and respect for the child's opinions – as proclaimed in the Charter and the United Nations Convention on the Rights of the Child, potentially concern all EU policies. They must be systematically taken into account. Measures therefore need to be identified to which the Union can contribute added value. Children in particularly vulnerable situations will receive special attention, notably in the context of immigration policy (unaccompanied minors, victims of trafficking, etc.).

The Union and the Member States must make a concerted effort to integrate vulnerable groups, in particular the **Roma** community, fully into society by promoting their inclusion in the education system and labour market and by taking action to prevent violence against them. The Union will target aid from the structural funds for this purpose and ensure that the existing legislation is properly applied to tackle potential discrimination against Roma. Civil society will have a special role to play.

More generally, **those who are most vulnerable, women victims of violence and dependent persons** must be afforded greater **protection, including legal protection**. Appropriate financial support will be provided through the Daphne Programme in particular. The Union will also act in this direction in its external policy.

2.3. Protection of personal data and privacy

The Union must respond to the challenge posed by the increasing exchange of personal data and the need for utmost respect for the protection of privacy. The rights to privacy and the protection of personal data are guaranteed by the Charter.

A comprehensive protection scheme should be introduced. The Union must secure a new comprehensive strategy to protect citizens' data within the EU and in its relations with other countries. It must also foresee and regulate the circumstances in which public authorities might need to restrict the application of these rules in the exercise of their lawful duties.

Technology is currently developing very fast. It is transforming communication between individuals and public and private organisations. A number of basic principles therefore need to be restated: purpose, proportionality and legitimacy of processing, limits on storage time, security and confidentiality, respect for the rights of the individual and control by an independent authority.

The current legal framework introduces a high level of protection. In the light of the speed of technological change, **further legislative or non-legislative initiatives** may be necessary to maintain the effective application of the above principles.

Compliance with the principles of data protection must also be ensured through the development of appropriate **new technologies**, through greater public/private sector cooperation, particularly in the field of research. The introduction of a **European certification scheme** for "privacy-aware" technologies, products and services must be examined.

Effective protection also supposes familiarity with the rights and the risks concerned (particularly on the Internet). **Information campaigns** should be conducted, in particular to **raise awareness** among the most vulnerable.

On a broader front, the Union must be a driving force behind the development and promotion of **international standards** for personal data protection and in the conclusion of appropriate bilateral or multilateral instruments. The work on data protection conducted with the United States could serve as a basis for future agreements.

2.4. Participation in the democratic life of the Union

The right to vote and to stand as a candidate in municipal and European elections in the host Member State is the political expression of the concept of European citizenship. Yet, in practice, the exercise of this right leaves much to be desired, and must be facilitated by communication and information campaigns on the rights associated with citizenship of the Union.

With a view to the European elections of 2014, careful thought should be given to measures to encourage citizens: an ambitious approach based on electoral campaigns that focus on genuine European debates must be facilitated. It will be helpful if it can be made easier for citizens to take part in all stages of the voting procedure and to register on the electoral roll, and if the elections can be held in the week of 9 May.

More generally, ways of adding to the electoral rights of citizens residing in another Member State should be studied, on the basis of periodic reports submitted in accordance with the Treaty¹, in order to increase the participation of citizens in the democratic life of their Member State of residence.

2.5. Entitlement to protection in non-member countries

Of 166 countries outside the EU, there are only three where all 27 Member States are represented. 8.7% of European citizens, i.e. seven million people, travel in a country where their own is not represented.

A Union citizen travelling to or living in a non-EU country where his or her Member State is not represented is entitled to protection by the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State. This fundamental right, enshrined in the Treaties, remains widely misunderstood, and its application is neglected. Targeted communication campaigns should be conducted on this right.

To make consular protection effective, the existing **framework of coordination and cooperation** has to be strengthened. Three key strands of this reform will include clarifying the concept of the lead state in crisis situations, establishing common criteria for the definition of an 'unrepresented' Member State, and covering the cost of repatriation on the basis of existing Community instruments. Crisis emergency exercises will also be organised.

2.6. Strengthening civil protection

The Community civil protection mechanism must be strengthened in order to support and complement Member State initiatives in the civil protection sphere. Cooperation must be

¹ Article 22 of the EC Treaty.

developed in the area of risk analysis, including regional aspects, so that common objectives and measures can be defined. At the same time, the Union's response capacity must be strengthened through better organisation of the assistance mechanisms and interoperability of the resources available. The Monitoring and Information Centre must become a true centre of operations with analysis and planning capacities.

3. Making people's lives easier: a Europe of law and justice

In an area of increasing mobility, the priority should be to develop and promote a European judicial area for citizens by removing the remaining restrictions on the exercise of their rights. Judgments, for example, must be recognised and easily enforced from one Member State to another. The judicial systems of the 27 Member States should be able to work together coherently and effectively in accordance with their national legal traditions.

The principle of mutual recognition is the cornerstone of European integration in the field of justice. The substantial progress in the justice field in past years needs to be consolidated and rigorously implemented, though nothing tangible can be achieved without strengthening the mutual trust between members of the legal professions.

The development of a European judicial area also entails the establishment by the Union of a core of common standards, especially with a view to tackling certain forms of particularly serious cross-border crime or ensuring effective implementation of EU policies.

The European judicial area must allow citizens to assert their rights anywhere in the Union by facilitating their access to justice. It must equip economic operators with tools that enable them to benefit fully from the single market, especially at a time of economic crisis.

3.1. Furthering the implementation of mutual recognition

Judgments in **civil matters** must be directly enforced without any intermediate measure. The **exequatur procedure**, which is too often still required to enforce judgments in civil and commercial matters issued in other Member States, should therefore be **generally abolished**. This will necessitate harmonisation of the conflict-of-law rules in the areas concerned.

Mutual recognition could, moreover, be extended to **areas that are not yet covered** but essential to everyday life, e.g. succession and wills, matrimonial property rights and the property consequences of the separation of couples.

In general, the instruments adopted should be grouped together in a code of judicial cooperation in civil matters to facilitate their implementation.

In criminal matters, the principle of mutual recognition must apply at all stages of the procedure. Considerable progress has been achieved on improving mutual recognition of sentences.

However, mutual recognition must extend to **other types of judgment**, which may be criminal or administrative depending on the Member State. Witnesses or victims of crime can, for example, be offered special protection measures which must apply from one Member State to the next. Similarly, it should be possible to implement certain fines, which can be criminal or administrative according to the Member State, between countries, with a view to ensuring compliance with EU policies in general and, more specifically, improving road safety.

