

# INFORMATION NOTE

## INTRODUCTION

The achievements in the area Freedom, Security and Justice over the last 15 years, and especially in delivering the ambitious agenda set by the Stockholm programme and the action plan that followed, are noteworthy. Focus should now be on full implementation and enforcement of agreed legislation and policies. Asylum legislation must be transposed in a way that expresses true sharing of responsibilities and solidarity among all Member States. Progress is made in the legislative framework for migration and must now also be transposed into national legislation. Important progress is made also on the security side with increased cooperation among our respective law enforcement services. We agree on the need to improve monitoring and evaluation of our policies and that this must be an integral part of the policy cycle.

But while these implementation efforts will be underway, the EU and its Member States will be confronted with new challenges. Europe is part of a globalized and interconnected world where international mobility is expected to increase. More people will want to come as tourists, to study, to work or to seek protection. The EU will be faced with demographic changes, urbanisation, increasingly diverse societies and shortages on the labour market.

Europe will be faced with the consequences of instability in many parts of the world and of its immediate neighbourhood in particular. Events like the Arab Spring and the present crisis in Syria call for appropriate responses and additional efforts will be needed to avoid further loss of lives of those who try to reach European shores. Developments on our eastern borders are difficult to predict but will have a serious impact on our work.

Technology is developing quickly, providing new opportunities for economic growth and fundamentally changing the way we connect and relate to each other. These changes also bring new security challenges. Cybercrime is of increasing concern, trafficking in human beings is getting more and more sophisticated, cross-border organised crime is taking on new shapes and terrorism remains a threat to security. We must harness developments in technology to meet these risks.

A serious reflection of these new challenges and our policy responses need to be part of our debate in view of the Strategic Guidelines that will be adopted in June. When defining the future of our Home Affairs agenda, a number of concrete measures need to be considered. Some of them we have already agreed, others are a logical next step. This information note presents an outline of the measures that should be considered in the years to come.

## 1. AN EFFECTIVE POLICY OF MIGRATION AND MOBILITY

### 1.1. Using opportunities presented by migration and integration

- Well-managed migration can help Europe attract required skills. Ensure better synergies with other policy areas, for example with trade policies and provide for short-term movement of highly-skilled professionals supplying services.

- Initiate structural dialogues with Member States, businesses and trade unions on the demand for labour migration.
- Use the potential of migrants already legally residing in the Member States and extend existing job matching mechanisms to third-country nationals.
- Increase the portability of pension rights and social entitlements for migrants.
- Step up recognition of foreign qualifications and professional skills;
- Evaluate current legislation on legal migration. Strive to overcome the current sector-based approach, and to achieve a more coherent EU common migration policy.
- On integration, strengthen the monitoring and benchmarking of national policies. Increase engagement with local and regional authorities.

## **1.2. A credible approach on irregular migration and return**

- Prevent and reduce irregular migration a combination of measures: take action against employers that hire illegal labour, step up action against smuggling and trafficking in human beings, cooperation with countries of origin and transit.
- Continue to give priority to voluntary returns, and consider a European assisted voluntary return that could be implemented in close cooperation with countries of origin, international organisations and NGOs.
- Ensure the full application of existing readmission agreements and consider such agreements with more countries. Continue enforcing the return policy based on common standards that ensure a credible and humane return, fully respecting fundamental rights.

## **2. SCHENGEN, MOBILITY AND EXTERNAL BORDERS**

### **2.1. Schengen**

- Effective implementation of the new Schengen Evaluation System
- Smooth operation of the Schengen Information System (SIS II)
- Seek synergies between the relevant EU agencies as regards IT systems security and development.

### **2.2. The common visa policy**

- Complete a common visa policy by revising the Schengen Visa Code, ensuring more convergence in the processing of Schengen visa applications and completing the full roll-out of the Visa Information System (VIS).
- Improve Local consular cooperation and exchange of information with the aim of ensuring more harmonized and swift issuance of visa.
- Encourage the establishment of Schengen Visa Centres

- Regular reviews of the lists of countries for whose citizens' visas are required.
- Move towards a system based more on the assessment of individuals than on nationalities

### **2.3. Integrated management of the external borders**

- Implement the 'Smart Borders package' (the European Entry/Exit System and the Registered Travellers Program)
- Assess the feasibility of establishing a European System of Border Guards

## **3. A COMMON EUROPEAN ASYLUM SYSTEM IN PRACTICE**

### **3.1 Implementation of the Common European Asylum System**

- Implement the legislative package agreed in 2013, ensuring higher standards across the EU.
- Consider developing new rules on mutual recognition of asylum decisions and a framework for transfer of protection

### **3.2 Responsibility and Solidarity**

- Each Member State has significant responsibilities under the aquis but Member States also have to be ready to support each other at times of high temporary pressure.
- Relocation is a form of solidarity. Other ideas to explore are the development of joint processing of asylum claims, and pooling of reception places at times of emergency.

