



HOUSE OF LORDS

European Union Committee

1st Report of Session 2005-06

**Evidence by Commissioner
Franco Frattini,
Commissioner for Justice,
Freedom and Security on
Justice and Home Affairs
Matters**

Report with Evidence

Ordered to be printed 24 May 2005 and published 13 June 2005

Published by the Authority of the House of Lords

London : The Stationery Office Limited

£5.00

HL Paper 5

The European Union Committee

The European Union Committee is appointed by the House of Lords “to consider European Union documents and other matters relating to the European Union”. The Committee has seven Sub-Committees which are:

Economic and Financial Affairs, and International Trade (Sub-Committee A)

Internal Market (Sub-Committee B)

Foreign Affairs, Defence and Development Policy (Sub-Committee C)

Agriculture and Environment (Sub-Committee D)

Law and Institutions (Sub-Committee E)

Home Affairs (Sub-Committee F)

Social and Consumer Affairs (Sub-Committee G)

Our Membership

The Members of the European Union Committee are:

Lord Blackwell

Lord Bowness

Lord Brown of Eaton-under-Heywood

Lord Dubs

Lord Geddes

Lord Goodhart

Lord Grenfell (Chairman)

Lord Hannay of Chiswick

Lord Harrison

Lord Maclennan of Rogart

Baroness Maddock*

Lord Marlesford

Lord Neill of Bladen

Lord Radice

Lord Renton of Mount Harry

Lord Scott of Foscote*

Lord Shutt of Greetland*

Baroness Thomas of Walliswood

Lord Tomlinson

Lord Woolmer of Leeds

Lord Wright of Richmond

*Members until April 2005.

Information about the Committee

The reports and evidence of the Committee are published by and available from The Stationery Office. For information freely available on the web, our homepage is:

http://www.parliament.uk/parliamentary_committees/lords_eu_select_committee.cfm

There you will find many of our publications, along with press notices, details of membership and forthcoming meetings, and other information about the ongoing work of the Committee and its Sub-Committees, each of which has its own homepage.

General Information

General information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is on the internet at

http://www.parliament.uk/about_lords/about_lords.cfm

Contacts for the European Union Committee

Contact details for individual Sub-Committees are given on the website.

General correspondence should be addressed to the Clerk of the European Union Committee, Committee Office, House of Lords, London, SW1A 0PW

The telephone number for general enquiries is 020 7219 5791.

The Committee's email address is euclords@parliament.uk

Evidence by Commissioner Franco Frattini, Vice-President of the Commission, Commissioner for Justice and Security on Justice and Home Affairs Matters

1. In this Report we make available, for the information of the House, the oral evidence given to us by Commissioner Franco Frattini, Vice-President of the Commission, Commissioner for Justice, Freedom and Security, and Mr Stefano Bertozzi, on Monday 4 April 2005. Evidence was heard by Members of the Select Committee and Members of the Home Affairs Sub-Committee (Sub-Committee F).
2. The key topics in the evidence are:
 - Asylum and Migration (Q 1, Q 3, Q 4, Q 5, Q 7, Q 8)
 - Building an area of freedom, security and justice (Q 1)
 - Combating Terrorism (Q 1)
 - Crime Prevention and Judicial Co-operation (Q 1)
 - Establishment of the External Border Management Agency (Q 1)
 - Establishment of the Fundamental Rights Agency (Q 1, Q 2)
 - Family Law (Q 10)
 - Involvement of National Parliaments in the work of the European Union (Q 1)
 - Justice, Freedom, Security and the Constitutional Treaty (Q 10)
 - Sovereignty, Subsidiarity and Migration (Q 6)
 - Temporary restrictions on the free movement of nationals from new Member States (Q 9)
 - The Hague Programme (Q 1, Q 2)

APPENDIX: RECENT REPORTS

Recent Reports from the Select Committee

Session 2002–03

Review of Scrutiny of European Legislation (1st Report Session 2002-03, HL Paper 15)

Government Responses: Review of Scrutiny of European Legislation, Europol's Role in Fighting Crime; and EU Russia Relations (20th Report Session 2002-03, HL Paper 99)

