

# Procedure file

Basic information		
INI - Own-initiative procedure	<a href="#">2006/2111(INI)</a>	Procedure completed
Area of freedom, security and justice: strategy for the external dimension, action plan implementing the Hague Programme		
Subject		
7 Area of freedom, security and justice		
7.30.20 Action to combat terrorism		
7.30.30 Action to combat crime		
7.30.30.04 Action to combat drugs and drug-trafficking		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs		22/02/2006
		PPE-DE <a href="#">KLICH Bogdan</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
<b>AFET</b> Foreign Affairs (Associated committee)		03/05/2006	
		PSE <a href="#">SAKALAS Aloyzas</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2768</a>	04/12/2006
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2752</a>	05/10/2006
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2746</a>	24/07/2006
European Commission	Commission DG	Commissioner	
	<a href="#">Justice and Consumers</a>	FRATTINI Franco	

Key events			
12/10/2005	Non-legislative basic document published	<a href="#">COM(2005)0491</a>	Summary
18/05/2006	Committee referral announced in Parliament		
18/05/2006	Referral to associated committees announced in Parliament		
24/07/2006	Debate in Council	<a href="#">2746</a>	
05/10/2006	Debate in Council	<a href="#">2752</a>	
04/12/2006	Resolution/conclusions adopted by Council		Summary
05/06/2007	Vote in committee		Summary

11/06/2007	Committee report tabled for plenary	<a href="#">A6-0223/2007</a>	
20/06/2007	Debate in Parliament		
21/06/2007	Results of vote in Parliament		
21/06/2007	Decision by Parliament	<a href="#">T6-0284/2007</a>	Summary
21/06/2007	End of procedure in Parliament		

### Technical information

Procedure reference	2006/2111(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Strategic initiative
Legal basis	Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/36415

### Documentation gateway

Non-legislative basic document		<a href="#">COM(2005)0491</a>	12/10/2005	EC	Summary
Committee draft report		<a href="#">PE384.636</a>	10/04/2007	EP	
Committee opinion	<b>AFET</b>	<a href="#">PE376.668</a>	26/04/2007	EP	
Amendments tabled in committee		<a href="#">PE388.537</a>	27/04/2007	EP	
Committee report tabled for plenary, single reading		<a href="#">A6-0223/2007</a>	11/06/2007	EP	
Text adopted by Parliament, single reading		<a href="#">T6-0284/2007</a>	21/06/2007	EP	Summary
Commission response to text adopted in plenary		SP(2007)3798/2	18/07/2007	EC	
Commission response to text adopted in plenary		<a href="#">SP(2007)4174</a>	13/09/2007	EC	
Follow-up document		<a href="#">COM(2009)0263</a>	10/06/2009	EC	Summary
Follow-up document		<a href="#">SEC(2009)0765</a>	10/06/2009	EC	
Follow-up document		<a href="#">SEC(2009)0766</a>	10/06/2009	EC	Summary
Follow-up document		<a href="#">SEC(2009)0767</a>	10/06/2009	EC	

## Area of freedom, security and justice: strategy for the external dimension, action plan implementing the Hague Programme

**PURPOSE:** to present a strategy on the external dimension of the area of freedom, security and justice.

**CONTENT:** the European Commission has prepared this Communication in response to the Hague Programme, which calls on the EU to adopt by the end of 2005, a strategy on the external dimension of the area of freedom, security and justice.

The purpose of the strategy is two-fold: firstly, to contribute to the successful establishment of the internal area of freedom, security and justice by creating a secure external environment, and secondly to

advance the EU's external relations objectives by promoting the rule of law, democratic values and sound institutions.

Securing internal security depends heavily on securing external security and it is this challenge which the proposed Strategy seeks to address.

External threats challenging internal security are numerous and have been identified as:

- Terrorist attacks akin to those conducted in Madrid and London.
- Organised crime ? money laundering, drugs trafficking, human trafficking, arms trafficking.
- Illegal immigration.
- Failing, unstable, governments
- Weak cross-border commercial transactions.

