

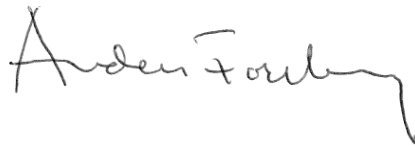
2009-09-17

To the European Commission
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The Swedish Parliament has referred the Commission's Communication *An area of freedom, security and justice serving the citizen*, COM(2009) 262, to the Committee on Justice for examination.

The committee has reported to the chamber on its examination in a statement 2008/09:JuU31. The statement was decided upon 16th of September 2009.

The statement and minutes are enclosed.



Anders Forsberg
Secretary-General of the Riksdag

Statement by the Committee on Justice 2008/09:JuU31

An area of freedom, security and justice serving the citizen

Summary

In this Statement, the Committee considers the European Commission's Communication entitled "An area of freedom, security and justice serving the citizen", COM (2009) 262 final, also known as the Stockholm Programme. This Commission's Communication forms the background information for discussion concerning the development of a new, multi-year work programme for the Justice and Home Affairs area which is to replace the Hague Programme which expires in December 2009. Discussions will be undertaken during the Swedish Presidency period, with the intention of producing a programme that could be adopted by the European Council before the end of 2009. The Stockholm Programme is to apply for the period 2010–2014. An action plan will be established to implement this programme and will constitute a detailed schedule of measures for 2010–2014.

The Committee on Justice welcomes the Commission's Communication and adopts a positive position on the fact that the Commission, in its next multi-year work programme, places the individual and his/her rights centre stage. The Committee is also positive that the overall theme of this programme is a Europe for its citizens. The Committee considers that it is also important that the Stockholm Programme maintains a better balance than previous programmes between measures aimed at increasing the security of the citizens and measures aimed at strengthening individual rights; when measures are taken within the EU to increase security, these should be accompanied by initiatives that also strengthen the rule of law and the protection of the individual.

The right to privacy must be guaranteed irrespective of national borders, especially as concerns issues of protection of personal data. An effective, comprehensive system for protection of personal data is necessary in the EU. In the opinion of the Committee on Justice, it is also essential to analyse whether a measure will be efficient and effective before it is implemented. The Committee, which welcomes the efforts the Commission has made as concerns the evaluation of the Hague Programme, underlines the importance of evaluation of all measures taken. The Committee notes in its Statement that the entry into force of the Lisbon Treaty will bring changes within the area of freedom, security and justice including in the forms of decision making. How this will affect future activities within this policy area must be analysed in more detail when these proposals have taken concrete form.

There are three explanatory reservations as concerns this matter (Social Democratic Party, Left Party and Green Party).

Report on the matter

The matter and its preparation

In accordance with Chapter 10, Section 4 of the Riksdag Act, the Chamber has referred the Commission's

Communication "An area of freedom, security and justice serving the citizen", COM(2009) 262 Final to the Committee on Justice for examination and the issue of a written Statement.

The explanatory memoranda An area of freedom, security and justice serving the citizen (2008/09:FPM137) and Evaluation of the Hague Programme (2008/09:FPM138) were submitted to the Riksdag by the Government Offices. The Committee on Justice has received verbal information from the Ministry of Justice concerning the work of the Government with the Stockholm Programme and Commission's Communication at committee meetings held on 19 May, 11 June and 20 August 2009. The Committee on Justice has provided the Committee on the Constitution, the Committee on Civil Affairs and the Committee on Social Insurance with the opportunity to comment on this Communication. The Committee on Social Insurance submitted its comments on 11 August 2009, the Committee on the Constitution on 18 August 2009 and the Committee on Civil Affairs on 20 August 2009.

Background

The European policy area of Justice and Home Affairs encompasses rescue services, police and customs cooperation, cooperation in the fields of penal and civil law, asylum issues, migration, visa matters and control of external borders etc. The emphases of this cooperation are stated in a multi-year strategic work programme. The first programme was adopted in 1999 in Tammerfors. The current programme, the Hague Programme, was adopted by the European Council in November 2004. An Action Plan for the practical measures included in the programme was adopted by the Council for Justice and Home Affairs Issues in June 2005. The Hague Programme expires in December 2009. The work of developing a new programme for the period 2010–

2014, entitled the Stockholm Programme, has been initiated. In its Communication (COM(2009) 262) entitled An area of freedom, security and justice serving the citizen (Stockholm Programme) that was presented on 10 June 2009, the Commission gives its view on future activities concerning justice and home affairs issues. The Communication will form the basis of the discussions on a new, multi-year work programme which will be held during the Swedish Presidency of the European Union. The Commission hopes that it will be possible for the European Council to adopt a programme before the end of 2009.