The Future of Europe—The Convention's Draft Constitutional Treaty (41st Report Session 2002-03, HL Paper 169)

Annual Report (44th Report Session 2002-03, HL Paper 191)

Session 2003–04

The Future Role of the European Court of Justice (6th Report Session 2003-04, HL Paper 47)

Annual Report 2004 (32nd Report Session 2003-04, HL Paper 186)

Session 2004–05

Clause 2 of the European Union Bill—the Constitution's Passerelle Provisions (15th Report Session 2004–05, HL Paper 102)

Strengthening National Parliamentary Scrutiny of the EU—the Constitution's subsidiarity early warning mechanism (14th Report Session 2004–05, HL Paper 101)

Developments in the European Union: Evidence from the Ambassador of the Grand Duchy of Luxembourg and the European Parliament's Constitutional Affairs Committee (3rd Report Session 2004-05, HL Paper 51)

Relevant Reports prepared by Sub-Committee E

Session 2000–01

Minimum standards in asylum procedures (11th Report, HL Paper 59)

Session 2001–02

The European Arrest Warrant (6th Report, HL Paper 34 and 16th Report, HL Paper 89)

Minimum standards of reception conditions for asylum seekers (8th Report, HL Paper 49)

Defining refugee status and those in need of international protection (28th Report, HL Paper 156)

Session 2003–04

The Rome II Regulation (8th Report, HL Paper 66)

Strengthening OLAF, the European Anti-Fraud Office (24th Report, HL Paper 139)

Session 2004–05

Procedural Rights in Criminal Proceedings (1st Report, HL Paper 28)

Relevant Reports prepared by Sub-Committee F*Session 2001–02*

A Common Policy on illegal immigration (37th Report, HL Paper 187)

Session 2002–03

Europol's Role in Fighting Crime (5th Report, HL Paper 43)

Proposals for a European Border Guard (29th Report, HL Paper 133)

Session 2003–04

Handling EU asylum claims: new approaches examined (11th Report, HL Paper 74)

Judicial Co-operation in the EU: the role of Eurojust (23rd Report, HL Paper 138)

Session 2004–05

After Madrid: The EU's response to terrorism (5th Report, HL Paper 53)

Minutes of Evidence

TAKEN BEFORE THE SELECT COMMITTEE ON THE EUROPEAN UNION

MONDAY 4 APRIL 2005

Present	Avebury, L	Grenfell, L (Chairman)
	Blackwell, L	Harrison, L
	Corbett of Castle Vale, L	Listowel, E
	Dubs, L	Wright of Richmond, L

Examination of Witnesses

Witnesses: COMMISSIONER FRANCO FRATTINI, Vice-President of the Commission, Commissioner for Justice, Freedom and Security, and MR STEFANO BERTOZZI, examined.

Q1 Chairman: Commissioner Frattini and Mr Bertozzi, you are very welcome indeed. It is a privilege and a pleasure for us to meet with you and we are very grateful to you for finding the time in your heavy schedule to come and share about an hour with members of the Select Committee on the European Union and a couple of members from the two sub-committees that have a particular interest in the Hague Programme and other issues. We know what a very important portfolio you have at the Commission. This is going to be very active in the years to come and we here in the House of Lords, in the Select Committee and sub-committees, have a particular interest in justice and home affairs issues and so we feel particularly privileged to have you with us. We are on the record, that is to say there will be a transcript of this which we will send to you so that you can look at it and see whether your words have been properly reflected, and we will eventually be publishing this as a report. Please, Commissioner, feel free if you want at any stage to call on any of your people to add something; we leave that to you. We very much look forward to hearing what you have to tell us. I wonder whether you would like to make an opening statement.

