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NOTE

From: Presidency
To: Delegations
Subject: Future Development of the JHA Area on Home Affairs issues

Delegations will find below the Discussion Paper on Home Affairs issues as distributed at the Informal Justice and Home Affairs Ministers' meeting on 18-19 July 2013 in Vilnius (Lithuania).

1. Introduction

In December 2009, the European Council adopted the Stockholm Programme, a multi-annual instrument for the development of an area of freedom, security and justice for the years 2010-2014. Almost five years later, the informal ministerial meeting in Vilnius offers an opportunity to start reflecting on the lessons learned during the implementation of the Programme and on the way forward.

This document prepared by the Lithuanian Presidency should serve as a basis for initiating the discussion on the post-2014 period. It is by no means a conclusive document but rather a tool to launch the reflection process within the Union, notably, in case of the informal ministerial meeting, between the Member States, the European Commission and the European Parliament. The Presidency thus looks forward to an open and lively exchange of views that could help the EU institutions to hold an EU-wide debate on the future of the JHA policy in accordance with the mandate given by the European Council in its conclusions of 27-28 June 2013:

"The European Council will hold a discussion at its June 2014 meeting to define strategic guidelines for legislative and operational planning in the area of freedom, security and justice (pursuant to Article 68 TFEU). In preparation for that meeting, the incoming Presidencies are invited to begin a process of reflection within the Council. The Commission is invited to present appropriate contributions to this process."

2. Background

The JHA area has undergone the most profound transformation in the EU during the last two decades. First appearing in the EU remit with the Maastricht Treaty in 1992, then integrating the Schengen Agreement into the acquis in 1997 with the Amsterdam Treaty, the EU moved to the first multi-annual programme, the Tampere Programme, in 1999, building around four milestones: common EU asylum and migration policy (including achieving the first phase of a Common European Asylum System), a genuine European area of justice, the Union -wide fight against crime and stronger external action.

The Union had already been enlarged when the Hague Programme was adopted (in late 2004). Its adoption coincided with a shift to more efficient decision-making procedures for the adoption of border, asylum and certain migration-related measures. The Hague Programme focused not only on legislation, but also on sharing responsibility and on solidarity, including the establishment of three large financial framework programmes - the General Programme "Solidarity and the Management of Migration Flows", the Specific Programme "Prevention, Preparedness and Consequence Management of Terrorism and other Security-related Risks" (CIPS) and the Specific Programme "Prevention of and Fight against Crime" (ISEC). One of the most noteworthy achievements during the years of the Hague Programme was the enlargement of the Schengen area as well as the integration of the provisions of Prüm Treaty into the EU framework.

Finally, the current Stockholm Programme witnessed the entry into force of the Lisbon Treaty and the recent finalisation of the second phase of the Common European Asylum System. Its achievements have yet to be summarised and should serve as a starting point for reflecting on the post-2014 objectives with regard to the EU policies in the area of freedom, security and justice.

Since the Lisbon Treaty introduced major changes in the freedom, security and justice area, future developments in this field should be discussed in the light of Article 68 TFEU, which provides that the European Council "shall define the strategic guidelines for legislative and operational planning" in this regard.

3. Reflections on the way forward

The three JHA multi-annual programmes have significantly contributed to creating a common European legislative environment and hence to clear and transparent rules for all actors involved, government agencies and citizens alike.

With the current economic uncertainties and limited financial resources, future Union actions have to be focused on the key priorities. Emphasis therefore has to be placed on the quality of action. With European rules for many aspects of freedom, security and justice now in place, the stress should be laid on the quality of implementation of the Union acquis, in other words, consolidation of the achievements of the three programmes. Europe has to be credible in terms of implementation and abide by its commitments. Therefore, the reflection on the future should focus on ways of consolidating the progress made so far in the JHA area. At the same time, a forward-looking and strategic political approach to post-2014 planning calls for discussion on whether the current JHA regulatory framework is evenly developed or there are some areas that require additional efforts.

Thanks to the achievements of the last 15 years, the Union has been able to develop not only the legislation, but also its own expertise and know-how, especially through the European agencies (FRONTEX, EUROPOL, EUROJUST, CEPOL, EASO, LISA, etc.) that are so vital in providing practical support to the competent authorities of the Member States, as well as in creating and sharing professional knowledge (e.g. thanks to the training courses and common core curricula) and building a common culture oriented towards a safer Europe for the benefit of all EU citizens.

The financial support tools in the JHA area have been very instrumental not only in financial burden sharing, but also in providing additional opportunities for cooperation between the Member States. The financial support provided by the EU financial instruments should be strategic and orientated to the achievement of the policy priorities and objectives. One of the ways to ensure better synergies could be to reflect on a better synchronization between policy planning (post-2014) and the financial programming cycle (MFF) that should also make it possible to avoid fragmented action and offer instead a strategy-oriented approach.

The way the follow-up to the Stockholm Programme is designed should take into account the new realities. The Tampere Programme was designed for a Europe of 15, the Hague Programme was intended for a Europe of 25, Stockholm for 27 and the next policy programming cycle will serve Europe of 28. A growing Europe also needs adequate tools to meet the challenges of today. Notably, the initiatives should not be a burden on economic growth but rather contribute to the predictability and openness of the economy and of society. Openness also means further developing partnership and contacts with European neighbors and EU strategic partners, therefore, the external dimension of JHA policies should also be considered of great importance for the future development of the area.

At the same time, the citizens and the visitors alike should feel safe. Security is also an asset for growth in Europe, because it provides a safe environment where economic activities can be developed. One of the major threats to our internal security is organized crime and its detrimental effects on the economy of the EU, including distortions in the internal market.

Europe should reap the benefits of the most recent scientific and technological achievements in ensuring that the technological developments facilitate and contribute to the functioning of area of freedom, security and justice, at the same time respecting privacy and fundamental rights. In addition, more efforts are needed to build an open and safe Europe that protects citizens and respond effectively to the security threat.

Questions for discussion

Hence the Ministers are invited to reflect on the principles of building the post-2014 area of freedom, security and justice. A credible future needs to take into account lessons of the past, but also to look for new and innovative solutions.

With this in mind, **the Presidency intends to propose the following questions for the ministers to discuss:**

- 1. What has changed/what challenges have emerged since the adoption of the Stockholm Programme in the field of Home affairs?**

- 2. Which three strategic priorities would you like to highlight for each area - asylum, migration and security policy for the post-2014 period?**

 - 3. What principles could be useful in constructing the post-2014 guidelines? Would it be reasonable to align policy planning and financial framework cycles?**
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