The Stockholm Programme is to apply for the period 2010–2014. An Action Plan will be established to implement this programme and will constitute a detailed schedule of measures for 2010–2014. When the Commission submitted the said Communication, it also submitted a Communication concerning the evaluation of the Hague Programme and Action Plan (COM(2009) 263). This Communication reports on measures that have been taken with the aim of strengthening the protection of fundamental freedoms and rights during the Hague Programme and initiatives taken with the aim of preventing terrorism. The Informal Meeting of the Ministers of Justice and Home Affairs in Stockholm on 15–17 July 2009 was exclusively dedicated to discussions concerning the planned Stockholm Programme. During the autumn of 2009, negotiations will be under way in Coreper and in the Council of

Ministers. It is planned that the Stockholm Programme will be adopted at the meeting of the European Council on 10–11 December 2009. The European Parliament will probably adopt a resolution on this Communication during the autumn of 2009.

The Committee's examination

The Commission's Communication

The Commission's Communication is divided into six chapters. In the first chapter the Commission establishes that the individual is to be the focus of future cooperation and that the recurrent theme for this new programme should be a Europe for its citizens. In the introduction, examples are given both as concerns the successes and the failures in this cooperation to date. The Commission also identifies future challenges. In order to ensure that the new programme is successful, the Commission proposes a number of tools to use in these activities. These include improved coordination of activities with other policy areas, facilitating the implementation of legislation at national level, various support measures, improving the quality of EU legislation, better evaluation of the effects of existing legislation and ensuring that there are sufficient financial resources allocated so that measures agreed can be implemented in an effective manner. The following four chapters deal with issues concerning the promotion of citizens' rights, making the everyday lives of citizens easier through more extensive legal cooperation, a Europe that protects its citizens and a Europe demonstrating solidarity as concerns migration and asylum. In the final chapter the Commission hopes, in conclusion, that the Council will be able to adopt an ambitious programme before the end of the year so that the Commission will be able to submit a detailed Action Plan for its implementation.

Explanatory memoranda

In the explanatory memorandum entitled *An area of freedom, security and justice serving the citizen* (2008/09:FPM137) the Government states its preliminary views. The Government welcomes the Communication and takes a positive position as concerns focussing on the individual and his/her rights in continued cooperation. The Government also expresses its approval of the advantages reported to the Commission that would accrue to the EU from joining the European Convention on Protection of Human Rights and Basic Freedoms. In addition, the Government considers that the future programme should maintain a better balance between measures aimed at increasing security (e.g. measures aimed at combating terrorism, organised crime and illegal immigration) and measures aimed at strengthening individual rights. As a preliminary Swedish position, the Government further states that, when the EU during the next few years takes measures to increase security, these should be accompanied by initiatives that also strengthen legal security and the protection of the individual perhaps in the form of minimum levels of rights for defendants in criminal trials, improved protection of, and support for, victims of crime, the development of regulations for data protection, rights for migrants and fair, efficient scrutiny of asylum applications. In addition, the Government feels that stronger border controls must go hand in hand with more legal channels for migration and increased opportunities of actually being able to apply for asylum.

In its explanatory memorandum entitled Evaluation of the Hague Programme and Action Plan (2008/09:FPM138) the Government states that this Communication will provide important background information for the continued development of the Stockholm Programme.

Introduction and the Committee's overall views

The statement

In accordance with Chapter 10, Section 4 of the Riksdag Act, the Chamber has referred the Commission's Communication "An area of freedom, security and justice serving the citizen", COM(2009) 262 final to the Committee on Justice for examination and the issue of a written statement. The aim of this statement is to create a debate on these issues at an early stage and to report various views that may be of value for the continued management of this issue. This statement is to be considered as providing preliminary views in order to express prevailing opinion in the Riksdag at the point in time when this statement was considered. Statements are not legally binding either for the Swedish Parliament or for the Government in the positions they later choose to take. A statement does, however, provide the Government with an opportunity to, at an early stage in the proceedings, explore whether its views on EU cooperation have the support of the Riksdag.