Mr Frattini: Yes, thank you very much. My Lords, the objective of building an area of freedom, security and justice is a recent one. It began with the entry into force of the Amsterdam Treaty in 1999; yet we must recognise that enormous progress has been made. The Tampere programme of 1999 has set up the first phase in the creation of an area of freedom, security and justice. It established the broad orientations for the five-year period between 1999 and 2004. Our experience in justice, freedom and security has shown that the Member States have recognised the importance of working together to solve problems which have a European dimension. Citizens have consistently sent us a very clear message. Opinion polls show us that people believe issues such as crime and terrorism are very important today and should constitute a priority for

European policy makers. I am pleased therefore that heads of state and governments have been ambitious in formulating the second multi-annual programme for justice, freedom and security known as the Hague Programme, establishing the main orientations for the next five years. I have also had the opportunity to examine the House of Lords report on the Hague Programme. I greatly welcomed your report as it constitutes an excellent and extensive analysis examining all aspects of the problem and expressing views on each subject. The report has indeed appeared at a timely moment given the fact that the Commission is, as you know, in the process of developing an action plan implementing the Hague Programme which will be presented in May. In this context I can reassure you that the Commission is fully committed to fulfilling its responsibilities. The action plan will contain proposals for concrete actions and a timetable for their adoption and implementation respecting the orientations and priorities outlined by the Hague Programme. In addition, the Commission will be responsible for producing an annual report to the Council on the implementation of the Union measures. We are therefore entering a new phase in which the monitoring of implementation will assume a growing importance and in which we need the full co-operation of Member States. The Hague Programme begins with the protection and promotion of fundamental rights with the two important innovations brought by the draft constitutional Treaty in this area, the integration of the Charter of Fundamental Rights in the draft constitutional Treaty and a clause enabling the EU to accede to the European Convention of Human Rights and Fundamental Freedoms. A further measure is the establishment of the Fundamental Rights Agency which will replace the European Monitoring Centre on Racism and Xenophobia. Regarding asylum and immigration, the problem calls for a common European asylum system, already foreseen in the constitutional draft treaty

*4 April 2005*Commissioner Franco Frattini and Mr Stefano Bertozzi

and a new approach towards migration management. The ultimate decision as to how many migrants may be accepted in each Member State must of course remain a national decision. We need a policy which takes into account the economic and demographic evolution of Europe and enhances the fight against illegal immigration and trafficking in human beings, particularly children and women. The Commission has launched a public consultation on economic migration and will indeed propose before the end of this year a policy plan on legal migration for employment purposes capable of responding promptly to fluctuating demands for migrant labour. The return of migrants is also provided for and the programme calls for a repatriation policy which is humane and respects the dignity and rights of persons. The common minimal standards are currently being prepared. A return fund is to be established by 2007. Partnership with third countries of origin and transit is also of the utmost importance in order to address the causes of immigration. We cannot speak of immigration without touching upon the integration of immigrants. We need to avoid the isolation and social exclusion of immigrant communities and we should develop exchanges of experience and information between Member States. Regarding external borders and a common visa policy, the establishment of the External Border Management Agency in May is extremely important as our border management fund has fanned the creation of teams of national experts. The full extension of Schengen rules to the new Member States is a priority of the new programme in order to abolish internal border controls. Concerning visa policy, the Hague Programme calls for work in several areas such as document security, including biometric identifiers, and looking at the possibility of establishing common visa offices in the long term. Turning now to security issues, the Hague Programme calls for an innovative approach to cross-border exchange of information for law enforcement based upon the principle of availability, a pragmatic approach which should be applicable from 1 January 2008. Obviously, these actions must be accompanied by the enhanced protection of personal data, and indeed proposals will be presented by the end of this year. I plan to present by the end of this year a comprehensive proposal on data protection in the Third Pillar and that will be the first comprehensive proposal to protect data. In this context, of course, the fight against terrorism occupies a central place in the programme and the European Council calls for full implementation of the EU action plan on combating terrorism. It stresses, among other elements, the importance of an enhanced use of Eurojust and Europol in combating the financing of terrorism and requests the Council to develop a long