The Union must aim for mutual recognition of judgments imposing some kind of **disqualification** and encourage the systematic exchange of information between Member States to this end. Cases where disqualification is most likely to affect personal safety or business life should be tackled first as a matter of priority: prohibitions from carrying out certain professions, withdrawal of driving licences, disqualification from holding a post as company director or from involvement in public procurement, etc. In the current economic crisis, the EU must pay particular attention to preventing offences that may hinder the proper functioning of the market from being committed afresh with impunity in one Member State after the other.

3.2. Strengthening mutual trust

One of the consequences of mutual recognition is that rulings made at national level have an impact in other Member States, in particular in their judicial systems. Measures aimed at strengthening mutual trust are necessary if we are to take full advantage of these developments.

The enforcement of instruments needs to be better supported, particularly in the professional sphere. Eurojust and the European civil and criminal law networks must be more actively involved in improving the effective application of EU law by all practitioners. Judicial authorities should also be provided with support tools, particularly those that use electronic means (translation aids, creation of a secure communication space, videoconferencing, etc.).

If European integration in the field of justice is to be built on respect for the diversity of national systems, that diversity must not give rise to mutual misunderstanding. It is vital therefore to increase the opportunities for exchanges between professionals working in the justice system. With the EU's support, the various networks of professionals must be strengthened, coordinated and better structured. The way the **Justice Forum** operates should be improved.

It is essential to step up **training** and make it systematic for all legal professions, including the administrative courts. The objective should be pursued, in the remainder of the multiannual programme, of a systematic European training scheme for all new judges and prosecutors at a stage of their training; at least half of the Union's judges and prosecutors should have participated in a European training scheme or an exchange with another Member State. Member States have the primary responsibility in this respect and the Union must give their efforts financial backing. The European Judicial Training Network should be strengthened and given a structure and resources to match. E-Learning programmes and common training materials must also be developed to train legal professionals in the European mechanisms (relations with the Court of Justice, use of the mutual recognition and judicial cooperation instruments, comparative law, etc.). The European training scheme must become a systematic part of the training of all new judges and prosecutors.

As in other areas, the development of mutual recognition in the judicial sphere must go hand in hand with improvements in **evaluation**. In particular, there has to be evaluation of the effectiveness of the legal and political instruments adopted at Community level. Evaluation is also necessary to determine any obstacles to the proper functioning of the European judicial area. Evaluation should be carried out periodically, and should facilitate better understanding of national systems in order to identify best practice.

The Union should therefore support Member States' efforts to improve the quality of their judicial systems by encouraging exchanges of good practices and the development of innovative projects on the modernisation of justice². A pilot programme may shortly be organised for this purpose.

In non-member countries and the enlargement countries in particular, the Union has instruments at its disposal, such as twinning schemes and peer reviews, designed to promote justice reform and strengthen the rule of law. These initiatives must be continued.

3.3. Developing a core of common standards

The development of the European judicial area also requires a certain level of alignment of Member States' laws and regulations.

In criminal matters such as terrorism, organised crime and attacks on the Union's financial interests, only action at European level can deliver effective results. Further action is therefore needed on the closer alignment of substantive law in relation to certain **serious crimes**, generally of a **cross-border** nature, which require common definitions and penalties. Alignment here will help to extend mutual recognition and, in some cases, almost completely abolish the grounds for refusal to recognise other Member States' judgments.

In line with the case-law of the Court of Justice, the implementation of some EU policies may, in order to ensure its effectiveness, also require the definition of common penalties and common offences, as has already been done to an extent in the environment and transport fields.

In civil matters, minimum standards need to be established at European level on specific aspects of civil procedural law taking account of the requirements of mutual recognition. Minimum standards also need to be developed in relation to the recognition of decisions on parental responsibility (including those on custody rights). Lastly, the proper functioning of the European judicial area sometimes requires a national court to apply the law of another Member State. The Union must consider how to avoid the current disparity in practices in this area.

² The Union should in particular refer to the work of the Council of Europe's European Commission for the Efficiency of Justice.

3.4. The benefits for citizens of a European judicial area

3.4.1. *Providing easier access to justice*

To reap the full benefits of the European judicial area, access to justice must be made easier, particularly in cross-border proceedings. To achieve this, the existing measures on **legal aid** need to be intensified, while at the same time efforts must continue on improving alternative methods of settling disputes, particularly in consumer law.

Action is needed to help people overcome the **language barriers** that obstruct their access to justice: greater use of machine translation systems, where possible; efforts to improve the quality of legal interpretation and translation; the pooling of resources available in the Member States by connecting up databases of interpreters and translators; or the possible use of remote interpreting by videoconference.

E-justice also presents an excellent opportunity. The European portal will be a way of keeping people better informed of their rights and giving them access to a range of information on the various judicial systems. Better use should be made of videoconferences, for example to spare victims the effort of needless travel. In the medium term some European procedures could be dealt with on line (e.g. the European payment order or the small claims procedure). In accordance with data protection rules, some national registers will be gradually interconnected (e.g. insolvency registers for individuals and companies).

Certain formalities for the **legalisation of documents** also represent an obstacle or an excessive burden. Given the possibilities offered by the use of new technologies, including digital signatures, the EU should consider **abolishing all formalities for the legalisation of authentic documents** between Member States. Where appropriate, thought should be given to the possibility of creating authentic European documents.

Finally, the Union will improve its legislation on the protection of victims and offer more support, for example through European networks, to schemes that provide practical help.

3.4.2. *Supporting economic activity*

The European judicial area should serve to support economic activity in the single market, particularly in a period of crisis.

Provisional and protective measures must be available to **speed up procedures** and ensure that **legal decisions are enforced more effectively** (e.g. by creating a European procedure for the attachment of bank accounts and improving the transparency of assets).

Contractual relations must be put on a **more secure footing**, as differences between Member States' legislation in the contract law field can prevent traders from reaping the full benefits of the single market.

Standard contracts between individuals or small businesses should be drawn up, building on the groundwork already carried out. Use of these contracts would be voluntary, but they would be translated into the different languages and serve as a model for the business world.

As an additional step, consideration could be given to an **optional, specifically European system of rules** open to companies (a 'twenty-eighth' system). This system would be similar to those devised for other areas of the internal market, e.g. the European company, the

European economic interest grouping or the Community trade mark, and would encourage the development of intra-Community trade and establish a single, directly applicable legal framework.

The **regulation of business law** would help oil the wheels of the internal market. A variety of measures could be considered here: common rules determining the law applicable to matters of company law, insurance contracts and the transfer of claims, and the convergence of national rules on insolvency procedures for banks.

The current financial crisis has brought home the need to regulate the financial markets and prevent abuse. A study is being conducted in connection with the Directive on market abuse, and the results should be available soon. The European Union could envisage, where appropriate, the use of criminal law to punish fraud that might jeopardise its financial system and economy.