Initially the Committee would like to welcome this opportunity of becoming involved at this early stage of the process of developing a multi-year work programme for Justice and Home Affairs issues - the Stockholm Programme. In spite of the fact that the Commission's Communication is intended as a basis for discussion and that proposals may be amended in the future it is, in the view of the Committee, valuable for the Riksdag to discuss the emphases of future cooperation within these fields. It is also valuable that the Riksdag is able to submit its views prior to continued negotiations.

The Committee's overall views

The Committee on Justice welcomes the Commission's Communication and is positive to the fact that the Commission focuses on the individual and his/her rights in the next multi-year work programme. The Committee is also positive to the fact that the recurrent theme of the programme is a Europe for its citizens. The Committee considers it important that the Stockholm Programme maintains a better balance than previous programmes between measures aimed at increasing the security of the citizens and measures aimed at strengthening individual rights; when measures are taken within the EU to increase security, these should be accompanied by initiatives that also strengthen legal security and the protection of the individual. The right to privacy must be guaranteed irrespective of national borders, especially as concerns issues of protection of personal data. An effective, comprehensive system for protection of personal data is necessary in the EU. In the opinion of the Committee on Justice, it is also essential to analyse whether a measure will be efficient and effective before it is implemented. The Committee, which welcomes the efforts the Commission has made as concerns the evaluation of the Hague Programme, underlines the importance of evaluation of all measures taken.

The Committee notes in its statement that the entry into force of the Lisbon Treaty will bring changes within the area of freedom, security and justice including in the forms of decision making. How this will affect future activities within this policy area must be analysed in more detail when these proposals have taken concrete form.

In the following, the Committee considers the contents of the four chapters of the Communication that deal with issues concerning the promotion of citizens' rights, making citizens' everyday lives easier through the development of legal cooperation, a Europe that protect its citizens and a Europe that demonstrates solidarity on issues concerning migration and asylum. In the final chapter, the Commission hopes, in conclusion, that the Council will be able to adopt an ambitious programme before the end of the year so that the Commission will be able to submit a detailed Action Plan for its implementation.

Promoting citizens' rights

The Commission's Communication

In Chapter 2, the Commission deals with the issue of promoting citizens' rights. In an area characterised by freedom, security and justice, respect for the individual and for human dignity assumes a central position in accordance with the Charter of Fundamental Rights. Here the Commission takes up the right of free movement which it must be possible to practise fully, respect for diversity and protection for vulnerable groups, protection of personal data and privacy, the right to participate in the EU democratic process via the right to vote and stand as a candidate in elections, as well EU citizens' right to protection in a third country.

The Commission states in its Communication that the Union should sign the European Convention for the Protection of Human Rights and Fundamental Freedoms with the aim of completing the system of protection of fundamental rights. In addition it is stated in the Communication that the struggle against discrimination, racism, anti-Semitism, xenophobia and homophobia must be waged with force and determination. According to the Commission, there are also reasons to tighten controls to ensure that legislation is applied effectively in issues such as framework decisions on racism and xenophobia. The Commission also maintains that the EU and its member states should unite in their efforts to promote the integration of especially vulnerable groups - not least the Roma - into society. In the Communication it is stated that the EU will be allocating resources from the structural funds for this purpose and at the same time ensuring that existing regulations against discrimination are applied efficiently for the protection of these vulnerable groups.

The Commission considers that a more comprehensive system should be introduced for the protection of personal data and privacy. In the Communication it is asserted that the EU should firstly agree on a joint approach for the protection of personal data - both internally and in relations with countries outside the Union and secondly regulate the conditions for when public authorities (in the exercise of their legal duties) may limit the application of the regulations in question. Considering the speed of technical developments, according to the Commission, it is urgent to establish that the management of personal data is in line with the principles of purpose, proportionality and legitimacy of processing, limits on storage time, security and confidentiality during processing and respect for individual rights as well as the establishment of an independent supervisory authority to bear responsibility for checking compliance. Even if the current legal framework guarantees a high level of protection, the Commission considers that certain complementary initiatives in the form of legislation or other measures appear to be necessary with the aim of continuing to guarantee the efficient and effective application of the above-mentioned principles. In addition, the Commission feels that protection of personal data may be promoted through the development of new

technology and that a system of European certification of technology, products and services which “guarantee a good level of respect for privacy” should be considered. The Commission also considers that the EU should play a leading role in the development and promotion of international standards for protection of personal data.

