



PARLIAMENT OF ROMANIA

CHAMBER OF DEPUTIES

DECISION

approving the opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - EU justice agenda for 2020 - Strengthening trust, mobility and growth within the Union, COM (2014) 144, and the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - An open and secure Europe: making it happen, COM (2014) 154

Pursuant to Article 67 and Article 148 of the Romanian Constitution, republished, of Law No 373/2013 on the cooperation between the Parliament and the Government in European Affairs, and Article 40 of the Decision of the Chamber of Deputies No 11/2011 on the work procedure and decision-making mechanism for parliamentary control on the draft legislative acts of the European Union under the provisions of the Lisbon Treaty on the role of the national parliaments,

the **Chamber of Deputies** has adopted this Decision:

Sole Article - Having regards to Draft Opinion No 4c-19/236 adopted by the European Affairs Committee in its meeting of 19 June 2014,

1. The Chamber of Deputies shares the position of the Committee for Legal Matters, Discipline, and Immunities that appreciates the Commission's proposals on the implementation of a fully functioning European area of justice by 2020: harmonisation of future EU-specific actions with the Charter of Fundamental Rights of the European Union, recommendation on the prompt settlement of the disputes in the Member States by using the out-of-court redress mechanisms developed in the European Union, strengthening and expanding the European Judicial Training Network, commitment to a more effective cooperation with the Hague Conference on private international law in multilateral diplomacy, accelerating the accession procedures of the EU to the European Convention on Human Rights.
2. The Chamber of Deputies agrees with the viewpoint of the Committee for Legal Matters, which considers that:

- the Commission's approach to strengthen the existing *acquis* in the area of justice, freedom and security, and its efforts to implement the existing instruments before the identification and implementation of new solutions and strategies are fully appropriate;
 - the needs and interests of citizens shall be placed in the centre of future European agenda concerning the area of justice, freedom and security;
 - the political developments concerning the area of freedom, security and justice (AFSJ) shall focus on the consolidation of the progress made, the implementation and improvement of the existing tools, the correlation of the sectoral strategies and initiatives, and the fulfilment of the objectives not discussed by the Stockholm Programme shall be a priority in future programming;
 - in the context of the EU's strong commitment to the full respect of the fundamental rights, the transposition and application of the rights set out in the Charter of Fundamental Rights require an extensive cooperation between different levels of authority, as a special, important and active role returns to the local communities which are closest to the citizens and, therefore, they may be the most effective in protecting those vulnerable;
 - the efforts to ensure fundamental rights shall be seen as an ongoing, long-term process, and its performance should be based on a common vision, integrated at the local, regional, national and European level;
 - where cooperation between the different levels of authority does not function properly, there may be a risk of an advantage developed by the extreme right, racism and xenophobia, which hinders the positive development of the EU as a whole;
 - to achieve the main objective of the EU Agenda in the area of justice for 2020, it would be useful to develop new communication channels and forums for the exchange of information between the administrative levels (local, regional, national, European), whereto the EU shall contribute with one-off measures;
 - the implementation of the Charter of Fundamental Rights of the EU is required at every level of representation, and there is a need to monitor the results and specific developments by the annual report on the Charter;
 - the implementation of a fully functioning common European area of justice by 2020 shall include the conciliation of powers of the different levels of action to avoid conflicts between objectives, and the supervision of the implementation of fundamental rights, the performance of legal analysis, the verification of factual information, the encouragement of the Member States to ratify and to implement the main instruments of international law, the consultation of the different stakeholders involved, and the monitoring of the impact of the actions of the European Union at national and European level.
3. The Chamber of Deputies holds the view of the Committee for Human Rights, Cults and National Minorities that the two Communications are convergent with the strategic guidelines expressed by Romania, including the meetings of the Council to support the EU objective of strengthening the AFSJ, and that these documents may be considered as appropriate and objective as they represent a vision for the future that will enable further progress towards the creation of a fully functioning common European area of justice by 2020, based on trust, mobility and growth.
 4. The Chamber of Deputies has noted the positive assessment of the Committee for Defence, Public Order and National Security in terms of defining the challenges, objectives and the modalities envisaged by the European Commission to achieve them.
 5. In the evaluation of the Stockholm Programme, the Chamber of Deputies has noted that:

- some policy statements have failed to overcome the level of theoretical rhetoric;
 - The European Union preferred an operational approach over a regulatory approach, which has led to the creation of “soft law”, consisting of different “strategies”, “programmes” and “roadmaps”, and has deferred the “communitarisation” of policies in the area of freedom, security and justice;
 - the programme has not eliminated the structural imbalances that affected the area of justice and home affairs since its beginnings, and which have had a lasting impact on its implementation;
 - the imbalances between freedom and security, justice and security, and legislative harmonisation and an operational approach still persist;
 - the gap between the political objective of a “Europe that protects”, and an “Europe of rights” has not closed;
 - the option of some Member States to depart from the “Community scheme” by exercising their right to exemptions still perpetuates, and this has created political imbalances;
 - the political priority involving the “promotion of citizenship and fundamental rights” has not been fully realised;
 - a European criminal policy has not been established.
6. The Chamber of Deputies considers that the following programming exercise should focus on harmonising the principles and effectiveness of the area of freedom, security and justice in order to confirm the EU’s ability to provide a common vision of the rule of law, to manage crises, and to reflect even more the requirement of solidarity between the Member States.
 7. The Chamber of Deputies notes that placing AFSJ in the “area” of fundamental principles of the European Union in the Treaty proves that in the architecture of the European Union the economy and the internal market do not prevail. The Chamber of Deputies recognises that the prosperity brought by the economic measures cannot ensure a proper quality of life unless paired with high standards that safeguard civil liberties and the safety of citizens. The Chamber of Deputies’ view is that this “philosophy” of the European construction is still viable.
 8. The Chamber of Deputies welcomes the solidarity principle that has become fundamental in the area of justice and home affairs, both through the provisions of the Treaty on the functioning of the EU, particularly Article 80 and Article 222, and through the role provided for in the Stockholm Programme, but would point out that its precise meaning and judicial scope of application have not been adequately clarified. In the view of the Chamber of Deputies, the disconnect between the principle of solidarity at the level of the European construction in general and its reflection in the policies in the area of justice cannot be accepted and it is recommended that any regulatory action, programming and implementation actions at the EU level should take into consideration this principle;
the Chamber of Deputies also considers that both the development and the implementation, and subsequently the evaluation of the new AFSJ programme should be based on the principle of solidarity.
 9. The Chamber of Deputies recognises that financial solidarity is a key form of solidarity that has the potential to restore the balance between the uneven developments experienced among the Member States, and to relax the associated national tensions.
 10. The Chamber of Deputies agrees with the opinion of the European Parliament that the objective to establish an area of freedom, security and justice requires the uniform application of the Treaties and secondary legislation across the EU, and that the delays in terms of aligning the

documents that belong to the former third pillar to the new rules on hierarchy negatively impact the achievement of this objective.

11. The Chamber of Deputies considers that after almost five years after the entry into force of the Lisbon Treaty time has come to give up the last reserves in the completion of the transition from the intergovernmental logic of the former third pillar to the “Community” logic by eliminating the exemptions to use the ordinary legislative procedure, which still persists as it is the only way to complete the European area of justice; for this it urges the revision of the Treaties, rethinking the institution of “minimum standards” and of “opt-out” exemptions; it calls on the new European Commission to present proposals for the inclusion of cross-border police cooperation instruments adopted under the former third pillar as the Prüm Decision, and the “Swedish initiative” within the legal framework of the Lisbon Treaty.
12. The Chamber of Deputies emphasises that the Treaty does not require to use the “minimum standards” system, but only allows it; it draws the attention that the appeal extended to “minimum standards” in the regulatory process produces the blocking of political integration, and the paradoxical situation where any draft developed on this basis to be considered as a violation of the principle of subsidiarity, on the grounds that the EU proposal does not have sufficient added value to justify the action of the European Union; at the same time, the fact that the Commission’s proposals allow the Member States to continue to use the national mechanisms, if they are at a higher standard than that proposed by the Commission under the empire of “minimum standards”, raises the question of why other Member States would choose to implement the mechanisms proposed by the Commission and not the superior mechanisms of the more efficient Member State.
13. The Chamber of Deputies draws attention to the prevalence of misinterpretation that mutual recognition would be an alternative to legislative harmonisation; it recalls in this context that the priority given to mutual trust has led the cooperation in law enforcement to a stalemate, despite a series of initial successes.
14. The Chamber of Deputies recalls that mutual trust is in opposition to the (“opt-out”) exemptions enabled by the EU Treaty in AFSJ, which has been consistently reported by the Chamber of Deputies, and it reiterates the opinion that the current state of the “opt-out” regimes cause coherence, consistency and compatibility problems between the national prerogatives and EU integration.
15. The Chamber of Deputies considers that the reliance on mutual trust should not be limited to the operation of the judicial systems of the Member States, but it should be extended to the various risks induced by serious irregularities committed in EU Member States; it recommends the transition to a fair interpretation of the principle of mutual trust, through the fundamental principles of the European Union.
16. The Chamber of Deputies considers that the mere fact of maintaining the judicial system in Romania under the EU monitoring by the cooperation and verification mechanism affects the “confidence” of the partners, although the risks caused to the European Union as a whole by the effects of severe irregularities, and the onerous financial transactions, fraud and tax evasion, arms trafficking, etc., are incomparably greater in other Member States.
17. The Chamber of Deputies admits the vision of the European Parliament, the Council and the Greek Presidency that the development of a European judicial culture is a prerequisite to make the area of freedom, security and justice happen for the citizens, and to ensure a better enforcement of the EU legislation.