3.5. Increasing the EU's international presence in the legal field

To promote external trade and facilitate the movement of individuals, the European Union must build up a network of bilateral agreements with its main economic partners on the recognition and enforcement of civil and commercial judgments. One option could be to open up the new Lugano Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters to the EU's main partners. Other areas that could be looked into are the service of documents and the taking of evidence.

In the criminal field it will be necessary to identify priorities for the negotiation of mutual assistance and extradition agreements. The European Union will also promote international judicial cooperation by developing exchanges of good practice and pooling experience with non-member countries.

More generally, the EU must continue to offer steady support to the justice system in partner countries in order to promote the rule of law throughout the world. It must pursue its efforts to bring about the abolition of the death penalty, torture and other inhuman and degrading treatment.

4. A Europe that protects

Action at European level is key to protecting its people against threats which do not stop at borders. The EU must devise an **internal security strategy** that respects fundamental rights and reflects a shared vision of today's challenges. This strategy must embody real solidarity between the Member States. It must provide a means of clarifying what comes under the remit of national authorities and what, on the contrary, will be achieved more effectively at EU level. It must be underpinned by decision-making mechanisms that serve to identify the operational priorities. It must make it easier to mobilise the requisite resources in coordinated fields of activity so that we can avert and contain the main threats to individuals and communities.

This strategy will dovetail neatly with the external security strategy developed by the EU, thereby strengthening the links between action within and outside the Union.

4.1. Upgrading the tools for the job

Security in the EU requires an integrated approach where security professionals share a common culture, pool information as effectively as possible and have the right technological infrastructure to support them.

4.1.1. *Forging a common culture*

If national players are gradually to come to regard Europe as the natural theatre of their operations, there will have to be greater mutual trust. To achieve this, all the professionals concerned must intensify the exchange of experiences and good practice, particularly on ethical issues. Joint training courses and exercises will also be needed. Ambitious targets must be set here, e.g. to train one third of European police officers and border guards in European affairs over the next five years.

Specific, ‘**Erasmus**’-style exchange programmes should be set up, which could sometimes involve non-EU countries, such as neighbouring and enlargement countries, to be decided on a case-by-case basis.

4.1.2. *Controlling the flow of information*

Security in the EU depends on effective mechanisms for exchanging information between national authorities and other European players. To achieve this, the EU must develop a **European information model** based on a more powerful strategic analysis capacity and better gathering and processing of operational information. This model must take account of existing systems, including those in the customs field, and overcome the challenges of exchanging information with non-member countries.

The following aspects will have to be defined:

- criteria for gathering, sharing and processing information obtained for security purposes, while complying with data protection principles;
- a follow-up mechanism for assessing how the exchange of information operates;
- ways of identifying future needs;
- the guiding principles for a policy on the international transfer of data for security purposes (applying demanding data-protection criteria).

The EU must also significantly boost its capacity for analysing and collating the strategic information at its disposal. Synergies between Europol and Frontex need to improve in this context. The networks of liaison officers in place in the Member States or non-EU countries must also be better coordinated and focused on this effort. These measures will enable swifter decisions on what action to take at operational level.

4.1.3. *Mobilising the necessary technological tools*

New technologies must keep pace with and promote the current trends towards mobility, while ensuring that people are safe, secure and free.

This will require policies to ensure a high level of network and information security throughout the European Union. Security preparedness and the resilience of critical infrastructure, including ICT and services infrastructure, will have to be improved.

In developing the European information model, the EU, drawing on its past experience, will have to give thought to creating a proper **information system architecture** to ensure that the technical solutions adopted at national level are interoperable with existing or future European systems, and that they develop in a coherent fashion and in line with the needs that have been identified. This architecture will also allow economies of scale as the systems concerned come on stream. It will also make it possible to programme at national level the investments that serve the objectives of the internal security strategy.

Research and development in the security field must be in step with the priorities of the internal security strategy and focus on improving interoperability, identifying needs and relevant technologies, validating results and developing appropriate standards. Research efforts must be tailored to the real needs of users and be supported by public-private partnerships, as demonstrated by ESRI³. The resources available for research and technological development must be harnessed to respond fully to users' expectations. In due course consideration might be given to setting up an **Internal Security Fund**.

4.2. Effective policies

The internal security strategy must be constructed around three complementary and now inseparable fields of activity: stronger police cooperation, a suitably adapted criminal justice system and more effective management of access to EU territory.

4.2.1. More effective European police cooperation

The prime objective of police cooperation is to **combat forms of crime that are typically cross-border in nature**. It is here that the EU can prove that its action brings added value. The European information model will facilitate the work of operational departments by clarifying the various existing channels for exchanging information.

Better use must be made of the potential of **Europol**, which should be systematically involved in major cross-border operations and informed when joint investigative teams are set up. Once the types of data to be exchanged have been clarified, mechanisms will have to be set up for transferring the data automatically to Europol. Europol itself must step up its links with Eurojust to ensure its work is followed up at judicial level. Finally, Europol could take over the training role of CEPOL.

Europol will also have to expand its international dimension by forging closer links with the regions and countries neighbouring the Union. It should work more closely with ESDP police missions and help promote standards and good practice for European police cooperation in countries outside the EU.

More generally, the effectiveness of police cooperation requires the development of **close relations with countries outside the EU**. The Union must conclude police cooperation agreements wherever necessary. Care must be taken here to ensure that measures taken by the EU and by the Member States tie in more closely.

³ European Security Research and Innovation Forum.

Another priority objective is to **prevent criminals from exploiting the frontier-free area to evade investigation and prosecution**. In determining whether cooperation takes place at regional, national, European or international level, the key criterion must be operational effectiveness. Synergies will have to be developed between national, European and international players (Europol, OLAF - where the protection of the EU's financial interests is at stake - and Interpol). Experiments in cross-border regional cooperation must be taken further and networked; a model police and customs cooperation centre should be developed, which could prove useful at sporting events or large public gatherings (e.g. the 2012 Olympics, Euro 2012); and cross-border experiments should be set up for assessing the risks of crime.

Lastly, it is vital for the Union to be able to **compare data and step up prevention** of both organised crime and localised crime. To assess the impact of its work, the EU must **create statistical tools** to measure criminal activity. Also, a **joint approach** needs to be developed that offers a framework for action by local and national players (law-enforcement services and civil society), based on the exchange of good practice and the joint drafting of standards for action and evaluation methods. Better use must be made of the potential of the EU Criminal Prevention Network (EUCPN), drawing on the results of the evaluation of its activities. Consideration will be given to the selective participation of enlargement countries, where possible.

4.2.2. A criminal justice system that serves to protect the public

Faced with cross-border crime, the administration of justice must not be impeded by differences between the Member States' judicial systems.