### **3.3 Preventing and handling of crisis**

- Ensure that the new mechanism for early warning, preparedness and crisis management in the Dublin regulation works, by sharing data and risk analyses with the Commission and EASO.
- Evaluate the framework on temporary protection and assess whether it can be amended to make it a more flexible and practical instrument.

### **3.4 Addressing external challenges and legal routes to access asylum in the EU**

- Promote high standards of protection in countries of transit and origin, and seek to ensure a more orderly arrival of persons with well-founded protection needs.
- Increase EU commitment to resettlement of persons identified by UNHCR as refugees. All 28 EUMS should participate in resettlement activities.

- Consider complementing resettlement efforts with Protected Entry Procedures, like a common approach to humanitarian visas. Assess feasibility of joint processing of asylum claims outside the EU.
- Reinforce and expand the scope of Regional Protection Programmes. Consider setting up new ones.

#### 4. STRENGTHENING THE GLOBAL APPROACH TO MIGRATION AND MOBILITY

- Strengthen the external component of Home Affairs policies by a stronger engagement with third countries and international organisations.

#### 5. A EUROPE THAT PROTECTS

- Update the 2010 Internal Security Strategy, and accompanying Action Plan, in full cooperation between the Commission, Member States and the European Parliament.
- Encourage more synergies between Home Affairs and other policy areas related to internal security such as transport, internal market, digital market, civil protection and external relations.

##### **5.1. Disruption of international crime networks**

- Strengthen trust and practical operational cooperation between Member States' authorities
- Increase the use of Joint Investigation Teams (JITs) and other joint operations.
- Improve information exchange, by all Member States setting up Single Points of Contact, and making Europol a hub for information exchange across the EU.
- Step up EU-level training of law enforcement personnel.
- On corruption, Member States should take up the suggestions in the EU Anti-Corruption Report. Cooperation between EU institutions, Member States and international organisations against corruption should be further developed.
- To bring criminal profits back into the legal economy, implement the Directive on the freezing and confiscation of proceeds of crime in the EU, and step up cooperation between authorities.
- To address human trafficking, fully implement the EU Human Trafficking Directive and the EU Strategy 2012-2016, develop a post-2016 Strategy, and prolong the position of the EU Anti-Trafficking Coordinator.

- To address sexual crimes against children, implement the EU Directive on the sexual exploitation and abuse of children, mainstream child protection fully into other EU policy areas, and examine the need for a comprehensive EU strategy.
- To address money laundering, the need for EU criminal legislation should be examined.
- To address illicit trafficking in firearms, review existing EU legislation on the sale and intra-EU transfers and step up operational cooperation.
- Keep under review the existing agreements and arrangements for the sharing of law enforcement information with third countries, and develop further if needed.
- Adopt and implement the EU PNR Directive, and develop a new legal framework for transfer of PNR data to third countries.
- Review the Data Retention Directive, in parallel with a revision of the e-Privacy Directive.

## **5.2. Prevention of terrorism and addressing radicalisation and recruitment**

- Strengthen the EU Radicalisation Awareness Network, and set up a knowledge hub to ensure that good practises are collected and the work between practitioners is better coordinated.
- Improve training and exercises for Law Enforcement authorities responsible for handling terrorist attacks in Member States.
- Conduct more joint exercises at operational, but also strategic, level.
- Implement more effectively the EU legislation on precursors to produce explosives, and enhance and prioritise further work in the CBRNE field.

## **5.3. Raising levels of security for citizens and businesses in cyberspace**

- Support the further development of the European Cybercrime Centre, making it the focal point in Europe to fight cybercrime, and encourage all EUMS to set up a cybercrime centre.
- Translate the first EU cyber security strategy into action.
- Continue the work of the Global Alliance against Child Sexual Abuse Online.
- Implement the EU Directive on cybercrime without delay.
- Support the work of the Council of Europe's Budapest Convention on Cybercrime

## **5.4. Strengthening security through border management**

- Update the integrated border management strategy based on the experience gained in the implementation of the current instruments.
- Consider how existing systems and platforms can be integrated.
- Further cooperation at national level between border guards and other authorities.

### **5.5. Increasing Europe's resilience to crises and disasters**

- Safeguard sure that existing systems are functioning, both on operational and strategic level.
- Undertake more training and exercises.
- Cooperate to bring in the External Action Service and its response capacity more strongly.

### **5.6. Building internal security in a global context**

- Systematically address internal security as part of EU external policies.
- Link EU assistance and cooperation programmes to this field.
- Undertake assistance in third countries for law enforcement capacity-building, by offering training, sharing knowledge and good practice.