18. The Chamber of Deputies supports the efforts for European judicial training for all legal professionals, including improving the knowledge of European law and of language skills among judges, the establishment and maintenance of certain networks in this area, and other measures aimed at facilitating daily judicial cooperation to ensure mutual trust and cooperation, and mutual recognition arising thereof.
19. The Chamber of Deputies has noted that the AFSJ fragmentation has not diminished during the implementation of the Stockholm Programme, which is a major source of concern for EU coherence; this is illustrated, *inter alia*, by the current situation of the management of the Schengen area, to which Bulgaria and Romania cannot accede because of the inability of the EU to impose its own values, principles and performance criteria; it warns about the risk of resurgence of extremist and anti-European political forces who contaminate the speech and actions of the great European political families, and *invites* the relevant EU institutions and Member States to initiate actions to counter this trend.
20. The Chamber of Deputies is of the opinion that the adoption and effective implementation of legislation aimed at eradicating hate crimes and hate speech, and the fight against those who promote, support and commit hate crime or hate speech is of paramount importance, and it calls for the further development of this legislation fully in line with the principle of solidarity.
21. The Chamber of Deputies is concerned with the manifestation in some political circles, of open intolerance to the mobility of EU citizens, with the aim of undermining the rights of workers from some new Member States, and it notes that these positions borrow many features of speech that incite hatred.
22. The Chamber of Deputies considers that the absence of internal border controls is one of the greatest achievements of European integration; it calls on the Commission to fully play its role as the coordinator of Schengen evaluations and the guardian of the Treaties, to pay special attention to the absence of internal border controls, and to firmly reject any attempts to limit the freedom of movement of people which are not in line with the *acquis*.
23. The Chamber of Deputies welcomes the completion of the negotiations on the Schengen governance package, and it recalls the support given by the Chamber of Deputies to all Schengen reform regulations, including those relating to the temporary suspension of the agreement; it considers that a long-term reflection on the further development of the Schengen area should not be blocked, but should take place within the legal and institutional framework; it considers that innovations, such as guarding the external borders of the Schengen by European border guards can be accepted.
24. The Chamber of Deputies has noted two important features of the AFSJ after the entry into force of the Lisbon Treaty, namely the consolidation of a variable geometry and the assertion of an external dimension consolidated for the European policies related to AFSJ; it considers that the extent to which the regional and global ambitions of EU security can be reconciled with the legal constraints affecting the AFSJ from an institutional and substantial perspective remains problematic; it highlights the importance of increasing cooperation at all levels with third countries in the area of security, migration, fundamental rights and border management; it believes that the principle of “more for more”, which determines the type and level of involvement of the EU in relation to third countries should be further developed; it considers that the EU and its Member States should not sign agreements with third countries in the area of freedom, security and justice where there is a serious risk of violation of human rights and the rule of law is not respected; it stresses that any agreement in this area should be concluded after a careful consideration of the impact on human rights, and it should include a suspension clause on human

rights; it notes that the EU continues to prefer to include clauses relating to AFSJ in broader cooperation agreements, and, thus, reduces the profile of the provisions from the scope of justice and home affairs; it believes that the conclusion of bilateral or multilateral agreements dedicated exclusively to issues relating to justice and home affairs has the advantage of ensuring their visibility, even if it reveals their political sensitivity as it was the case with the agreements on Passenger Name Records, or the agreements on the fight against terrorism.