The comments of the Committee on the Constitution

As concerns *respect for diversity and protection of vulnerable groups* the Committee on the Constitution, in its comments to the Committee on Justice, takes a positive position to the Union’s continued work against discrimination, racism, anti-Semitism, xenophobia and homophobia. According to the Committee on the Constitution, an accession by the EU to the European Convention would bring advantages concerning the protection of rights and freedoms within the EU, as would a stronger legal position for the Charter of Fundamental Rights and principles for human freedom and rights enshrined in the European Convention. In view of the complications of application that might follow an accession to the European Convention, the Committee on the Constitution would like to repeat its previously stated principle view that the European Court of Human Rights has a superior role in interpreting the European Convention’s protection of freedoms and rights.

The Committee on the Constitution would also like to emphasise the importance of rules of procedure that are clearly stated and predictable for EU citizens. In addition, the Committee on the Constitution maintains that measures taken in continued work to combat discrimination, racism, anti-Semitism, xenophobia and homophobia must be proportional and based on the rule of law and that these activities be implemented in circumstances that do not affect the legal principles of Swedish freedom of the press and freedom of expression. As an example, it could be mentioned that the Freedom of the Press Act and the Fundamental Law on Freedom of Expression involve limitations on the extent to which statements of various kinds can be prosecuted as the crime of agitation against a national or ethnic group.

Finally, the Committee on the Constitution would like to emphasise the importance of, at both EU and national level, working to achieve a practical policy with the aim of improving the situation of the Roma and counteracting their and other minorities groups’ vulnerability in society.

As regards issues concerning *protection of personal data and privacy*, the Committee on the Constitution would initially like to point out that the Communication, which is to be considered as a basis for discussion, does not enable a careful assessment of the planned proposals for measures and legislative acts for the protection of personal data and privacy within the framework of EU cooperation in the field of Justice and Home Affairs. The right to privacy must be guaranteed independent of national borders, especially as concerns the protection of personal data, and it is necessary to have a comprehensive and effective system for the protection of personal data in the EU. In this context, the Committee on the Constitution wishes to remind the Committee of its previous position on the issue of revision of the Data Protection Directive. A regulation of data protection should, according to the Committee, be designed in accordance with the abuse model not, as is the situation now, with a management model. In addition, the Committee on the Constitution wishes to point out that the measures presented in the Commission’s Communication, and which would involve an increase in the exchange of personal data, may generate risks to personal integrity.

The Committee on the Constitution maintains in this context the importance of careful and clearly-stated regulations in the proposals that the Commission intends to present within the

framework of the Stockholm Programme. Finally, the Committee on the Constitution would like to issue a reminder that the principle of public access to official documents, especially the right to read public documents, the constitutional protection of the freedom for civil servants and others to provide information to the media etc. and the ban on investigation of whistle blowers are, and will remain, fundamental regulations that form a part of Sweden's constitutional, political and cultural heritage.

The Committee on Justice's position

As concerns *respect for diversity and the protection of vulnerable groups* the Committee on Justice is positive to the Union's continued activities aimed at combating discrimination, racism, anti-Semitism, xenophobia and homophobia. The Committee on Justice considers, like the Committee on the Constitution, that the EU's accession to the European Convention would mean advantages as concerns the protection of freedom and rights within the Union. As concerns the issue of promoting citizens' rights, the Committee considers that it is important that the Anti-discrimination Directive, which is currently under negotiation in the EU, is provided with as broad an area of application as possible and that it secures the same level of protection against discrimination irrespective of the grounds for discrimination. As the Committee on the Constitution maintains, measures concerned with the continued struggle against discrimination, racism, anti-Semitism, xenophobia and homophobia must be proportional and in accordance with the rule of law.

In addition, it is important that both the EU level at the national level work towards a practical policy with the aim of improving the situation of the Roma and counteracting their and other minority group's vulnerability in society.

