



ASSEMBLEIA DA REPÚBLICA  
**EUROPEAN AFFAIRS COMMITTEE**

**Opinion**

**Communication from the Commission to the European Parliament  
and the Council**

**An area of freedom, security and justice serving the citizen**

**I - Introductory Note**

The document COM (2009) 262 “Communication from the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen” was received by the European Affairs Committee on 12 June this year, and was then forwarded to the Committee for Constitutional Affairs, Rights, Freedoms and Guarantees on 23 of the same month. At the meeting of the latter Parliamentary Committee, held on 29 June, Ana Catarina Mendonça Mendes, Member of Parliament belonging to the Socialist Party Parliamentary Group was appointed as rapporteur, and the same Member of Parliament was also designated at the meeting of the European Affairs Committee.

Law no. 43/2006, of 25 August, establishes the powers of the Assembly of the Republic to monitor, assess and pronounce within the scope of the process of constructing the European Union, moreover in keeping with the provisions of the Constitution of the Portuguese Republic (CPR) with the Protocol on the role of the National Parliaments, annexed to the Treaty of Amsterdam, as well as with the requirements provided for in the Constitution.



## **ASSEMBLEIA DA REPÚBLICA**

Under the terms of Article 4.2 of Law 43/2006 of 25 August, “in accordance with the Rules of Procedure, the Assembly of the Republic shall assess draft legislation and guidelines on European Union policies and actions”, and the present opinion is drawn up to comply with this requirement. The subject matter of the document in question falls within the sphere of the Committee for Constitutional Affairs, Rights, Freedoms and Guarantees, and the European Affairs Committee may therefore liaise with the former committee on the drafting of the Opinion, in order to share information, as follows from the terms of Articles 3 and 6.2 d) of the said Law.

### **II - Recitals**

In this Communication, the Commission assesses the progress made towards European integration over the years, presenting its perspective on the future and setting priorities for action. It starts out by considering the economic and political difficulties facing the world, and the European Union in particular, as well as the complex challenges of the future, going on to call for comprehensive and sustainable solutions in the fields of the freedom and security of citizens. In the words of the document, “at a time when mobility is growing on a worldwide scale, Europeans are entitled to expect effective and responsible action at European level in areas that affect them so strongly”.

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



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The Union proposes to establish a new multiannual programme that builds on the progress made so far and learns the lessons of the current weaknesses in order to make an ambitious push forward. The new programme should define the priorities for the next five years, take up the challenges of the future, and make the benefits of the area of freedom, security and justice more tangible to the ordinary citizen.

The document sets out the following as its main political priorities:

- a) *Promoting citizens' rights – a Europe of rights*: The area of freedom, security and justice must above all be a single area in which fundamental rights are protected, and in which respect for the human person and human dignity, and for the other rights enshrined in the Charter of Fundamental Rights, is a core value. For example, the exercise of these freedoms and the citizen's privacy must be preserved beyond national borders, especially by protecting personal data; allowance must be made for the special needs of vulnerable people; and citizens must be able to exercise their specific rights to the full, even outside the Union.
- b) *Making life easier – a Europe of justice*: The achievement of a European area of justice must be consolidated so as to move beyond the current fragmentation. Priority should be given to mechanisms that facilitate people's access to the courts, so that they can enforce their rights throughout the Union. Where contracts and commerce are concerned, this should give those involved in economic life the tools they need to take full advantage of the opportunities offered by the single market. Cooperation between legal professionals should also be improved, and resources should be mobilised to put an end to barriers to the recognition of legal acts in other Member States.



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- c) *Protecting citizens – a Europe that protects*: A domestic security strategy should be developed in order further to improve security in the Union and thus to protect the life and safety of European citizens. The strategy should be aimed at strengthening cooperation in police matters and law enforcement and making entry to Europe more secure.
- d) *Promoting a more integrated society for the citizen – a Europe of solidarity*: a major priority in the next few years will be consolidating and putting into practice a policy on immigration and asylum that guarantees solidarity between Member States and partnership with non-Union countries. The policy should offer legal immigrants a clear and uniform status. A closer match should be developed between immigration and the needs of the European labour market, along with targeted integration and education policies. The practical use of the tools available to combat illegal immigration should be improved. For the management of these policies it is crucial that there be consistency with the Union's external policy. The Union should confirm its humanitarian tradition by offering its protection generously to those who need it.

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

- (i) As the policies followed in the fields of justice and home affairs gradually reach maturity, they support each other and grow in consistency. In years to come they should **fit smoothly together with the other policies of the Union**.
- (ii) To narrow the wide gap between the rules and policies approved at European level and their **implementation at national level**, greater attention should be paid to national implementation. Beyond strict legal transposal, implementation should be followed



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up with practical support measures (such as an upgrading of professional networks).