term strategy in addressing the factors which contribute to the radicalisation and recruitment of terrorists. Police co-operation between Member States should be made more efficient and effective by facilitating co-operation on specified teams between Member States where appropriate by establishing joint investigation teams and, where necessary, support by Europol and Eurojust. Strengthening police co-operation requires focused attention, mutual trust and confidence building and the exchange of best practices is encouraged. Crime prevention also remains an important aspect to be further strengthened. The Commission will develop instruments for collecting, analysing and comparing information on crime and victimisation regarding transnational organised crime. The strategic concept will be further developed by the Council and the Commission. This strategy on organised crime should be adopted shortly and will define the main measures to be taken in this field. Judicial co-operation has made significant progress based upon the principle of mutual recognition. This principle can function and be improved only if Member States, judges and our fellow citizens learn to trust each other's legal systems. The Hague Programme emphasises the need to enhance mutual confidence, for example, by creating a European training network for judicial authorities. In the area of criminal justice a mutual recognition programme should be pursued and completed. The Hague Programme specifically mentions issues such as the draft framework decision on procedural rights, European evidence warrants and exchange of information on criminal records. The objective is to reduce obstacles to effective investigation and prosecution while protecting fundamental rights and respecting the differing legal traditions of each Member State. Co-operation in civil law also deserves our full attention. It is one of the aspects of justice, freedom and security which is most present in people's everyday lives. Contracts, marriage and parenthood are not abstract concepts to any of us. That is why the Hague Programme states that the objective in this area is that borders between Member States cease to be obstacles in obtaining and enforcing judicial decisions. In recent years the Union has made a great effort to ensure that external policies adequately reflect the justice and home affairs dimension. Following the request of the European Council the Commission will prepare this year a strategy on all the external aspects of Union policy in the area of freedom, security and justice. My Lords, the European Council has given us a very clear indication that European policies on justice, freedom and security must constitute a priority for the Union and it has established ambitious orientations for the future. The Hague Programme recognises that the

4 April 2005

Commissioner Franco Frattini and Mr Stefano Bertozzi

challenges we confront and the expectations of our citizens in these areas are growing increasingly. It is not a coincidence that when asked about their main concerns crime and terrorism appear at the top of our citizens' list. They also consider that one of the most positive roles of the EU is in fighting terrorism and crime but, of course, the Hague Programme is not merely security orientated. It addresses all relevant aspects of this policy area beginning with fundamental rights. This is an aspect to which the European Commission attaches great importance and which will not fail to be reflected in the action plan to be presented next month. I am well aware of the difficulties that lie ahead but I am also confident that Europe, with the support of this House, will rise to the challenge of developing a European area of freedom, security and justice and we will be able to meet the expectations of our citizens. The involvement of national parliaments in the work of the European Union is often perceived as one of our weaknesses. I know that in this country both Houses of Parliament make every effort to contribute to the Union's activities, sometimes critically, always constructively. We need to draw on the great tradition of the United Kingdom: resolution, pragmatism, steadfast commitment to democracy and rule of law and the co-existence of different legal systems under one constitutional rule. I sometimes fear that British attitudes to Europe are too defensive. I say as a friend, help us work together in responding to the challenges of the war around us. Thank you very much.

Chairman: Thank you very much indeed, Commissioner. You have made our task quite easy because you have already answered quite a lot of the questions that we were going to put to you but we will probe a little deeper into one or two of these and other matters which are still outstanding. I am very happy about what you have said in the last 60 seconds about the role of parliaments in this and I can see that you take very seriously what the national parliaments of the European Union have to say and that you welcome their scrutiny of what you are going to be doing, and clearly you have set a very ambitious and full programme of work for your area this year and in the years to come. I will take it as read that you understand our own enthusiasm for monitoring very carefully what is done by the Commission in the field of justice and home affairs and you can count on us to be constructive in our support and, if necessary, our criticism of what the Commission is doing. That applies particularly if (and, as we hope, when) the constitution is ratified and protocol number two on subsidiarity comes into effect. I would like now to pick up on one of the major themes that you have spoken of, which is the Hague Programme. We

thank you for your kind remarks about the report which we have recently published. One of the prime authors of this report, the Chairman of one of the two sub-committees that worked together to produce it, is, of course, Lord Wright, whom you have met over lunch, and I know he would like to probe a little further some of the issues of the Hague Programme.