Concerning the issue of *protection of personal data and privacy*, Sweden has been a driving force for a number of years within the European Union as concerns the protection of individual integrity against extensive processing of personal data. The Committee on Justice considers that it is vital that the measures presented in the Commission's Communication, and which would mean an increased exchange of personal data with the aim of fulfilling the interests of society in investigating and prosecuting crime, be balanced by effective protection for personal integrity.

The Committee on Justice agrees with the Committee on the Constitution's observation that the right to privacy must be guaranteed irrespective of national borders, especially as concerns issues of protection of personal data, and that a comprehensive, effective system is necessary for the protection of personal data in the EU. Consequently careful, clearly-defined regulation is essential in these fields. With the arguments above the Committee on Justice agrees with the statement of the Committee on the Constitution.

Making people's lives easier: a Europe of law and justice

The Commission's Communication

As concerns cooperation in the field of justice, the Commission's objective is to achieve a European judicial area for the benefit of its citizens in which the judicial systems of the 27 member states work together in a coherent and effective manner, in accordance with national legal traditions. In its Communication, the Commission maintains the necessity of continuing efforts aimed at *mutual recognition of judgments*. The Commission considers that the

principle of mutual recognition is a cornerstone of the work of building up a European judicial area. One precondition for this is strong, mutual trust, that the actors in the judicial area are able to trust each others' judicial systems. As concerns the issue of the mutual recognition of judgments, the Commission repeats the objective of removing the exequatur procedure in the field of civil law.

The Commission considers that the principle of mutual recognition could be extended to cover new areas, e.g. matrimonial property rights as well as inheritance and wills. Within the field of criminal law, the Commission feels that the principle of mutual recognition should be applied at all stages of the procedure and that considerable progress has already been made as concerns mutual recognition of sentences. According to the Commission, other types of decision, which may be of criminal or administrative character depending on the member state concerned, should be encompassed by the principle of mutual recognition, for example the protection of witnesses and victims of crime and certain types of fines. The Commission considers that the EU must also make efforts to achieve mutual recognition of decisions concerning loss of rights and for this purpose should promote a systematic exchange of information between the member states.

In order to strengthen *mutual trust* the Commission's proposals include support to practitioners for the application of EU law and exchange activities. It should be possible to utilise Eurojust and European legal networks for civil and criminal law issues better in efforts to achieve a more effective, practical application of EU law among all those working in the legal profession. It is also assumed that educational inputs in EU law and more developed routines for evaluation could strengthen trust.

As concerns *common standards* the Commission considers that only action at EU level within certain of the criminal law fields – primarily as concerns terrorism, organised crime and crime aimed at the EU's financial interests – would work effectively. Consequently, according to the Commission, an alignment of substantive law as concerns certain serious, often cross-border illegal crimes should continue. The Commission considers that the definitions of offences and their penalties should be held in common. Such a movement of laws towards each other should, according to the Commission, promote mutual recognition and in certain cases it should be possible to fully eliminate the reasons for one member state not recognising a judgment made in another member state.

In order that citizens are to be able to enjoy the full benefit of the advantages of a *European judicial area*, the Commission underlines the importance of the individual's access to a legal hearing, especially in those cases that affect parties in several member states. Among the measures to be further developed are those concerning legal aid. Citizens also need help to overcome linguistic barriers which may constrain their access to the legal system. Consequently efforts should be made to improve the quality of legal translation and interpretation, through measures such as the linking of databases that are used by translators and interpreters and possible utilisation of remote translation and interpretation. The Commission also sees considerable potential in the E-justice Project and considers that video conferencing is a facility that should be exploited more, for example to prevent victims of crime having to travel long distances unnecessarily. The Commission also states that EU will further develop measures for the support of victims of crime and strengthen the structures that offer practical help including European networks. In addition, the Commission in its Communication indicates the opportunities to successively connect

certain national registers (while applying the necessary considerations as concerns data protection) such as insolvency registers for companies and individuals.

The chapter on cooperation in the field of justice also contains a section on *measures aimed at supporting economic activity*, something that is asserted to be especially important in times of crisis. This concerns, for example, ways to improve opportunities to collect debts across borders and to develop special, European contract law.