The Union is establishing a comprehensive system for obtaining evidence in cross-border cases. This should include a real **European evidence warrant** to replace all the existing legal instruments. The warrant would be automatically recognised and applicable throughout the Union, thereby encouraging prompt and flexible cooperation between the Member States. It would lay down the deadlines for enforcement and limit as far as possible the grounds for rejection. Other avenues to be explored are:

- a European legal framework on electronic evidence;
- a European order for bringing persons to court that takes account of the opportunities offered by videoconferences.
- minimum principles to facilitate the mutual admissibility of evidence between countries, including scientific evidence.

Taking into account the recent changes in its legal framework, work will also have to **continue on strengthening Eurojust**, particularly as regards investigations into areas of cross-border organised crime.

Further work will also be necessary on the **European Criminal Records Information System** (ECRIS), including an evaluation of how the exchange of information operates. The networking of criminal records should make it possible to prevent offences being committed (e.g. checks on access to certain jobs, particularly those relating to children). ECRIS will also have to be expanded to cover nationals of non-EU countries who have been sentenced in the EU.

In parallel, the rights of the defence will have to be strengthened. Progress is vital not only to uphold individuals' rights, but also to maintain mutual trust between Member States and public confidence in the EU. Under an action plan setting out a thematic approach, the work

on common minimum guarantees could be extended to protection of the presumption of innocence and to pre-trial detention (duration and revision of the grounds for detention).

Finally, prison is all too often a place where inmates radicalise and become hardened criminals. Thought must therefore be given to a Community programme that could be used to finance pilot schemes in the Member States testing alternatives to imprisonment.

4.2.3. *More secure access to the territory*

In a globalising world, the Union must facilitate mobility while ensuring personal safety as part of an **integrated approach to controlling entry**.

4.2.3.1. Control and surveillance of borders

Development of **integrated border management** requires the continued modernisation of the Schengen *acquis* and increased cooperation in order to ensure better coordination of the objectives of controlling the different flows (goods and people). Maintaining a high level of internal security must go hand in hand with absolute respect for human rights and international protection.

Operational cooperation between Member States through Frontex must be improved. The agency must play a central role in the future integrated mechanism for surveillance of external borders. Its operational capabilities must be strengthened, notably through regional or specialised offices, the priorities being powers of command over joint operations on a voluntary basis, use of its own resources, and ability to mobilise more easily the manpower needed to carry out operations.

The types of checks (security, immigration, customs) at border crossings must be rationalised, in particular by separating private and commercial traffic. In certain cases, this rationalisation will involve improvements to existing infrastructures and increased use of new technologies (biometrics, etc.). Closer cooperation between national authorities will allow procedures to be simplified, thus making borders easier to cross. It will also allow optimal use of resources.

Particular attention must be paid to the situation of **vulnerable people and groups**. In this regard, priority will be given to the needs of international protection and reception of unaccompanied minors. It will be essential to coordinate the activities of Frontex and of the European Asylum Support Office to receive people intercepted while crossing external borders. In this context, the European Union will also have to consider a clarification of the international rules in the light of the imperatives of maritime control and surveillance, while preserving the fundamental obligation of rescue at sea.

Development of the **European Border Surveillance System (Eurosur)** will continue. By 2013, cooperation will have to be established between the Member States and with Frontex in order to share surveillance data relating to the eastern and southern borders.

The European Union will seek to develop and strengthen its links with non-member countries in the field of integrated border management.

4.2.3.2. Information systems

Development of SIS II and VIS⁴ will be finalised to make these systems fully operational. Their management could be stabilised by setting up a new agency.

An electronic system for recording entry to and exit from Member States' territory will be established alongside registered traveller programmes. The new agency could be charged with the task of developing these systems with a view to their coming into operation from 2015. The Union will also give its views on the usefulness of developing a European system of prior travel authorisation.

4.2.3.3. Visa policy

First, **the Union must implement effectively** the possibilities already at its disposal. The entry into force of the new Visa Code and the gradual roll-out of VIS will provide greater consistency and effectiveness. Moreover, visa policy is an important lever of the Union's external policy. Accordingly, it must be part of a broader vision that takes account of the different priorities of internal and external policy.

Regional consular cooperation programmes will accompany the gradual roll-out of VIS. The programmes will include European training for consular staff from the Member States, systematic planning for common visa application centres and representation agreements between Member States, information and awareness campaigns in the countries concerned, and the establishment of regular dialogue with these countries.

As part of this strategic planning, the usefulness of promoting the conclusion of **new facilitation agreements** for issuing visas should be examined. The availability of biometric passports will be a precondition for concluding such negotiations, which will also have to address readmission of illegal irregular immigrants.

The positive and negative lists will be reviewed regularly on the basis of a systematic evaluation of the situation in the non-member countries concerned. The evaluation criteria will be: security of travel documents; quality of border controls; knowledge of asylum and immigration policies; the effectiveness of the fight against organised crime; respect for human rights; and consistency with the EU's external policy in relation to the country. All possibilities for political dialogue will have to be exploited in this regard.

However, the Union must go further and consider setting up a **common European Schengen visa**. The visa would be issued, if possible, by a common consular authority on the basis of criteria that guarantee a level playing field for all applicants. Moreover, the decision to issue a visa should gradually move from the presumption of risk associated with the applicant's nationality to an assessment of individual risk. This development will be made possible by the introduction in the long term of systems that allow collection of advance information on individuals wishing to enter a Member State of the European Union.

⁴

SIS II: Schengen Information System II; VIS: Visa Information System.

4.3. Common objectives

The Union can bring real added value to the fight against certain types of threat that require a high level of coordinated action. The internal security strategy will have to focus on these areas.

4.3.1. *Fight against international organised crime*

Europe must set its priorities in crime policy by identifying the types of crime against which it will deploy the tools it has developed. **These pilot action areas** will form a laboratory for ideas and methods. The fight against these criminal phenomena will involve systematic exchange of information, widespread use of European investigative tools and, where necessary, the development of common investigative and prevention techniques. It will then be possible to extend the methods thus tested to other forms of particularly serious crime with a cross-border dimension, such as arms smuggling and piracy.

Human trafficking

Human trafficking is a serious crime against human rights. The fight against human trafficking must mobilise all means of action, bringing together prevention, law enforcement, and victim protection.

As regards prevention, civil society must be more closely involved and coordination between authorities, services, networks and relevant agencies must be stepped up. Countries outside the Union must be encouraged to ratify and implement relevant international instruments.

Consular services in the countries of origin must be mobilised with a view to preventing the fraudulent issue of visas. Information campaigns aimed at potential victims, especially women and children, could be conducted in the countries of origin in cooperation with the authorities there.

The fight against networks also requires intelligence gathering and strategic analysis, to be carried out in cooperation with the countries of origin and transit. Border checks must also be stepped up to prevent human trafficking, in particular trafficking of children.