Q2 Lord Wright of Richmond: Commissioner, I wonder whether I could refer to the criticisms which are mentioned in the report of our inquiry, in particular the criticism that excessive attention has been given to security as opposed to fundamental rights. I heard what you very helpfully said about the action plan taking into account fundamental rights in countering terrorism but I mentioned to you earlier that this criticism also, of course, played a part in the debates in this House within a few weeks of the publication of our report over the government's proposals for prevention of terrorism and control orders on suspected terrorists in which there was a great deal of criticism—indeed, the government was defeated I think four times—that the government appeared to be paying more attention to security than fundamental rights and the rule of law. Do you think that this criticism as it applies to the Hague Programme is justified?

Mr Frattini: My profound conviction is that there is no contradiction between more security and more promotion and protection of fundamental rights. There is no contradiction because Europe in my view is founded on the principle of the full respect of the fundamental rights of every person. That means that when we deal with terrorists we should consider terrorism as a permanent threat. It is not a matter of emergency. That is why we should take into account that terrorism will continue to be a threat for all of us. That means that we should establish a mid to long term strategy to prevent and fight against terrorism. How can we establish such a strategy by forgetting the principle of respecting fundamental rights? I will give you an example: the protection of privacy, the protection of personal data. As you know, Commissioner McCreeady has transferred to me the entire responsibility for data protection and data retention in order to make a more coherent European policy and strategy while trying to find an appropriate balance between the right to security and the right to protect privacy and personal data. That is why I said I have the intention on the one hand of responding to strong demands coming from Member States, including the United Kingdom, to put a proposal forward to improve the right of access for law enforcement authorities to data. In parallel, absolutely, I will present a comprehensive proposal for data protection under the Third Pillar. It is absolutely

4 April 2005

Commissioner Franco Frattini and Mr Stefano Bertozzi

impossible to separate the two parts. In my view, we cannot allow this perception of Europe trying to put proposals on the table from Brussels to decide about the daily lives of citizens. Frankly speaking, I am pragmatically, not ideologically, enthusiastic about Europe. That is why we should indicate how Europe can help the normal daily lives of citizens. In my view, a great help could come from better protection. When we talk about the period of data retention, it is not a difficult question because if we decide in two years that we will allow a sort of database, semi-permanent database, it is absolutely impossible to accept. That is why I attached great importance to this aspect in my portfolio which is the protection of fundamental rights.

Q3 Chairman: Can we move on to immigration for a moment, some aspects of which you have already addressed, Commissioner. The fact that this has now moved to QMV and co-decision is really quite a landmark in the development of the governance of the European Union. Do you see that this makes your job more difficult or easier? What is the real impact of moving from where we were to where we are now since 1 January?

Mr Frattini: The migration policy is a field where we should—

Q4 Chairman: I should have said immigration and asylum.

Mr Frattini: —explore how Europe can make the difference and how Europe can be an added value for citizens. Europe can make the difference in some aspects in managing this very, very important matter. My opinion in this regard is, first of all, I believe we should try to find a compromise at least on some minimum procedural rights and minimum procedural rules because it is absolutely impossible to continue with the current situation where there are very different regimes and there are some Member States which leave the doors open for illegal immigration and others are totally blocked. That is the first point. To avoid any kind of confusion in juridical rules, I will give an example. Very often there is confusion between the concept of asylum seekers and the concept of applicants for economic migration; they are totally different concepts. Nevertheless, in the origin countries, the transit countries and sometimes in some European countries, there is still a confusion to be clarified. Once again, I am not talking about a European law about immigration because the number of admissions is up to the Member States and will remain up to each Member State, of course. If we talk about co-operation with third countries in order to prevent rather than fight against the trafficking of human beings, my question is how can each Member State face this issue by acting alone?