According to the Commission's Communication, the only way to address these pernicious threats is through the establishment of a coherent and comprehensive strategy that engages third-countries. The proposed strategy would be centred on a number of core issues and guided by a set of policy principles. The political priorities identified are:

- Human Rights: The EU should continue in its efforts to promote human rights in third-countries. Support should be given to third-country judiciaries in order to instil impartiality and the importance of upholding human rights.
- Good governance: The EU should strengthen law enforcement; strengthen EU-third country co-operation on common security threats; fight corruption; and promote transparency alongside democratic accountability.
- Migration, asylum and border management: The EU should offer support to third-countries in their migration management policies and their refugee protection policies; support operational border management initiatives; help enhance document security; seek to prevent illegal immigration; ensure the return of illegal migrants.
- Fight against terrorism: The EU should provide third countries with assistance in institutional building; it should work with third countries to address terrorist recruitment and financing; it should support the UN and build upon the EU's relationship with the US in order to enhance co-operation efforts.
- Organised crime: The EU should support institutional capacity and develop operational co-operation.

The principles guiding the political priorities include, in summary: geographic prioritisation (for example, adopting a more comprehensive approach towards candidate countries and neighbourhood countries, whilst offering more specific, focus driven, actions with other third countries); differentiation (recognising the need for a tailored approach to the external challenges facing the EU's security and not simply a 'one size fits all' approach). Other principles guiding the EU should be: flexibility; cross-pillar co-ordination and benchmarking.

The EU has, at its disposal, a number of policy instruments to help enact this strategy. They include bi-lateral agreements, the EU's enlargement and pre-accession process; the European Neighbourhood Policy Action Plans; regional co-operation, individual agreements; operational co-operation; institution building and twinning; development policy and external aid.

Underpinning the strategy is the need to promote the rule of law in third countries. Unstable, undemocratic and failing countries export the kind of threats outlined above thereby jeopardising the EU's establishment of an area of security justice and freedom. In following the proposed strategy on securing external security, the EU should be well placed to stem the import of threats, which undermine its internal security.

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The Council took note of a Presidency report on the implementation of the 'Strategy for the External Dimension of the JHA: Global Freedom, Security and Justice' covering the year 2006.

The strategy calls for the establishment of a partnership with third countries in the field of JHA, which includes strengthening the rule of law and promoting respect for human rights as well as international obligations. This is to be achieved through greater co-operation on:

- migration and asylum;
- border management and the effective control of borders;
- law enforcement co-operation on combating terrorism as well as the fight against organised crime,
- including trafficking in human beings, money laundering and the fight against corruption;
- judicial co-operation in civil and criminal matters; and assisting the judiciary and judicial reform of third countries.

The report focuses on:

- an overall assessment of the effectiveness of political, technical and operational co-operation with third countries on JHA issues in the previous period;
- specific suggestions for geographical and/or thematic priorities for future action; and
- options for measures, whether political or technical to improve co-operation with specific countries and regions.

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In adopting the report draft by Bogdan KLICH (EPP-ED, PL), the Committee on Civil Liberties, Justice and Home Affairs approved the report on an area of freedom, security and justice: Strategy on the external dimension, Action Plan implementing the Hague programme.

The report presents the following list of recommendations to the Council and Commission for their consideration:

1) Improving the democratic accountability in the external dimension of the AFSJ: the committee urges the Council and the Commission to:

- keep Parliament regularly informed of the negotiations on agreements dealing with the AFSJ;
- to activate the passerelle clause in Article 42 TEU, simultaneously with the constitutional process going forward, which would bring the provisions concerning police and judicial cooperation on criminal matters within the Community framework, leading to greater efficiency, transparency and accountability, as well as democratic and judicial control. It therefore urges the Commission to submit to the Council before October 2007 a formal proposal for a decision activating Article 42 TEU;
- to consider the establishment of the office of the Minister of Foreign Affairs and an external diplomatic service;
- to expedite in particular the adoption of framework decisions with regard to the storage, use and exchange of information on criminal convictions and to the codification of procedural rights in criminal proceedings throughout the EU.