Victims must be protected and helped by various measures: immunity from criminal prosecution, regularisation of their stay, development of compensation schemes, and assistance with reintegration into society in the country of origin if they return voluntarily and also in order to facilitate cooperation with investigations.

Sexual exploitation of children and child pornography

In Europe, 10-20% of children are at risk of sexual abuse. Protecting children against these dangers is an important element in the strategy of children's rights. The Union must develop prevention mechanisms. For example, it must promote the exchange of information between Member States about people convicted of paedophile crimes in order to prevent repeat offending.

Combating child pornography on the internet requires close cooperation with the private sector in order to identify and shut down or block access to websites with paedophile content, while complying with relevant procedures. Europol will have to play a leading role in this respect by developing a platform for online identification of child pornography websites, thus

facilitating effective cooperation between the Member States. This measure will be accompanied by the measures supported under the Safer Internet Programme 2009-2013.

Lastly, an active policy of international cooperation is needed to put in place mechanisms to revoke the IP addresses of criminal ISPs and to facilitate rapid shutdown of websites outside Europe.

Cybercrime

The digital economy is an important factor for growth. The Union must promote policies that ensure a very high level of network security.

The Union must clarify the rules on jurisdiction and the legal framework applicable to cyberspace in order to promote cross-border investigations. A legal framework must be established that will allow cooperation agreements between law enforcement authorities and operators. Such agreements will allow quicker reactions in the event of cyber attacks. Moreover, action taken by the Member States must be better coordinated through a specialised network comprising the national representatives in charge of the fight against cybercrime. Once again, Europol will play the role of European resource centre by creating a European platform for identifying offences.

Economic crime

The Union must reduce the opportunities offered to organised crime by a globalised economy, in particular during a crisis that exacerbates the vulnerability of the financial system, and allocate appropriate resources to meet these challenges effectively. To this end, the **capacity for investigation and forensic financial analysis** must be developed by pooling resources, in particular for training.

With regard to money laundering, financial information cells must coordinate their work better. Within the framework of the European information model, their analyses could feed a database on suspicious transactions, for example within Europol. Moreover, all available sources of information must be mobilised and coordinated to identify suspicious cash transit transactions.

Prosecution of tax evasion and private corruption must be improved. On the financial markets, early detection of fraudulent market abuse (insider dealing and market manipulation) and misappropriation of funds must be improved. Where necessary, criminal sanctions must be provided, in particular for the legal entities involved.

Since the legal framework authorising **confiscations and seizures** is already in place, the European network of offices for recovery of the proceeds of crime must be set up as soon as possible.

The Union must also set objectives on transparency and the **fight against corruption**. In the light of a periodic evaluation of the efforts made by the Union and the Member States, steps should be taken to facilitate the exchange of good practices on prevention and law enforcement, in particular within the framework of the anti-corruption network, and, on the

basis of existing systems and common criteria⁵, to develop indicators to measure efforts in the fight against corruption. Increased attention should be paid to anti-corruption measures in a number of areas of the *acquis* (public procurement, financial control, etc).

Counterfeiting is a serious danger for consumers and economies. The Union must improve the study of this phenomenon and ensure that greater account is taken of law enforcement aspects in the work of the future European Observatory on Counterfeiting and Piracy, and, for offences on a commercial scale, also encourage harmonisation of criminal sanctions in legislation in the Member States (on the basis of proposals already drawn up by the Commission).

The Union can also contribute to strengthening the international legal mechanism in order to fight more effectively against these forms of economic crime, and to supporting our partner countries' capacities in this field.

Drugs strategy

The **EU Drugs Strategy** (2005-2012) advocates a global, balanced approach, based on the simultaneous reduction of supply and demand. This strategy will expire during the Stockholm Programme. It must be renewed on the basis of a detailed evaluation of the Drugs Action Plan 2009-2012, carried out by the Commission with the support of the European Monitoring Centre for Drugs and Drug Addiction and Europol.

The Union's action must be guided by four principles:

- improving coordination and cooperation at national, European and international level, in particular with certain regions in the world;
- promoting consistent dissemination of the balanced approach to the drugs phenomenon in international organisations and in cooperation with non-EU countries;
- mobilising civil society, in particular by strengthening initiatives such as European Action on Drugs;
- improving research and information in order to have access to reliable data.

4.3.2. Reducing the terrorist threat

The Union must ensure that in the fight against terrorism all tools are deployed. For their part, national authorities must develop prevention mechanisms especially to allow early detection of threats.

There are three priority areas.

On the basis of an evaluation of the effectiveness of national policies, initiatives to counter **radicalisation** in all vulnerable populations (in particular in prisons and education establishments) must be stepped up. Cooperation with civil society needs to be strengthened in order to understand all the factors underlying the phenomenon and to encourage strategies

⁵ These could be based on the system of classification by perception of corruption developed by Transparency International.

that encourage people to give up terrorism. At the same time, intercultural and interfaith dialogue must be developed in order to promote awareness and understanding between different communities. Stepping up the fight against xenophobia will also help to eradicate radicalisation of this kind.

Use of the internet for terrorist purposes must be subject to greater surveillance, in particular by increasing the operational capacity of the authorities responsible for monitoring. Suitable technical resources must be made available and cooperation between the private and public sectors must be improved. The aim is to curtail dissemination of terrorist propaganda and practical support for terrorist operations. This cooperation must also make it easier to identify members of terrorist networks.

The instruments for combating the **financing of terrorism** must be adapted to the new potential vulnerabilities of the financial system and to the new payment methods used by terrorists. We must have a mechanism that allows both adequate monitoring of financial flows and effective and transparent identification of people and groups likely to finance terrorism. Recommendations must be prepared for charitable organisations to increase their transparency and responsibility.

The Union will ensure that its policies comply with international standards and will play an active role in the fight against terrorism in the different multilateral fora, in particular the United Nations.

Mastering the risk of terrorism also requires specific prevention measures. In order to be able to analyse the threat at European level, a methodology based on common parameters must be established with Europol. The **European Programme for Critical Infrastructure Protection** must be implemented. In addition to the transport and energy sectors, the programme must include other infrastructures that are vital for the public and for economic activity (computer systems). **CBRN** materials (chemical, biological, radiological, nuclear) that may be used to carry out large-scale terrorist attacks must be listed and be subject to security and traceability measures. That requires, in particular, cooperation with the private sector and the setting up of a warning system for suspicious transactions. Likewise, the **European Union Action Plan on Explosives** must be implemented and better information on the safety of explosives provided. A legislative framework to address the dangers associated with precursors must be developed.