The comments of the Committee on the Constitution

The Committee on the Constitution considers in its comments to the Committee on Justice that there is reason to, in the future, pay attention to how much the continued efforts towards mutual recognition of judgments within the Union develops in such a manner as to cause consequences for the Swedish freedom of the press and freedom of expression regulations. The Committee on the Constitution wishes to assert that actions that are encompassed and protected by the Freedom of the Press Act and the Fundamental Law on Freedom of Expression may only be prosecuted and punished according to the procedure, and to the extent stated, in these fundamental laws. In this context there may, according to the Committee, also be reason to remind the Committee on Justice of the Committee on the Constitution's opinion that EU acts of law that are considered to be constitutionally unacceptable from a Swedish point of view do not lie within the area in which decision-making rights have been transferred. Swedish participation would, in such a case and according to the opinion of the Committee, presuppose a change in Swedish fundamental law and the transfer of new decision-making rights to the EU, which would enable the EU to then take decisions on these issues.

The comments of the Committee on Civil Affairs

In its comments to the Committee on Justice, the Committee on Civil Affairs welcomes the Commission's ambition to make citizens' lives easier by developing judicial cooperation in the EU. In its comments, the Committee on Civil Affairs states that, in accordance with what was previously expressed by the Committee, it is essential that any measures to increase opportunities for recognition and enforcement of judgments from other countries are taken in a way that maintains existing guarantees to safeguard legal rights and that satisfies the interests of protection (please refer to Statement 2008/09:CU35). The Committee on Civil Affairs also considers that a European judicial area should facilitate economic activity in the internal market. Ongoing activities for the creation of a common frame of reference for contract law could, for example, be utilised in connection with future proposed legislation. This also concerns improving opportunities for debt collecting across borders.

The Committee on Justice's position

The Committee on Justice approves of the Commission's efforts to make daily life easier for citizens by developing the EU judicial cooperation. The Committee also feels that it is important to facilitate citizens' access to justice. Individual rights in criminal cases, e.g. the right to interpreting services and the right to translations, need to be strengthened. The rights of victims of crime should also be developed. A person who is the victim of a crime abroad is often in need of more support and information than is generally currently available. The

Committee on Justice also welcomes mechanisms to facilitate for individuals to gain access to justice, so that everyone has the opportunity to exercise their rights everywhere in the Union. In accordance with what is proposed in the Communication, the Committee on Justice considers that the goal of the work in this field should be to achieve a European judicial area in which the member states' legal procedures can be coordinated in a consistent and effective manner. The principle of *mutual recognition is fundamental to the work of building up a European judicial area*, and this means that a judgment that has been issued in a member state can be recognised and enforced in other member states with no constraints. Consequently it is important to develop mutual trust within the EU between the actors concerned in the legal area using, for example, training inputs and networking.

The Committee on Justice shares the opinion of the Committee on the Constitution that there is reason, in the future, to follow how much continued efforts towards mutual recognition of judgments within the Union develop in such a manner that will cause consequences for the Swedish freedom of the press and freedom of expression regulations. In addition, the Committee on Justice would like to express its agreement with the opinion that EU acts of law that are considered to be constitutionally unacceptable from a Swedish point of view do not lie within the area in which decision-making rights have been transferred.

As the Committee on Justice has previously stated (2008/09:JuU1y), cooperation in the field of criminal law in the EU has experienced rapid developments over the last few years. Guidance for these activities has been provided by the principle of mutual recognition of judgments, aimed at providing a European effect for national legal rulings and at streamlining cooperation between national authorities. Simultaneously, a certain convergence has occurred as concerns *res gestae* and penalties in order to facilitate mutual recognition. In the opinion of the Committee on Justice, it is important to continue what has been started. The Committee on Justice wishes, in this context, to express its agreement with the Committee on Civil Affairs' opinion that it is important that work with expanding opportunities for recognition and enforcement of rulings in other countries occurs while retaining existing legal security guarantees and fulfilling current protection interests.

Cross-border crime is developing rapidly in an advanced and innovative manner. Consequently, in the opinion of the Committee on Justice, there must be a continued will to find European solutions to combating such crime. In work with *common standards* it is, according to the Committee, important to assert that the struggle against cross-border crime such as terrorism, may only be carried out in such a way as is acceptable in an open, democratic and legally secure society, plus that the measures taken must respect human rights and the rule of law.