## **6. BUILDING INTERNAL SECURITY IN A GLOBAL CONTEXT**

- Internal security should be more systematically addressed as part of EU external policies, linking to EU assistance and with more consistent help to third countries requesting assistance in law enforcement capacity-building.

## The Future of the European area of justice

The European Council's five-year Stockholm programme and the related Commission action plan setting the priorities for the area of freedom, security and justice will come to an end in December 2014. In June 2014, the European Council intends to define strategic guidelines for this area and the European Parliament will adopt a resolution in March 2014.

To shape the future of EU justice policy, the Commission will make a contribution by means of a Communication being adopted on 11 March.

Ideas, recommendations and orientations for the Communication have been gathered by the Commission at specifically organised informal meetings of the Justice Council on the subject, at the "Assises de la Justice" conference with more than 600 stakeholders, organised by the Commission in November 2013, in parallel to a call for input, as well in discussions with the competent committees in the European Parliament.

### A. What has been achieved?

**Justice for growth.** Over the past years, EU justice policy has, notably under the impression of the financial and sovereign debt crisis, become a driver for economy recovery so that businesses and consumers benefit from a single market without barriers. The EU has taken action to cut red tape and costs: a judgement given in one Member State can now be recognised and enforced in another Member State without bureaucratic procedures; in the field of data protection, a single pan-European law, currently under advanced negotiations in Parliament and Council, will replace, by 2015, the existing 28 national laws that regulate the protection of personal data. The Consumer Rights Directive (fully effective in all 28 Member States by June 2014) will increase consumer protection, while businesses will benefit from a single set of core rules that will cut compliance costs substantially for EU-wide traders. As a first step towards an EU "rescue and recovery" culture helping companies and individuals in financial difficulties, the existing European rules on cross-border insolvency are being modernised. Furthermore, improving the effectiveness, independence and quality of national justice systems is now an integral part of the economic adjustment programmes and of the European Semester. To assist Member States in their efforts for structural reforms in this area, the Commission launched, in 2013, the EU Justice Scoreboard which provides, on an annual basis, objective, reliable and comparable data on the functioning of the justice systems in the Member States to the extent that this is relevant for economic growth and structural reforms. To better protect the Union budget and to make sure that every euro in the EU budget can be used for its purposes, the Commission also proposed, in 2013, establishing a European Public Prosecutor's Office to tackle fraud against the EU's financial interests.

**Justice for citizens.** The EU took action to facilitate the practical life of citizens making use of their free movement rights, for example by making it easier for Europeans to handle the legal implications of cross-border successions or by reducing paperwork for EU citizens who want to live in another EU country. They will no longer need to go through time consuming and costly rubber-stamping formalities such as the *exequatur* or the *Apostille* procedure, or certified translations. The EU has also put in place strong effective EU-wide fair-trial rights protecting citizens in criminal proceedings in another EU country. This also included action to improve the standing of victims in criminal proceedings. As the guardian of the Treaties, the Commission intervened to ensure respect for the rule of law and in order to uphold EU citizens' rights such as free movement. Action was taken to strengthen gender equality by promoting women in decision making. All this took place on the basis of the EU Charter of

Fundamental Rights, which has become a compass for all EU institutions since becoming legally binding in December 2009.

## **B. What are the challenges?**

**Trust.** Mutual trust is the bedrock upon which EU justice policy is built. Whilst the EU has laid important foundations for the promotion of mutual trust, it needs to be further strengthened to ensure that citizens, legal practitioners and judges fully trust judicial decisions irrespective of the Member State where they have been taken. However, EU instruments such as the European arrest warrant or the regulations on conflict of laws issues between Member States require a high level of mutual trust between justice and administrative authorities. Mutual trust between courts and administrations helps them recognise and enforce each other's decisions and facilitates access to justice on equal terms in all Member States. A very important ingredient of trust is that progress in laws is made a reality on the ground. This requires laws agreed at EU level to be transposed and applied effectively.

**Mobility.** Europeans are increasingly taking advantage of the rights conferred on them by the Treaty. There are currently more than 14 million EU citizens residing in a Member State of which they are not a national (up from 12.1 million in 2009). Despite progress in the enjoyment of their EU rights, obstacles remain. Citizens still experience practical and legal difficulties when they to enjoy the same rights they have at home in another Member State. The EU needs to address these obstacles with determination, while continuing to enable the fight against abuse, particularly at a time when the right to free movement of EU citizens is being challenged by some. The right of EU citizens to move freely and live in any EU country is one of the four fundamental freedoms enshrined in EU law and a cornerstone of EU integration.

**Growth.** EU justice policy should continue to be a driver for economic recovery, growth and tackling unemployment. Structural reforms need to be pursued so as to ensure justice systems are capable of delivering swift, reliable and trustworthy justice thereby supporting the effectiveness of other policies.