5. Promoting a more integrated society: a Europe that displays responsibility and solidarity in immigration and asylum matters

Effective management of migratory flows is one of the greatest challenges facing the European Union in coming years, especially in the context of an ageing population. Immigration plays an important role in the growth of the EU population and will make a crucial contribution to the EU's economic performance in the longer term.

The formulation of a common immigration and asylum policy will be a top priority in years to come, as the Commission proposed in its communication of June 2008. Solidarity must remain at the centre of the common policy and the EU should provide more support to the Member States most exposed to migratory pressure. Implementation of the principles and objectives of the Pact on Immigration and Asylum will provide the basis for EU action in coming years and will regularly appear on the agenda of the European Council.

Financing for the management of migration must be given particular attention: the structure and the scales of contribution of current internal instruments need to be assessed to see whether they still reflect the needs of the Member States and the new migratory flows.

5.1. A dynamic immigration policy

Immigration policy must be part of a long-term vision that emphasises respect for fundamental rights and human dignity. This policy must also be designed to deal with increased mobility in a globalising world through emphasis on social, economic and cultural rights.

5.1.1. Consolidating a global approach

Migration issues should be an integral part of EU external policy. Concerted management of migratory flows requires genuine cooperation with non-member countries. The **comprehensive approach** is an innovative, coherent framework that should be developed. To do this the EU and its Member States should:

- actively work to step up **dialogue** and **partnership** with countries, regions and continents outside the Union that involves the countries of origin, destination and transit at all stages. Africa and Eastern and South-Eastern Europe remain priorities but this does not exclude dialogue and cooperation with Latin America, the Caribbean and Asia;
- envisage the conclusion of new agreements covering the three dimensions of the comprehensive approach: controlling illegal migration (including readmission and support for voluntary return and reintegration), promotion of mobility and legal immigration, and support for development on the lines of the partnerships for mobility;
- establish an effective, solidarity-based system to prevent illegal migration, manage legal migration and assist migrants in need of protection and asylum, something which is particularly needed in the Mediterranean;
- **make consistent use of all instruments of migration policy**, including migration profiles, circular migration programmes and cooperation platforms and strengthen the role of **partnerships for mobility**;
- control **illegal immigration and trafficking in human beings** more effectively by developing information on migration routes, promoting cooperation on surveillance and border controls, and facilitating readmission by promoting support measures for return;
- formulate additional initiatives on **migration and development**: facilitate transfers of remittances and take into account the drop in transfers as a result of the financial crisis, involve migrant communities in the development of their country or region of origin, and allay the brain drain;
- mobilise the Union's various cooperation instruments to **increase the capacity** of the central, regional and local authorities of non-member countries to manage migration issues, including improving their capacity to offer adequate protection.

The EU must also bear in mind the links between immigration policy and other policies, such as social, economic and trade policies.

5.1.2. A concerted policy in keeping with labour-market requirements

Economic migration should be better matched to the needs of the Member States' labour markets. This will help to take more account of the skills of immigrants and facilitate their integration. The Union needs a **common framework** in the form of a flexible admission system that will enable it to adapt to increased mobility and the needs of national labour markets. This common framework will be fully consistent with the Member States' powers to determine the numbers of non-EU nationals admitted for employment purposes. In this context particular attention needs to be paid to two issues: the extent of immigrants' intra-European mobility and the consequences for the validity of their residence permits if they lose their jobs.

The establishment of a monitoring function to analyse and understand migration issues could be considered⁶. Such a tool would make it possible to systematically disseminate and draw on available studies and sources and make available comparable data on migration. Coordination between the monitoring mechanism and existing networks working on migration issues must be assured.

In addition, it is essential to match immigrants' skills to the needs of the Member States' labour markets. This is why immigration should be organised on the basis of **overall assessment** of the skills Europe will need up to 2020, taking into account the economic situation.

Just identifying needs is not enough. Supply and demand have to match. To do this, we should consider setting up a **European platform for dialogue**. With this platform we could identify how to manage the migration of labour better and what adjustments to legal and institutional frameworks are needed. It would bring together employers, unions and employment agencies of the Member States, recruitment agencies and other stakeholders. Mutual recognition of qualifications and skills by the EU and non-member countries will also be important for this.

5.1.3. A proactive policy based on a European status for legal immigrants

To maximise the positive effects of legal immigration for the benefit of all - the countries of origin and destination, host societies and immigrants - a clear, transparent and equitable approach that respects human beings is required. To do this an **Immigration Code** should be adopted to ensure a uniform level of rights for legal immigrants comparable with that of Community citizens. This consolidation of existing legislation will include, where necessary, amendments needed to simplify or extend the existing provisions and improve their implementation.

Family reunification is one of the main reasons for immigration and accounts for a large proportion of legal immigration. The EU should adopt common rules to manage effectively the influx of migrants entering for **family reunification**. Since there has been little harmonisation of national legislation, a revision of the Directive might be proposed after wide consultations.

⁶ A separate agency would not be needed.

The potential cultural as well as economic enrichment offered by immigration can be unleashed only by improving **integration in the host country**. Such an improvement will call not only for greater efforts by the national, regional and local authorities but also a greater commitment by the host community and the immigrants themselves. A joint coordination mechanism that would support the efforts of Member States using a common reference framework could be developed along the following lines:

- identification of joint practices and European modules to facilitate the integration process, in particular the integration of newcomers, including essential elements such as introductory courses and language classes, a strong commitment by the host community and the active participation of immigrants in all aspects of collective life;
- development of common indicators for evaluating integration policies;
- breaking down the boundaries with other policies such as education, training, culture, employment, youth and multilingualism. The crucial role played by schools, especially those offering educational models that espouse European values should be highlighted;
- improved consultation with and involvement of civil society, making use of the European Integration Forum and web portal.

5.1.4. Better controls on illegal immigration

Preventing and reducing illegal immigration and related criminal activities while upholding human rights is an essential counterpart to the development of a common policy on legal immigration. Efforts to combat criminal networks must be stepped up.

Illegal employment should be tackled by preventive and enforcement measures, and protection should be given to the migrants who are its victims. The implementation of the Directive's provisions on sanctions against employers needs to be supported and monitored.

There must be zero tolerance of the **trafficking in human beings**. Adequate human and financial resources should be invested in order to step up controls at the workplace in particular, and also to simplify the conditions for issuing residence permits to victims.

An effective **policy on removal and return** in accordance with the law and with human dignity has to be formulated. The rules on return provided for in the Directive will come into force in December 2010. Its implementation will be monitored closely, especially as regards the effective enforcement of expulsion measures, detention, appeal procedures and treatment of vulnerable people. This should go hand in hand with increased operational cooperation between the Member States. In the longer term, and after evaluation of this legislation, the principle of mutual recognition of removal decisions should be implemented. The obligatory recording of entry bans in the SIS will give full effect to this principle.