2) As far as the main objectives of the Strategy are concerned: the committee welcomes the principles set out in the Strategy, especially the need for a partnership with third countries to tackle common problems and meet shared policy objectives. It recalls the need to rationalise the work of the EU institutions and the use of existing instruments, and to coordinate the actions of the Member States and actions at EU level in order to ensure a coherent and effective response in the EU's relations with third countries and to avoid duplication. Parliament is called upon to improve the coherence of its external relations activities and to streamline activities pertaining to human rights, democratic governance and the rule of law in third countries and in the external dimension of security. It is essential to improve cross-pillar coordination between, and to avoid the duplication of, the various instruments belonging to AFSJ, the European Security and Defence Policy (ESDP), the Common Foreign and Security Policy (CFSP) and the Community. It stresses that the effectiveness of such coordination should be subject to constant review by Parliament and welcomes the steps taken towards improved coherence in integrated civil-military cooperation of the ESDP, particularly in the field of crisis management.

The planning process of ESDP operations should take into account various flanking or follow-on measures provided by Community instruments in areas pertaining to the rule of law, arms and drugs trafficking, trafficking of women and children, the prevention and the fight against terrorism and organised crime and post-conflict stabilisation, particularly with regard to the Stability Instrument and the European Neighbourhood and Partnership Instrument (ENPI).

The Commission is called upon to:

- strengthen its efforts to support regional cooperation on justice, freedom and security issues through existing bodies, such as the African Union, by encouraging new initiatives in areas where regional cooperation is weak, such as the Middle East and Eastern Europe;
- continuously monitor implementation against the objectives and priorities set in the Strategy and to report on it every 18 months.

3) Strengthening security and human rights: in this area, the Council, the Commission and the Member States are called upon to:

- make the promotion of democratic standards, human rights, political freedoms and sound institutions an indispensable dimension of relations between the EU and third countries;
- keep the European Convention for the Protection of Human Rights and Fundamental Freedoms as the basis for all the negotiations and agreements of the EU and its Member States with third countries;
- include a "human rights clause" in agreements with third countries and to assess the effectiveness of these human rights clauses and other AFSJ clauses;
- include a human rights compliance report in all external policy initiatives or documents in the AFSJ, which would be regularly updated and presented to Parliament and backed by specific funding for human rights protection;
- consider the possibility of supplementing activities funded in the field of freedom, security and justice with third countries and regions by providing specific funding for human rights protection and compliance projects;
- fully observe the principle of non-extradition to countries where the persons extradited would suffer torture and/or the death penalty; calls on the Council and the Commission to urge the countries with which it has close relations to abolish such practices and to ensure that all persons have a right to a fair trial.

Concern is expressed at the inadequate legal safeguards for EU citizens in cases of personal data being made available to third countries, notably in cases such as PNR, SWIFT and the collection of telecommunication records by the FBI. Parliamentarians reiterate their request to the Commission to carry out an inquiry into which categories of personal data of European citizens are being accessed and used by third countries in their own jurisdictions.

The committee recommends a single data protection policy covering both the first and the third pillar. It calls on the Council to adopt, as soon as possible, the proposal for a Council framework decision on the protection of personal data.

4) Providing EU citizens with a high level of security against terrorism and organised crime: the committee calls on EU and the Member States to take all measures possible to limit cooperation with third countries that protect and/or fund terrorist organisations and stresses that a State must fully renounce terrorism before it may benefit from better relations with the EU. It urges those States that have not done so to sign and/or ratify all of the UN conventions on terrorism. Member States are asked to continue work leading to a common UN definition of terrorism. The importance of a proper Community policy on terrorism is emphasised. The Council is called on to enhance the dialogue with other third countries, to support the development of institutional and capacity building, to further develop and implement the national action plans to counter corruption effectively and to insert "counter-terrorism clauses" in agreements signed with third countries. It considers that greater funding and the use of the newly created instruments of the EU are needed in this area. The Commission and the Council are called upon to create standardised procedures for monitoring the production, storage, trade, transport, import and export of arms, explosives and weapons in order to prevent their misuse both within the EU and in third countries.