In my view, it is much better to have a re-admission agreement with third countries at a European level, a European strategy for aid for development at European level and a European burden-sharing principle because it is absolutely impossible to put a burden on each Member State coming from the illegal flow of migration. That is what, in my view, is a European strategy. Once again, I prefer a bottom-up approach rather than a top-down approach. On economic migration, in January (I) the Commission published a Green Paper putting questions rather than putting pre-cooked solutions. Now we are collecting suggestions and proposals from all relevant actors, including enterprise associations, trade unions and parliaments. After this period—which will be concluded by my public hearing which will take place in June—the Commission will be able to put forward a proposal as a conclusion of this public debate. Finally, I am confident that there will be a possible agreement at least on some guidelines. There are two guidelines, in my view. The first guideline is to address, in a very firm manner, the trafficking of human beings—in particular the protection of victims, children and women—and illegal immigration, that is really a tremendous business in terms of economic resources. To do that we need more co-operation from third countries, origin and transit countries as well. We are ready to help them, but we are demanding something in return and that something is please help us to prevent this by explaining, persuading and blocking this through police means. The Second Pillar is that legal immigration means admission and the numbers are in the hands of the Member States, but it means integration also. I cannot imagine a European policy on legal migration without, in parallel, a policy on integration in order to avoid the feeling of isolation which stimulates violence. That is one of the main sources of terrorism. In my view that is extremely important and that is why I am proceeding step by step. The principle is to avoid a top-down method and to stimulate broad debate and I am ready to do that with the incoming UK presidency. My early morning meetings with the Foreign Secretary and the Home Secretary were very fruitful in this regard.

Chairman: Before I call on Lord Corbett to put a question, let me say that we are very grateful that your Green Paper poses questions as much as it poses solutions, because we are embarking on an inquiry here into that Green Paper and we will make our input to you. In other words, we are responding to your request for an input from a national parliament. I do not know when we are planning to complete this inquiry into the Green Paper.

Q5 Lord Wright of Richmond: Certainly, it will not be by the deadline that you have set, I am afraid, but we hope to do it in the course of the year.

4 April 2005

Commissioner Franco Frattini and Mr Stefano Bertozzi

Mr Frattini: The proposal will be presented by the end of this year.

Chairman: In that case we will be within the timeframe for our views to be taken into account. Thank you very much indeed. We do appreciate that, not that we are telling you how you should organise your own affairs.

Q6 Lord Corbett of Castle Vale: We are expecting an announcement about a certain event which will rob us of a little time in the next few weeks which will add to the pressure on meeting your deadline. Are you aware of any belief or evidence that having a subtle and known legal migration policy is going to do anything to interfere with trafficking because if you know I would be very pleased to hear about it? Secondly, one of the big dilemmas for me in all of this—I do not object to anything you have said—is it is against the background, as you yourself acknowledged, that individual Member States insist on sovereignty in this area, perhaps above many other areas. It is up to the sovereign states and governments to determine the levels of legal migration, who they are going to take, how many, and all the rest of it, and it is done through a whole series of measures. There is a conflict and tension in both of those things. If you are going to persuade, never mind governments for that matter, Mr and Mrs Joe Public in the streets of all 25 countries that it is going to have their concerns better met by action by the EU than national governments, I think you are trying to push water up hill, frankly. Can I have your comments on that, please?

Mr Frattini: As I said, I fully respect the principle of subsidiarity. That is a pillar which is the basis for an appropriate European space of security and justice because, of course, we should take into account the existing differences between traditions, juridical structures and systems in each Member State. That is why I do not talk about a European law on immigration, I talk about common principles, where Europe can be an added value and there common principles are needed. That is my view regarding asylum common procedures. In my view each Member State can benefit from common procedures in asylum issues because if there are common procedures, no one will doubt the possibility of allowing this without limits. Asylum seekers may be false asylum seekers. In the absence of common procedures, there are Member States which allow the entry of false asylum seekers, and that is extremely dangerous. That is why I suggest the following: strengthen co-operation and strengthen mutual trust. In my view, it is the only way to indicate where there is a possibility to have an added European value. For example, if we were left with a European programme to assist third countries and if we were left with a burden sharing principle which was well applied to all

the Member States of Europe, all Member States would benefit from them. On the contrary, I can see great possibilities to face, prevent, combat and fight against a phenomenon which is growing day by day. I repeat, I am pragmatically European because I believe that in several areas Europe can act and help solve the European citizens' problems. That is why I repeat that, as you have said, the levels and numbers of admissions are in the hands of each Member State and are not and will not be decided at a European level; I do not want to do that.