Giving **priority to voluntary return** must be promoted and actively encouraged, particularly under the existing financial instruments. Nevertheless, all too often repatriation measures cannot be carried out on account of legal or practical obstacles. In the absence of clear rules, we should study national needs and practices and consider the possibility of establishing common standards for taking charge of **illegal immigrants who cannot be deported**. The

exchange of information between Member States concerning **regularisations** should be improved. Guidelines for their implementation could be formulated.

Unaccompanied minors entering the EU territory illegally present another challenge that needs to be studied in depth. This will be followed by an action plan to underpin and supplement the relevant legislative and financial instruments and strengthen forms of cooperation with the countries of origin, including cooperation to facilitate minors' return to their countries of origin.

5.2. Asylum: a common area of protection and solidarity

In 2008 nearly 240 000 asylum applications were made in the EU. Some Member States are more affected than others, either because of the number of applications received or because of the number of applications as a percentage of their population.

The EU must continue to build a true common area of protection and solidarity based on respect for human rights, high standards of protection and a general improvement in the quality of national systems, while stepping up efforts to stamp out abuse.

5.2.1. A single area of protection

The EU has made great progress towards creating a common European asylum regime wholly in accordance with the Geneva Convention and other applicable international instruments. A common set of standards has been established over the past ten years. The legislative proposals of the second phase of harmonisation need to be adopted quickly with the aim of establishing a single asylum procedure and a uniform international protection status no later than 2012.

On the **operational level**, the EU must give the Asylum Support Office the means to do its job. All officials responsible for handling asylum applications in the Member States will have to follow common training modules. They will also be given sound information on the countries of origin. National courts should be involved in this process. In 2013, following an evaluation, the tasks of the Office may be expanded to take account of progress in solidarity and the sharing of responsibilities.

Strict controls and a proper application of the **acquis** should make the scheme credible and inspire mutual trust among the Member States in the good governance of their respective asylum systems. Periodic evaluation mechanisms could be put in place to facilitate alignment of asylum systems in the Member States.

The **integration** of persons enjoying international protection must also be improved and account taken of the conditions of their arrival in the EU. Solutions have to be found for asylum seekers who do not obtain refugee status or subsidiary protection but cannot be removed for specific reasons.

A detailed evaluation will be made of the transposal and implementation of second-phase legislative instruments and of progress in aligning practices and supporting measures. On this basis, by the end of 2014 the EU should formally enshrine the **principle of mutual recognition** of all individual decisions granting protection status taken by authorities ruling on asylum applications, which will mean that protection can be transferred without the adoption of specific mechanisms at European level.

5.2.2. *Sharing of responsibilities and solidarity between the Member States*

There should be a true sharing of the responsibility for hosting and integrating refugees. Although the EU has chosen to preserve the broad guidelines of the Dublin system at present, it must also open new avenues.

A **mechanism for internal resettlement** among the Member States of persons enjoying international protection that is voluntary and coordinated should be considered. An initial stage would consist in the introduction of a systematic programming of the funds for refugees under the European Refugee Fund as part of this internal solidarity. This programming should take account of objective criteria. The mechanism may include support for the setting-up of permanent reception and transit platforms in some Member States, plus specific arrangements for partnership with the UNHCR. In parallel to this initial approach, analysis of the feasibility and legal and practical implications of **joint processing of asylum applications** inside and outside the Union should continue. This analysis would be carried out so as to complement the common European asylum system and comply with the relevant international standards. Based on these studies and on an evaluation of the initial solidarity mechanism, a more permanent solidarity system might be envisaged from 2013. This system would be coordinated by the Support Office.

Intra-European financial solidarity should be reviewed. For 10 years it has been implemented through the European Refugee Fund, which has supported the successive stages of harmonisation. New criteria will be identified for the contributions and areas of intervention, taking into account developments in the common policy.

5.2.3. *Solidarity with non-member countries*

Solidarity with non-member countries confronted with large flows of refugees or hosting large numbers of refugees and displaced persons is essential. **Access to protection** and adherence to the principle of *non refoulement* must be assured. The EU will also support the building of greater capacity in non-member countries so that they can develop their own systems of asylum and protection.

In this context new forms of responsibility for protection might be considered. Procedures for **protected entry** and the issuing of humanitarian visas should be facilitated, including calling on the aid of diplomatic representations or any other structure set up within the framework of a global mobility management strategy.

To further strengthen the external dimension of its asylum policy, the EU may extend the **regional protection programmes** in partnership with the UNHCR and the countries concerned, using the Support Office and the Community's external financial instruments.

The Union will **step up its resettlement efforts** in order to provide permanent solutions for refugees.

6. **Conclusion**

The Commission hopes that after in-depth discussions with the European Parliament the European Council will be able to adopt an ambitious programme on the basis of this communication by the end of the year. On that basis the Commission will propose an action

plan to implement the Stockholm programme with a view to fleshing out the measures to be taken and the agenda for 2010-2014.

ANNEX: Priority issues

Promoting citizens' rights: a Europe of rights

Fundamental rights

The Union must accede to the European Convention on Human Rights in order to enhance its system for the protection of fundamental rights.

The Union will assess, on the basis of a report published by the Commission, how to facilitate a sharing of the memory of totalitarian crimes.

Free movement

The effective implementation of Directive 2004/38 on the free movement of persons is essential. The Commission will back it up by publishing guidelines and monitor its application.

A system will be set up in this context allowing citizens to obtain civil status documents easily and free of charge. In the long term, the Union must consider mutual recognition of the effects of civil status documents.

Respect for diversity

The Union must devise a common approach for mobilising the existing financial and legal instruments better in order to tackle discrimination, racism, xenophobia and homophobia.

Protecting the vulnerable

An ambitious EU strategy on the rights of the child must be developed. EU action for the protection of the vulnerable, women victims of violence and dependent persons has to be strengthened.

Data protection

The Union must establish a comprehensive personal data protection scheme covering all areas of EU competence. The introduction of a European certification scheme for 'privacy-aware' technologies, products and services must be examined. Data protection requires strong international cooperation. The Union must contribute to the development and promotion of international standards in this area.

Participating in democratic life

With a view to the European elections of 2014, the Union will introduce innovative measures to encourage citizens' participation.

Consular protection

A stronger framework of coordination and cooperation in the consular protection sphere must be introduced.

Making people's lives easier: a Europe of law and justice

Mutual recognition is the cornerstone of the development of the European judicial area.

In civil matters, *exequatur* for civil and commercial decisions must be abolished and mutual recognition extended to areas not yet covered.

In criminal matters, the principle of mutual recognition must continue to apply at all stages of the procedure.

Mutual recognition must also be extended to victim and witness protection measures and to disqualification decisions.