- (iii) Priority must also be given to **improving the quality of European legislation**. Action on the part of the Union should be focused where it can bring an appropriate response to citizens' problems. From the time when proposals are first sketched out, thought must be given to the potential impact on citizens and their fundamental rights, on the economy, and on the environment. The existing body of EU legislation is recent, but it is already large, and successive changes in the institutional structure in this field have increased its complexity. This is certainly one of the sources of the difficulties encountered in implementing it.
- (iv) Citizens expect to see the action taken by the Union produce results. Priority should be given to **improving the use made of the evaluation** of the mechanisms created and the agencies set up.
- (v) The political priorities must be accompanied by adequate **financial resources** which allow them to be implemented and which are clearly earmarked for the purpose. The budgetary resources of the future must be commensurate with the policy ambitions of the new multiannual programme, and must be based on an evaluation of the effectiveness of the mechanisms in place at present.

The Commission hopes that after in-depth discussions with the European Parliament the European Council will be able to adopt an ambitious programme on the basis of the communication in question by the end of 2009. On that basis the Commission will propose an action plan to implement the Stockholm programme with a view to fleshing out the measures to be taken and the agenda for 2010-2014.



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### Attention may be drawn to some of the specific proposals:

- \_ To establish a comprehensive system for data protection in the Union.
- \_ To abolish completely the *exequatur* for enforcement of judicial decisions between Member States
- \_ To set up an exchange programme for police officers and build further on the existing programme for legal professionals (“Erasmus” for police officers and legal professionals)
- \_ To strengthen procedural guarantees in criminal proceedings
- \_ To draw up a strategy for the Union’s internal security
- \_ To create an information systems architecture which makes it possible to improve the sharing of information by European police forces
- \_ To improve the **evaluation** of European policies on judicial matters and to support the efforts of Member States to improve the quality of their judicial systems
- \_ To institute a flexible immigration policy, adjusted to the needs of the employment market, helping immigrants to integrate at the same time as combating irregular immigration
- \_ To build up solidarity between Member States on the admission of refugees and asylum seekers
- \_ To step up research efforts in the security field

### III - Rapporteur’s Opinion:

Under the terms of Article 137.3 of the Rules of Procedure of the Assembly of the Republic, the rapporteur hereby excuses herself from expressing her opinion in this report.

### IV - Conclusions:



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1. The document COM (2009) 262 “Communication from the Commission to the European Parliament and the Council - An area of freedom, security and justice serving the citizen” was received by the European Affairs Committee on 12 June this year, and was then forwarded to the Committee for Constitutional Affairs, Rights, Freedoms and Guarantees on 23 of the same month.
2. At the meeting of the latter Parliamentary Committee, held on 29 June, Ana Catarina Mendonça Mendes, Member of Parliament belonging to the Socialist Party Parliamentary Group was appointed as rapporteur, having also been designated at the meeting of the European Affairs Committee.
3. Under the terms of Article 4.2 of Law 43/2006 of 25 August, “in accordance with the Rules of Procedure, the Assembly of the Republic shall assess draft legislation and guidelines on European Union policies and actions”, the present opinion is drawn up to comply with this requirement,
4. the subject matter of the document in question falls within the sphere of the Committee for Constitutional Affairs, Rights, Freedoms and Guarantees, and the European Affairs Committee may therefore liaise with the former committee on the drafting of the Opinion, in order to share information, as follows from the terms of Articles 3 and 6.2 d) of the said Law.
5. The Communication from the Commission to the European Parliament and the Council outlines the prospects for the Area of freedom, security and justice for the next five years,
6. Examines the steps taken by the Union in recent years in the field of justice and internal affairs and sets out priorities for the future
7. This Communication fleshes out the “Stockholm Programme”.
8. The Commission’s concern is to place the citizens at the heart of the future “Stockholm Programme”.



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9. Priorities are set for the next five years.

**Opinion**

In view of the above, there being nothing further to add, the Parliamentary Committee for European Affairs is of the opinion that the scrutiny process has been concluded.

Assembly of the Republic, 21 July 2009

The rapporteur

The Committee Chair

(Ana Catarina Mendonça Mendes)

(Vitalino Canas)





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### **COMMITTEE FOR CONSTITUTIONAL AFFAIRS, RIGHTS, FREEDOMS AND GUARANTEES**

## **Opinion**

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According to the Commission, freedom, security and justice are key values that form an integral part of the European model of society. They are a cornerstone of European integration. The Union has already succeeded in providing its citizens with a single market, economic and monetary union, and the capacity to meet global political and economic challenges. It has also made substantial



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progress towards an area of freedom, security and justice; the priority now has to be to put the citizen at the heart of this project.