5) Strengthening police and judicial cooperation and borders management: more effective police and judicial cooperation are called for, including improved common use of national assets such as liaison officers. It is recommended that Europol should soon have the power to organise and coordinate operational actions and investigations, to participate in joint investigation teams and to deploy its own liaison officers in priority regions such as the Western Balkans. Frontex should also play an operational role in the management of the external borders

through an increase in its operational capacities and the provision of sufficient financial, human and technical resources, in application of the principle of solidarity and mutual assistance between Member States that all should share the burden arising from the management of the Union's external borders. Member States are asked to give further support to secure the new Eastern external borders of the EU.

The Commission and Council are asked to make all possible efforts to ensure that the authorities of the countries of origin and transit cooperate effectively with the EU and its Member States to prevent illegal immigration and fight the rings that practise trafficking in people. They are also called upon to undertake a regular assessment of the degree of cooperation of the third countries concerned as regards illegal immigration.

6) Strengthening international solidarity within the migration, readmission and asylum policies: the committee recommends that the Council adopt a common EU migration policy, including relevant measures to meet effectively the challenges of both legal and illegal immigration. In this context, it calls for the implementation of the conclusions adopted eight years ago at the Tampere European Council and confirmed by the Lahti informal European Council, of the Hague Programme, and of the conclusions of the December 2006 European Council with regard to the need to apply the global immigration strategy adopted in 2005.

The Council is called to introduce co-decision and qualified majority voting in the fields of legal migration and integration in order to improve decision-making and to complete the process begun in 2005 when Community method was extended to illegal migration and border controls.

The committee calls for the establishment without undue delay of a common European asylum system and urges the Council to remove any barriers to its creation. It also considers that the conclusion of readmission agreements as a priority which forms part of the wider strategy of combating illegal immigration. It recalls the need to have clear, transparent and fair common rules on return. The committee is concerned that the readmission agreements signed on behalf of the EU do not explicitly exclude asylum seekers from the scope of the agreements and may, therefore, involve the readmission of asylum-seekers whose claims have not yet been determined on their merits, or whose claims have been rejected or deemed inadmissible pursuant to the application of the "safe third country" concept; calls for safeguards to ensure respect for the principle of non-refoulement.

MEPs recommend negotiating directives on visa facilitation with third countries in the context of the Community readmission policy, where possible and on the basis of reciprocity, with a view to developing a real partnership on migration management issues. The Council is called upon to reduce the cost of visas in order to encourage democratic developments in ENP countries and to avoid, in the name of security, creating further barriers for the legitimate ordinary traveller.

Lastly, the committee supports the Regional Protection Programmes developed by the Commission in close cooperation with the United Nations High Commissioner for Refugees and the third countries involved, and recalls that it is important to ensure that those who need protection are able to access it as quickly as possible, regardless of which country or region they are in.

## Area of freedom, security and justice: strategy for the external dimension, action plan implementing the Hague Programme

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The European Parliament adopted the resolution based on the own-initiative report drafted by Bogdan KLICH (EPP-ED, PL), the Committee on Civil Liberties, Justice and Home Affairs approved the report on an area of freedom, security and justice: Strategy on the external dimension, Action Plan implementing the Hague programme. (Please see the summary of 05/06/2007.) Parliament also stated that it believed that the time is ripe to overcome political impediments to deeper transatlantic cooperation in the broader dimension of freedom and security, on a basis of respect for fundamental rights. This should take place, for example, in the areas of the fight against drug trafficking, organised crime and terrorism, in particular in view of the future civilian ESDP operations in Kosovo and Afghanistan, and in the areas of women's rights and the exchange and protection of personal data. It recalled, in this connection, Parliament's calls for the closure of the jail at Guantánamo, stressing that its existence is sending out a negative signal on how to combat terrorism.

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This document evaluates in detail the extent to which implementation of the Hague Programme and the related Action Plan has helped strengthen freedom, security and justice in the European Union. It forms part of the Commission communication, 'Justice, Freedom and Security since 2005: An evaluation of the Hague Programme and Action Plan', which is published together with the Communication on the future priorities for the next multi annual programme ("Stockholm Programme").