A Europe that protects

The Commission's Communication

European cooperation offers, according to the Commission, the necessary framework to protect EU citizens from cross-border threats. The EU must devise an internal security strategy that respects fundamental rights and reflects a shared vision of today's challenges. According to the Commission it is vital that this strategy embodies real solidarity between the member states and that it provides a means of clarifying what comes under the remit of national authorities and what can be achieved more efficiently at EU level.

In the Communication, under the heading *Upgrading the tools for the job*, it is stated that security in the EU requires efficient mechanisms for exchanging information between national authorities and other European players. The Union should introduce a European information model based on measures including improved collection and processing of operational information. Among the criteria that must be established for this are criteria for collection, exchange and processing of information that has been gathered for security purposes, taking into consideration the regulations concerning data protection, and guiding principles for the policy concerning international transfers of data for security purposes, with respect for the high levels of requirements concerning data protection.

When establishing a European information model, the EU must, using previous experience as a point of departure, consider creating proper information system architecture in order to ensure that the solutions selected at national level are compatible with existing and future European systems and that they are developed in a consistent manner in line with needs that have been identified. According to the Commission, the internal security strategy should, with the support of an *effective policy* be constructed around three areas: more effective police cooperation, an adapted criminal justice system and more secure access to EU territory.

The Communication states that the primary aim of *police cooperation* is to combat forms of criminality that are typically cross-border in nature. Furthermore, according to the Commission, it is vital to improve the use of Europol, which should be systematically informed concerning the establishment of joint investigative teams and involved in major cross-border operations.

The Commission further states that Europol should strengthen its ties to Eurojust in order to ensure that its work is followed up at judicial level. When the type of information that is to be exchanged has been defined, it is essential that mechanisms for automatic transfer of data to Europol are established. The Commission considers that all legal and operational tools must be mobilised in order to prevent criminals from exploiting the opportunities offered by an area with no internal borders and that operational police cooperation should be improved by facilitating police operations outside national borders. The primary criterion for the establishment of cooperation at regional, national and European levels must be efficiency. Experiments concerning cross-border regional cooperation must, according to the Commission, be disseminated and linked to networks and a model police and customs cooperation centre should be developed.

As concerns *cooperation in the field of criminal law*, the Commission states that the EU is currently introducing a comprehensive system for evidence collection in cross-border cases and that this system should encompass a real European evidence warrant. This instrument should be automatically applied throughout the EU in order to promote prompt, efficient cooperation between member states.

Other issues that the Commission considers should be studied more closely include a European legal framework on electronic evidence, a European order concerning the forcible transport of individuals to court procedures and minimum principles aimed at facilitating mutual access to evidence between member states.

According to the Commission, the right to defence must also be strengthened. This, in its opinion, is important in order to maintain individual rights as well as to strengthen mutual trust between member states and

citizens' confidence in the Union. Applying an action plan based on a thematic approach, work with the creation of joint, minimum guarantees could also be extended to cover protection of the presumption of innocence as well as periods of detention and a review of grounds for detention. The Commission also considers that the work of strengthening Eurojust must continue.

The Communication further states that it is vital to continue efforts to improve the system of exchange of data from the European Criminal Records Information System (ECRIS); linking criminal registers should make it possible prevent certain types of crime (for example through checks when employing individuals in certain types of positions, particularly those relating to children); in addition ECRIS needs to be expanded so to cover citizens of non-EU countries who have been sentenced in the EU.

The Commission also proposes that the introduction of a joint programme should be considered in order to enable the financing of pilot projects in member states with the aim of examining alternatives to terms of imprisonment.

As concerns more secure routines for *entry and residence*, the Commission states that a system of electronic system for recording entry and exit from EU member states' territories will be introduced in addition to registered traveller programmes; the EU will also make a statement as to whether a European system of prior travel authorisation should be initiated.

Regarding *common objectives*, the Commission proposes in its Communication that the EU should establish its criminal policy priorities through the identification of a number of types of crime and concentrate efforts primarily on combating these crimes. The fight against these crimes will, according to the Commission, require systematic exchange of information, widespread use of European investigative tools and, when applicable, the development of common investigative and preventative techniques. The methods tested will then be able to be extended to other forms of especially serious crime with cross-border dimensions.