Q7 Earl of Listowel: Just a brief question, if I may, Mr Frattini, on the question of migration. Recently, I was visiting a prison for 18 to 20 year olds and some of them were being trained to lay pipelines. We have a great shortage of workers in the construction industries in this country. National Grid Transco, a major company, find it worthwhile to invest in the training of these quite marginalised young people. I wonder if in your strategy for migration you will be bearing in mind the possible adverse impact, if not carefully managed, in terms of the most marginalised in their social exclusion in societies, where perhaps slightly unthinking governments do not invest in the marginalised but rather choose to accept migrants who have more skills or maybe are just more motivated to engage in learning? Perhaps, particularly in the UK, I am afraid, we have a slightly unsuccessful history in terms of skilling our workforce. Perhaps the European Union might be of some help to us in ensuring we do not fall into that pitfall.

Mr Frattini: That is one of the points in the Green Paper. We will wait for answers because experiences in Member States are quite different. In the country I know the best the situation may be different because there is a specific problem and in order to avoid any kind of marginalisation we should invest at a European level more and more. In my view we should explore the profound roots of violence of extremists. The profound roots are, also, in the feeling of isolation and the feeling of marginalisation. We should prevent this as it is much cheaper, in all terms, than combat and fighting after. We should avoid the concentration of communities who feel themselves isolated, a sort of underclass. They do not learn a language, neither in a civil society nor in jail, and that is extremely dangerous because they do not understand. They go to the mosque because there they understand and there is extreme danger. That is one of the topics where I am waiting for answers and then I will put forward a proposal as a final result.

Q8 Lord Avebury: I wonder if I could go back to what you were saying about all Member States benefiting from common asylum procedures to ask

4 April 2005

Commissioner Franco Frattini and Mr Stefano Bertozzi

you whether you were aware of the exercise that was undertaken by the United Nations High Commissioner for Refugees in comparing the relative rates of success of asylum seekers from particular countries in various European states and the fact that an enormous variation emerges from this study, with Great Britain being bottom of the table in terms of the number of acceptances of asylum seekers from particular countries like Iraq. Even though all European states appear to have tightened up procedures and have placed greater restrictions on the right of asylum seekers, for example, to appeal and the amount of legal aid which is provided for them in combating the refusals by the national authorities,—I do not pretend that this is unique to the United Kingdom because throughout the whole of Europe the systems are being tightened up and it is being made more difficult for people to prove that they are asylum seekers—nevertheless, is it not an anxiety to your organisation and through Europe as a whole that there are these enormously different rates of success of asylum seekers in different European countries? Do you think that there is some scope for you to co-operate with UNHCR in evaluating the systems that are in place in the federal states and seeing what can be done to eliminate some of the huge disparities?

Mr Frattini: That is exactly our final goal, to try to eliminate disparities because that impinges on the fundamental rights of each person without differences. That is why I have already met UNHCR at least three times with the intention of elaborating a possible joint action between the EU and the United Nations. Now we are waiting for the successor of Mr Lubbers who resigned recently but my opinion is that we will very soon be able to launch a regional pilot programme at European level in close co-operation with the United Nations. There is room for very close co-operation with the United Nations because we are based on the same fundamental principle. Our actions are inspired by the same principle as the United Nations. That is why my intention is to increase co-operation at inter-institutional level.

Chairman: Thank you very much. Commissioner, we just have time for a couple more questions. One very important issue we want to get on to is the question of the free movement of labour after enlargement and Lord Dubs has a question on this.

Q9 Lord Dubs: A number of Member States have imposed temporary restrictions on the free movement of nationals from the new Member States. The United Kingdom and Ireland were the only two that did not impose restrictions. Would you say that this policy was justified? Does the Commission have any evidence on how many

nationals from the new Member States in central and eastern Europe have moved westwards post-enlargement and on the impact of this movement on domestic labour markets? We know that quite a number of people who moved from those countries to western Europe before accession then proceeded to regularise their position but I am interested in how many you know moved westwards post May 1 last year.