The objective is therefore to provide the best possible service to the citizen. The growing diversity of a Union made up of 27 or more Member States has to be reflected in the way in which justice, freedom and security are managed. The right to move and to stay freely throughout the Union is now open to 500 million people. Personal and commercial situations with a cross-border dimension consequently arise more and more often. In addition, migratory pressures, especially on the Union's southern borders, have grown strongly. The examples provided by the Commission illustrate the many challenges facing us in the coming years.

These examples are:

- More than eight million Europeans are currently taking advantage of their right to live in another Member State of their choice, and the trend can be expected to intensify in the future. But although this right is an important reflection of their Union citizenship, they often encounter obstacles to its exercise.
- Questions of civil justice can be expected to grow more important. One succession in ten in the Union already has an international dimension.
- Cybercrime knows no borders, and is mutating constantly. In 2008, 1,500 internet sites with child pornography content were identified, both commercial and non-commercial.
- Terrorism remains a threat to the Union. In 2007 there were almost 600 terrorist attacks – failed, foiled or successfully executed – in 11 Member States.



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- There are 1 636 designated points of entry to the Union, and in 2006 the number of people crossing was about 900 million. In an open world, with growing mobility, ensuring effective management of the Union's external borders is a major challenge.
- In 2006 there were 18.5 million non-EU nationals registered in the Union, which is about 3.8% of the total population. Migratory pressures can be expected to grow further. This is due to population growth and poverty in many of the countries of origin, and to the ageing of the population of Europe: between 2008 and 2060 the number of people of working age is expected to fall by 15%, or about 50 million.
- According to estimates there are about eight million illegal immigrants living in the Union, many of whom work in the informal economy. Tackling the factors that attract clandestine immigration and ensuring that policies for combating illegal immigration are effective are major tasks for the years to come.
- Despite the existence of a common system of asylum, there is a need for greater uniformity in Member States' handling of asylum applications: the rates of acceptance of applications are currently very variable. In 2007, 25% of first decisions granted protection in the form of either refugee status or subsidiary protection. Behind this average figure there are wide variations: some Member States allow protection in only very few cases, while others have a recognition rate close to 50%.

The Union proposes to establish a new multiannual programme that builds on the progress made so far and learns the lessons of the current weaknesses in order to make an ambitious push forward. The new programme should define the priorities for the next five years, take up the challenges of the future, and make the benefits of the area of freedom, security and justice more tangible to the ordinary citizen.



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The document sets out the following as its main political priorities:

- a) *Promoting citizens' rights – a Europe of rights*: The area of freedom, security and justice must above all be a single area in which fundamental rights are protected, and in which respect for the human person and human dignity, and for the other rights enshrined in the Charter of Fundamental Rights, is a core value. For example, the exercise of these freedoms and the citizen's privacy must be preserved beyond national borders, especially by protecting personal data; allowance must be made for the special needs of vulnerable people; and citizens must be able to exercise their specific rights to the full, even outside the Union.
- b) *Making life easier – a Europe of justice*: The achievement of a European area of justice must be consolidated so as to move beyond the current fragmentation. Priority should be given to mechanisms that facilitate people's access to the courts, so that they can enforce their rights throughout the Union. Where contracts and commerce are concerned, this should give those involved in economic life the tools they need to take full advantage of the opportunities offered by the single market. Cooperation between legal professionals should also be improved, and resources should be mobilised to put an end to barriers to the recognition of legal acts in other Member States.
- c) *Protecting citizens – a Europe that protects*: A domestic security strategy should be developed in order further to improve security in the Union and thus to protect the life and safety of European citizens. The strategy should be aimed at strengthening cooperation in police matters and law enforcement and making entry to Europe more secure.
- d) *Promoting a more integrated society for the citizen – a Europe of solidarity*: a major priority in the next few years will be consolidating



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and putting into practice a policy on immigration and asylum that guarantees solidarity between Member States and partnership with non-Union countries. The policy should offer legal immigrants a clear and uniform status. A closer match should be developed between immigration and the needs of the European labour market, along with targeted integration and education policies. The practical use of the tools available to combat illegal immigration should be improved. For the management of these policies it is crucial that there be consistency with the Union's external policy. The Union should confirm its humanitarian tradition by offering its protection generously to those who need it.

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

- (i) As the policies followed in the fields of justice and home affairs gradually reach maturity, they support each other and grow in consistency. In years to come they should **fit smoothly together with the other policies of the Union**.
- (ii) To narrow the wide gap between the rules and policies approved at European level and their **implementation at national level**, greater attention should be paid to national implementation. Beyond strict legal transposal, implementation should be followed up with practical support measures (such as an upgrading of professional networks).
- (iii) Priority must also be given to **improving the quality of European legislation**. Action on the part of the Union should be focused where it can bring an appropriate response to citizens' problems. From the time when proposals are first sketched out, thought must be given to the potential impact on citizens and their fundamental rights, on the economy, and on the environment. The



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existing body of EU legislation is recent, but it is already large, and successive changes in the institutional structure in this field have increased its complexity. This is certainly one of the sources of the difficulties encountered in implementing it.