To build up mutual trust between legal systems, professional training in the justice field must be intensified and supported by the development of common tools. Exchanges between professionals must be stepped up particularly through the Justice Forum and the activities of the various networks, which must be better coordinated.

The development of mutual recognition must go hand in hand with an in-depth evaluation of the implementation of EU policies on justice. The Union must also support Member States' efforts to improve their judicial systems.

The Union must establish a core of common standards for the alignment of national legislation in relation to particularly serious, generally cross-border crimes. The Union must also resort to criminal law where necessary to ensure the effective implementation of its policies, in line with the case-law of the Court of Justice.

In civil matters, there must be alignment of the legislation as regards the minimum standards on specific aspects of civil procedure and custody rights.

A more accessible justice system must be a priority. The EU must strive to improve existing legal aid schemes and to harness electronic resources (e-justice), while making a special effort to give ordinary citizens access to legal translation and interpretation. Work will also be needed on simplifying the formalities for the legalisation of documents. Support for victims will have to be improved, particularly in cross-border cases.

Legal tools must strive to support economic activity. The enforcement of court decisions needs to be improved, in particular by instituting a European procedure for the attachment of bank accounts. The work done on creating a common reference framework for contract law could be used in future legislative proposals, and standard contracts could be drawn up. Further efforts are needed to harmonise rules on the law applicable to insurance contracts and company law. The Union may also decide, where necessary, to turn to criminal law to punish abuses in the financial sector.

A Europe that protects

The Union and the Member States should ensure that training of security professionals is improved, in particular by setting up appropriate exchange programmes ('Erasmus' style).

The Union must have a European information model to strengthen its capacities for strategic analysis and operational cooperation.

The Union must develop an information systems architecture that guarantees interoperability, consistency and adaptation to needs.

The priorities of the internal security strategy must be supported by research and development in order to promote optimal use of the most modern technologies.

In order to support these efforts, consideration could be given to setting up a fund for internal security.

All legal and operational tools must be mobilised to prevent criminals profiting from the area without borders. Operational police cooperation must be improved by facilitating police action outside national borders and by setting up a pilot centre for police and customs cooperation.

Europol must play a central role in coordination, exchange of information, and training of professionals.

The security of the Union requires improved police cooperation with third countries, in particular countries in close proximity.

The Union must introduce a complete European framework for taking evidence.

The system for exchanging criminal records must be fully utilised and expanded (more widespread use and inclusion of non-EU third country nationals).

The Union must have a legal framework on minimum procedural guarantees and must promote pilot schemes on alternatives to prison.

The Union must set up integrated border management that will allow smooth entry into the Union, while guaranteeing the security of its territory and the fight against illegal immigration. A consistent system of border checks covering all types of check (a one-stop shop) must be set up. Frontex's coordination role must be beefed up and its operational capacities expanded, as must the coherence of its action with that of the European Asylum Support Office. Eurosur will have to be established gradually.

The SIS II and VIS information systems will have to enter their fully operational phase. An electronic system for recording entry and exit and a registered traveller programme must be established. The usefulness of a system of prior travel authorisation must be examined.

The Union must set up a European Schengen visa. Common centres for issuing visas should be established in third countries as a precursor to a common consular authority. Visa facilitation agreements with third countries will continue to be concluded and go hand in hand with the regular review of the lists of countries subject to the visa requirement. The European

visa system must gradually move towards a visa issue system based on individualised risk analysis rather than risk analysis based on nationality.

The Union must introduce a European policy on the fight against organised crime that is based on optimal use of all available tools. Five types of serious crime will be priority targets.

The Union must combat human trafficking by acting more effectively against smuggling networks and by improving intelligence work and strategic analysis, by introducing appropriate procedures for taking evidence, and by improving assistance to victims.

The Union must combat sexual exploitation of children and child pornography, in particular by promoting exchange of information on convicted offenders. Close cooperation must also be established with the private sector in order to identify and shut down or block access to websites with paedophile content. The Union must clarify the rules on jurisdiction applicable to cybercrime and set up within Europol a European platform for notifying offences in order to combat this phenomenon more effectively.

The Union must reduce the opportunities offered to organised crime by a globalised economy, in particular during a crisis that exacerbates the vulnerability of the financial system, by intensifying action against economic crime. It must increase its capacity for investigation and for forensic financial analysis; identify more clearly market abuse; improve the operational framework for confiscating and seizing the proceeds of crime; fight against corruption, and establish dissuasive measures against counterfeiting.

The Union must continue and deepen its drug strategy, which advocates a global, balanced approach based on the simultaneous reduction of supply and demand. Cooperation with certain regions in the world needs to be improved, civil society must be fully involved, and research work in this field strengthened.

The Union must master the risk of terrorism by fighting effectively against radicalisation, the increasing use of the internet by terrorists, and the financing of terrorism.

The Union must strengthen the Civil Protection Mechanism in order to support and supplement the action taken by the Member States, including risk analysis and response capacity.

The Union must improve its tools for mastering the terrorist risk. This involves in particular widening and implementing the Programme for Critical Infrastructure Protection, establishing a European strategy to deal with the dangers posed by CBRN materials (chemical, biological, radiological, nuclear), and implementing the Action Plan on Explosives.

Promoting a more integrated society: a Europe that displays responsibility and solidarity in immigration and asylum matters

The EU needs to promote a dynamic and fair immigration policy.

It must fully exploit and develop the global approach with a view to concerted management of migration in partnership with non-member countries. Migration issues are an integral part of EU external policy.

The EU should promote the positive effects of migration for the development of the countries of origin.

The Union needs a common framework for a flexible admission system for migrants that will enable it to adapt to increased mobility and the needs of national labour markets.

To maximise the positive effects of legal immigration for the benefit of all, the EU must adopt an immigration code and common rules in order to effectively manage family reunification and support the Member States' integration efforts through a joint coordination mechanism.

Better controls on illegal immigration are an essential counterpart to the development of a common policy on legal immigration. The EU must combat illegal employment and pursue an effective policy on removal and return, making full use of existing instruments. The EU must promote voluntary return and pay particular attention to unaccompanied minors. It must become a true common area offering protection and solidarity with a single asylum procedure and a uniform international protection status.

It should provide for a true sharing of the responsibility for hosting and integrating refugees, including the setting-up of a voluntary mechanism for redistribution between Member States and common processing of asylum applications. Strict controls and a proper application of the *acquis* that would ensure the credibility of the common European asylum system and inspire trust among the Member States are needed. In the longer term, the principle of mutual recognition of all decisions granting protection status would facilitate transfers of protection.

The EU must step up operational cooperation by giving the Asylum Support Office the means to do its job.

An asylum policy based on solidarity with non-member countries faced with major inflows of refugees should be pursued. The EU should extend regional protection programmes and step up resettlement efforts.