25. The Chamber of Deputies has noted that, in recent years, justice policies were deployed to support business, and economic growth and stability by improving access to justice, and by facilitating litigations, and believes that in the future the EU policy in the area of justice should also continue to support economic recovery, growth and the fight against unemployment; it recognises that high quality legal systems, in which judgements are predictable, timely delivered and easily put into effect may play a key role in restoring trust, and could also play an important role in the recovery of economic growth, as it may provide important structural components for an attractive business environment.
26. The Chamber of Deputies has noted that Roma discrimination occurs throughout the European Union, and considers that the lack of progress in the implementation of national strategies for Roma integration could be overcome by introducing the concept of European Roma ethnicity, and hence by the recovery of strategies and programmes on this basis.
27. The Chamber of Deputies acknowledges the progress made by the Member States and the Commission with regard to the Internal Security Strategy and the EU policy cycle on the serious forms of international crime and organised crime, particularly in combating terrorism, transnational organised crime, cybercrime, the protection of critical infrastructure, fight against corruption, money laundering and illegal arms trade, and believes that these advances can be exploited only by the continued efforts in these fields.
28. The Chamber of Deputies welcomes the European Parliament asserting its role as an institutional actor with full rights in security policy, including the right to actively participate in defining the guidelines and priorities of Internal Security Strategy, and in the assessment of the tools, including by monitoring the implementation of the strategy jointly with the European Parliament, the national parliaments and the Council.
29. The Chamber of Deputies recognises the revival of border crime throughout the European Union, and highlights the importance of allocating skills and sufficient resources to the agencies operating in the field of law enforcement cooperation; it considers that the current “landscape” of the various instruments, channels and tools in the area of the exchange of information between the law enforcement authorities of the EU is complicated and dispersed, leading to the inefficient use of the available tools and inefficient democratic oversight and inadequate accountability at EU level.
30. The Chamber of Deputies welcomes the agreement reached on the proposed directive on freezing and confiscating the proceeds of crime in the European Union; it recalls that the confiscation of criminal assets is one of the most effective tools to combat criminal organisations, and recommends intensifying the actions of the European Union in this direction.
31. The Chamber of Deputies emphasises that human trafficking cannot be tolerated by the EU, and regrets that the number of victims of trafficking from and to the EU is growing, despite the entry into force on December 2011 of the EU Directive on preventing and combating the trafficking of persons; it encourages further developments of the assistance of victims, through measures including the development of compensation schemes, safe return, reintegration assistance in the

host country in the case of voluntary return, assistance and help during the stay in the EU, and cooperation with the authorities from countries of origin in order to protect the families of the victims, and not least, the clarification of the term itself 'victim'.

32. The Chamber of Deputies recalls that since 2009 the Romanian Parliament has set up a working group to combat human trafficking, and recommends extending the action to combat human trafficking and modern slavery in the national parliaments.
33. The Chamber of Deputies considers that the EU policy to combat terrorism must focus on exposing in detail the mechanisms for the creation and operation of terrorist groups to identify and penalise providers of political, financial and logistical support, including the information of the public about the real goals pursued by them; secondly, it is desirable for the EU services who have responsibilities in terms of implementing counter-terrorism policies to improve their coordination, namely the EU Counter-terrorism Coordinator, Europol, the Standing Committee on Operational Cooperation on Internal Security Council (COSI), the Working Group on Terrorism (COTER) and Eurojust should better coordinate their actions; the one-off measures, such as enhancing public awareness network on radicalisation should be given sufficient and quality resources to achieve a greater efficiency.
34. The Chamber of Deputies expresses surprise at the frequency of confusing immigrants from third countries with European citizens of other states exercising their right to free movement; it recalls that a European citizen cannot have an immigrant status in another Member State, and hopes that the authorities of the Member States, acting under the principle of sincere cooperation, take the necessary both for the correct information of the public, and for the insurance of the rights of EU citizens.
35. The Chamber of Deputies considers that the European Union should be prepared to make better use of legal migration opportunities. The initiation of structural dialogues with the Member States, businesses and trade unions on the demand of labour migration could facilitate the organisation of better integration of immigrants.
36. The Chamber of Deputies considers that the prevention and reduction of illegal migration flows is an essential part of any well-managed migration policies which require a combination of measures, including actions against employers who hire illegal labour, intensification of measures taken by the EU to discourage illegal migration and human trafficking, and strengthening the cooperation with the countries of origin and of transit.
37. The Chamber of Deputies considers that the EU must respond to the asylum obligations in a way that reflects a real solidarity and shared responsibility by all Member States. The new program should develop measures, such as the mutual recognition of the decisions granting international protection by Member States, the establishment of a framework for making rules for the transfer of persons who were granted a form of international protection, the joint processing of asylum applications, pooling the capabilities of the reception of asylum seekers in emergency, contingency plans, the study on the joint processing outside the EU of applications addressed to the EU for international protection, the promotion of access procedures protected in the EU, the strengthening of the commitment on the relocation and the creation of legal means for people seeking protection.
38. The Chamber of Deputies takes favourably the approach by the European Commission of the policies on justice and home affairs, while opening to other EU policy areas and synergies, especially on the external dimension, including areas, such as transport, internal market, customs union, research and development, digital market, and civil protection.

39. The Chamber of Deputies envisages the need to adapt the EU policies and instruments to the demographic challenges, the increasing mobility and their impact on the labour market in the EU.
40. The Chamber of Deputies considers that an effective, accessible and fair justice system, which is consistent with the fundamental rights is a solid foundation of democracy, promotes mutual trust and the wellbeing of citizens, and the prosperity of the economy.

This Decision was adopted by the Chamber of Deputies in the meeting of 30 September 2014, in compliance with Article 76(2) of the Constitution of Romania, republished.

Signed for the PRESIDENT OF THE
CHAMBER OF DEPUTIES

Viorel HREBENCIUC

Bucharest, 30 September 2014

No 51.