On this basis, the goal of the next generation of EU justice policy should be to bring about a fully functioning common area of justice by 2020 in which justice and citizens' rights will know no borders any more.

## **C. How to address these challenges?**

To tackle the challenges identified, the focus of EU justice policy in the years to come should be on **consolidating** what has already been achieved, **codifying** EU law and practice and, when necessary and appropriate, **complementing** the existing framework with new initiatives. Depending on the type of challenges, future EU justice policy could use a combination of these methods.

**Consolidate.** The effectiveness of EU legislation in the field of justice could be enhanced through the use of different tools: *training* of judges and legal practitioners; the better use of *information technology* in courts, judicial and extra-judicial proceedings; the use of other types of swift and less costly *redress and remedies mechanisms* (for example through the use of alternative dispute resolution or administrative review); the facilitation of *operational cooperation* between administrations and between legal practitioners; stronger promotion of *fundamental rights* as a key component of trust, including for specific rights such as equality, protection of personal data, citizenship rights and consumer protection.

**Codify.** In the justice field, the codification of certain parts of existing EU legislation and practice and of relevant case law of the Court of Justice should be considered where this

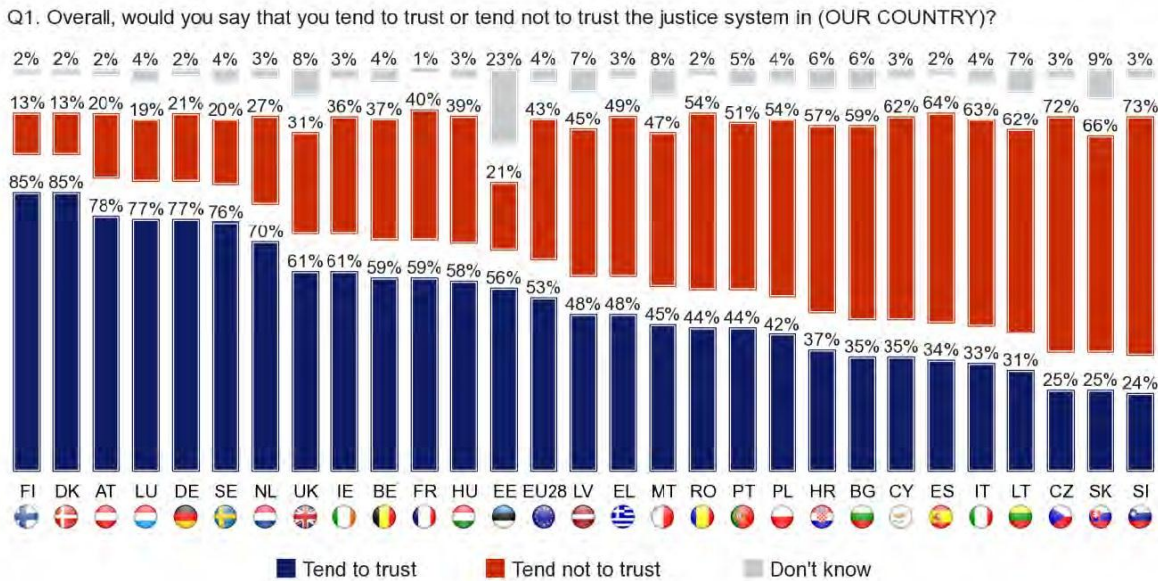


serves the purpose of providing legal clarity and simplification, notably in areas such as criminal procedural rights, civil and commercial law, administrative law or consumer rights.

**Complement.** Justice policy is a dynamic area, shaped in particular by the increasing mobility of citizens and businesses. Initiatives to complement existing policies and legal instruments may therefore have to be envisaged also after the end of the transitional period. This should always be done with the purpose of enhancing mutual trust, to facilitate the life of citizens and to further contribute to growth. The need and the value-added of such complementary initiatives will have to be as carefully assessed as on other areas of EU policies. The approaches to be chosen – for example, mutual recognition, traditional harmonisation, harmonised optional substantive, or procedural law regime – will depend on the issue at stake. Possible areas may include, for example, reinforcing civil procedural rights to facilitate the enforcement of judgements in the civil, commercial and family law area; strengthening the EU "rescue and recovery" culture for insolvencies and creating certain minimum standards in the field of insolvency law or to take maximum advantage of markets with significant growth potential (such as the cloud). Once set up the European Public Prosecutor's Office, practice will show whether complementary measures should further strengthen the effectiveness of the prosecution or the protection of procedural rights.

**Annex 1**

**Trust in national justice systems**



Source: Eurobarometer survey 385 of November 2013 – Justice in the EU