- (iv) Citizens expect to see the action taken by the Union produce results. Priority should be given to **improving the use made of the evaluation** of the mechanisms created and the agencies set up.
- (v) The political priorities must be accompanied by adequate **financial resources** which allow them to be implemented and which are clearly earmarked for the purpose. The budgetary resources of the future must be commensurate with the policy ambitions of the new multiannual programme, and must be based on an evaluation of the effectiveness of the mechanisms in place at present.

The document in question suggests a number of specific measures for pursuing the aims proposed. The document will be attached to this opinion, so that the proposals may be consulted in detail.

The Commission hopes that after in-depth discussions with the European Parliament the European Council will be able to adopt an ambitious programme on the basis of this communication by the end of 2009. On that basis the Commission will propose an action plan to implement the Stockholm programme with a view to fleshing out the measures to be taken and the agenda for 2010-2014.

### **Attention may be drawn to some of the specific proposals:**

- \_ To establish a comprehensive system for data protection in the Union.



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- \_ To abolish completely the *exequatur* for enforcement of judicial decisions between Member States
- \_ To set up an exchange programme for police officers and build further on the existing programme for legal professionals (“Erasmus” for police officers and legal professionals)
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- \_ To institute a flexible immigration policy, adjusted to the needs of the employment market, helping immigrants to integrate at the same time as combating irregular immigration
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### III - Rapporteur’s Opinion:

Under the terms of Article 137.3 of the Rules of Procedure of the Assembly of the Republic, the rapporteur hereby excuses herself from expressing her opinion in this report.

### IV - Conclusions:

1. The document COM (2009) 262 “Communication from the Commission to the European Parliament and the Council - An area of freedom,





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  5. The Communication from the Commission to the European Parliament and the Council outlines the prospects for the Area of freedom, security and justice for the next five years,
  6. Examines the steps taken by the Union in recent years in the field of justice and internal affairs and sets out priorities for the future
  7. This Communication fleshes out the “Stockholm Programme”.
  8. The Commission’s concern is for the citizens at the centre of the future “Stockholm Programme”.
  9. The Communication sets out the following priorities:
    - a) *Promoting citizens’ rights – a Europe of rights*: The area of freedom, security and justice must above all be a single area in which fundamental rights are protected, and in which respect for the human



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person and human dignity, and for the other rights enshrined in the Charter of Fundamental Rights, is a core value. Preserving the privacy of citizens beyond national borders, especially by protecting personal data, making allowance for the special needs of the more vulnerable and assuring that citizens are able to exercise their rights to the full, such as the right to vote and the right to consular protection.

- b) *Making life easier – a Europe of justice*: The achievement of a European area of justice must be consolidated, creating mechanisms that facilitate people's access to the courts, so that they can enforce their rights throughout the Union. Where contracts and commerce are concerned, this should give those involved in economic life the tools they need to take full advantage of the opportunities offered by the single market. To improve cooperation between legal professionals, and to mobilise resources to put an end to barriers to the recognition of legal acts in other Member States.
- c) *Protecting citizens – a Europe that protects*: to develop a domestic security strategy in order further to improve security in the Union and thus to protect the life and safety of European citizens. It is proposed that cooperation be stepped up in police matters and law enforcement and in making entry to Europe more secure. Steps will continue to be taken to combat organized crime and terrorism.
- d) *Promoting a more integrated society for the citizen – a Europe of solidarity*: to consolidate and create a policy on immigration and asylum that guarantees solidarity between Member States and partnership with non-Union countries. To create a clear and uniform status for legal immigrants. To develop a closer match between immigration and the needs of the European labour market, along with targeted integration and education policies. The practical use of the tools available to combat illegal immigration should be improved.



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The Union should move towards a common asylum system and work in this field towards the sharing of responsibilities and solidarity between Member States.

### V - Annexes

- COM (2009) 262 “Communication from the Commission to the European Parliament and the Council - An area of freedom, security and justice serving the citizen”
- Opinion of the European Data Protection Supervisory on the Stockholm Programme

### Opinion

In view of the above, there being nothing further to add, the Parliamentary Committee for Constitutional Affairs, Rights, Freedoms and Guarantees proposes that this report be forwarded to the European Affairs Committee, for its consideration, in accordance with the provisions of Article 7.3 of Law 43/2006, of 25 August.

Assembly of the Republic, 16 July 2009

The rapporteur

The Committee Chair

(Ana Catarina Mendonça Mendes)

(Osvaldo Castro)



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