The Commission concludes that future action for the further strengthening of justice, freedom and security in the EU should pay particular attention to the lessons learned from the past and should serve the citizen through more efficient and effective policy-making. Looking at the achievements and difficulties encountered during the implementation of the Hague Programme and the related Action Plan analysed in this report, four main lessons applicable across all policy areas have been identified:

- the need for joined-up thinking and action;
- further attention to implementation and enforcement;
- improving the use of evaluation;
- complementing internal policies through external action.

## Area of freedom, security and justice: strategy for the external dimension, action plan implementing the Hague Programme

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This Communication from the Commission covers the issue of justice, freedom and security in Europe since 2005: an evaluation of The Hague programme and action plan.

The Hague Programme has been the EU's blueprint for realising its vision in the areas of access to justice, international protection, migration and border control, terrorism and organised crime, police and judicial cooperation and mutual recognition.

The Commission has carefully monitored the implementation of the Programme at EU and Member State level. Individual instruments have been evaluated by the Commission or by Member States through peer reviews. Drawing from these exercises, this Communication highlights the principal themes which have emerged, and looks ahead to how the EU should respond to the challenges of the future.

Three longer documents accompany the communication:

1. a report on the implementation of the programme which details, policy-by-policy, objectives, significant developments and future challenges;
2. an 'institutional scoreboard' which provides an overview of the programme's stated instruments and targets;
3. an 'implementation scoreboard' on implementation at national level.

The priorities for building on what has been achieved will be set out in the next multiannual programme (the Stockholm Programme ? see [COM\(2009\)0262](#)).

The Commission concludes that, with regard to The Hague Programme, progress has been mixed, but there have been visible achievements:

- Strengthening freedom: achievements are visible in the following areas: (i) protection of fundamental rights; (ii) citizenship of the Union; (iii) the Common European Asylum System; (iv) migration and integration; (v) border management; (vi) visa policy; (vii) the external dimension of asylum and migration;
- Strengthening security: achievements are visible in the following areas: (i) terrorism; (ii) police cooperation; (iii) organised crime; (iv) European Strategy on Drugs;
- Strengthening justice: achievements are visible in the following areas: (i) judicial cooperation in criminal matters; (ii) facilitating civil law procedure across borders; (iii) mutual recognition; (iv) external relations; (v) financial instruments.

Nevertheless, progress in certain areas remains mixed or limited. This uneven progress can be to a large extent explained by the unique challenges faced by the JLS area: a relatively young *acquis*, an insufficient role of the European Parliament in certain policy areas, a limited jurisdiction of the European Court of Justice and a limited competence of Commission to bring infringement, and the requirement for unanimity for decision-making in several areas.

Several elements of the Hague Programme which have not been delivered can be clearly attributed to the failure to ratify the Constitutional Treaty. The accession of the European Union to the European Convention on Human Rights has not been possible without the legal basis the Constitutional Treaty would have provided, and which the Lisbon Treaty would provide should it come into force.

Progress was comparatively slow in mutual recognition in criminal matters and police cooperation. The decision making process falling under the so-called 'third pillar' method (Title VI TEU) requires unanimity. This often leads to lengthy inconclusive discussions or ambitious proposals being reduced to agreement around lowest-common-denominator texts. A framework decision on procedural rights is one example of a proposal envisaged by the Hague Programme which was not adopted despite the importance attached to it by practitioners throughout Europe.

In addition, for legislative instruments in the third pillar, the lack of recourse to formal infringement procedures for ensuring proper transposition, and at times significant delays in the transposition of EU instruments at national level have resulted to some degree in a 'virtual' legislative framework with little or no benefit for the EU citizen.

The EU needs to learn from past action, making full use of successful strategies and correcting what could have been done better. The following themes should guide future work across justice, freedom and security policies:

- joined-up thinking and action;
- further attention to implementation and enforcement;
- improving the use of evaluation;
- complementing internal policies through external action.