Mr Frattini: I work in close co-operation on that issue with Commissioner Špidla who, as you know, has responsibility for employment within the Commission. In my view restrictions on the free movement of workers are provided by the accession treaty and only three Member States out of the 15 old Member States have introduced free movement for new Member States. That means that we should consider carefully this point. The accession treaty provided for an exercise that should evaluate the impact of the restrictions and we will evaluate whether or not these restrictions are justified. That is the point. This evaluation will be ready, I hope, in a few months, not more than five or six months. What is totally different is the free movement of persons in general. That responsibility falls entirely on my portfolio and be sure that there will be no restriction in this area on the movement of persons. It is a totally different issue. Whilst we are assessing the impact of the labour market in the new Member States we guarantee, and we will continue of course to guarantee, total freedom of movement for persons in general, but I know that Commissioner Špidla is preparing to provide and publish figures on that with a complete evaluation of the impact of this phenomenon.

Chairman: Thank you very much. That answers both of Lord Dubs' questions, I think, and we will look for Commissioner Špidla's figures.

Q10 Lord Blackwell: Commissioner, you have given us a lot of information about your priorities under the current Hague Programme. I wonder if I could ask you about the proposed constitution changes where justice, freedom and security becomes a shared competence under QMV if the constitution is adopted. I am interested in what new areas you think that would open up to you, what things you would do differently, and in particular whether you have any thoughts about where harmonisation of laws might be followed through.

Mr Frattini: I think that QMV in itself does not affect directly national legislation at all because it contributes only to speed up the process and it is also in my view a demonstration of more democratic legitimacy because the possible involvement of national parliaments at one end and the full involvement of the European Parliament at the other end is a good message in terms of democratic

4 April 2005

Commissioner Franco Frattini and Mr Stefano Bertozzi

legitimacy. If there is a point of weakness that sometimes is indicated is a lack of legitimacy in terms of QMV and the co-decision process, it is that we will have more democratic legitimacy but it does not mean directly to move to the harmonisation principle, to achieving a European law in particular sectors. In my view harmonisation could be useful sometimes, for example, in civil law. I do not think that we will have, neither in the near future nor in the long term, a European civil court but we should manage the consequences arising from transnational marriage, from transnational divorces, from successions and wills problems regarding persons with different nationalities and that is why in these areas I believe that a possible optional European regime that does not mean a mandatory European law could be useful. In fact, we are working on that in order to provide European citizens with an additional instrument or tool. If you think about the terrible situation of the abduction of children in the family, recently a new regulation has entered into force. This regulation states that that will be impossible to refuse the immediate enforcement of judgments regarding rights of visit of both the mother and the father in order to avoid the terrible situations that have happened in the past. That is just an example to say that I do not think that full harmonisation is always possible. We should move step by step in some areas. I will give you another example. There are, if I am right, at least five or six Member States that do not have in their national legislation the punishable concept of the participation in organised crime associations. That is absolutely unacceptable. That is why, thanks to a

proposal made by the Commission, we have a framework decision on organised crime. We will try to set up a common strategy, common rules—not in European legislation; it is totally different—that will give fresh impetus to mutual trust and mutual recognition of actions taken in each Member State. That would be my view, the European added value.

Q11 Chairman: Thank you very much. I have to say that I am quite encouraged by what you have just had to say on this sensitive issue of family law where national legal culture and traditions do pose some problems. As you have said, you are a European pragmatist and therefore, to the extent that EU action is possible without fundamentally changing national concepts of family law we feel more comfortable about that. I am afraid that we have run out of time. I am sorry we cannot go on but I know you have meetings now in the House of Commons. I just want to thank you very much indeed, Commissioner, for your very informative, very frank and encouraging words this afternoon. We thank all your team, including particularly Stefano Bertozzi, whom I am delighted to see again after a couple of years. We shall be sending you the transcript of this meeting. You have not heard the last of us, Commissioner! We have probably a number of reports to send to you which we hope you will have a chance to look at, but let me assure you that whatever you are doing we are most interested in it and we will be following it closely. We wish you very well in the conduct of your heavy responsibilities now that JHA has become a growth industry, so to speak. Thank you very much indeed.
Mr Frattini: Thank you very much.

ISBN 0-10-400714-1



9 780104 007143