The Communication proposes a number of measures aimed at prevention of *trafficking in human beings*, for example civil society must be more closely involved and coordination between authorities, services, networks and relevant agencies must be stepped up. In addition, countries outside the Union must be encouraged to ratify and implement relevant international instruments, and consular departments of countries of origin must be mobilised with a view to preventing fraudulent issue of visas.

The fight against criminal networks also requires intelligence gathering and strategic analysis, to be carried out in cooperation with the countries of origin and transit, and border checks must also be stepped up to prevent human trafficking, in particular trafficking of children. In addition, the Commission states that victims should be supported and protected with various measures. The Communication also states that the Union, in its struggle to combat *sexual exploitation of children and child pornography* must develop prevention mechanisms such as promoting exchange between member states of data concerning individuals who have committed sexual offences against children with the aim of preventing new crimes. The Commission further states that the fight against child pornography on the Internet assumes close cooperation with the private sector in order to identify and close down or block access to certain websites. Europol will, according to the Commission, need to play a major role by developing a platform for reporting websites that contain child pornography.

As concerns *cybercrime*, the Communication states that the Union must clarify the rules on jurisdiction and the legal framework applicable to cyberspace in order to promote cross-border investigations. Such a framework should, according to the Commission, enable cooperation agreements between law enforcement authorities and operators. The Commission also considers that the efforts of member states must be better coordinated through a specialised network comprising the national representatives in charge of the fight against cybercrime and through the creation of a European platform for identifying offences by Europol. In this context, it could be mentioned that, in the Commission's Communication on the evaluation of the Hague Programme, it is stated that in May 2007 a number of measures were proposed to increase coordination between legal authorities and industry as concerns cybercrime.

The Communication states that capacity to implement investigations and analyses of *economic crime* needs to be developed through the joint use of resources especially as concerns training. The Commission feels that financial intelligence units need to coordinate their activities better as concerns money laundering; analyses carried out by financial intelligence units could, within the framework of the European information model, be fed into a database of suspicious transactions located, for example, at Europol, and all available sources of information must be utilised and coordinated in order to identify suspicious cash transit transactions. As concerns tax evasion and corruption within the private sector, application of legislation must be streamlined. In addition the Commission states that as the legal framework that enables confiscations and seizures is already in place, a European network should be established consisting of government authorities responsible for recovery of the proceeds of crime. In addition, the Commission considers that the EU must set up goals concerning transparency and the fight against corruption.

According to the Communication, the Union's *drugs strategy* should be guided by four principles: improved coordination and cooperation at national, European and international level, promotion of a consistent position to the problem of drugs in international organisations etc., mobilisation of civil society and improved research and information activities.

The Commission considers that the following three areas should be prioritised in order to *reduce the terrorist threat*: initiatives to counter radicalisation in vulnerable environments such as prisons and schools, use of the Internet for terrorist purposes and financing of terrorism. In order to analyse threats of terrorism at European level, a method should be developed in cooperation with Europol. The European Programme for Critical Infrastructure Protection must be implemented. In this context it can be mentioned that, in the Commission's Communication on the evaluation of the Hague Programme, it is stated that the EU has financed several preventative projects, for example a manual on radicalisation in prison environments.

The duty to report suspicious transactions according to the Directive on Money Laundering and Terrorist Financing was expanded in 2005 to encompass casinos and lawyers. The EU also adopted legislation in 2008 that criminalises the recruitment and training of terrorists and conspiracy for terror crimes including via the Internet.

The comments of the Committee on the Constitution

The Committee on the Constitution initially points out in its comments to the Committee on Justice that the contents of the Commission's Communication do not, in all their constituent parts, allow a careful assessment of the direction and development of the Union's work of streamlining European police cooperation, especially as concerns measures aimed at improving operational police cooperation by facilitating police cooperation outside national borders. In its comments the Committee on the Constitution measures aimed at combating cross-border crime. As concerns the transfer of personal data, the Committee on the Constitution would like to assert the importance of careful, clear regulation of the proposals the Commission intends to put forward within the framework of the Stockholm Programme, not least as concerns proposals on the introduction of mechanisms for automatic transfer of information to Europol and systematic exchange of information to the extent that this concerns personal data.

Also concerning the issue of proposals aimed at facilitating police operational activities outside national borders, the Committee on the Constitution wishes to emphasise the importance of careful, clearly-stated regulation. This is vital, especially considering the changes that the entry into force of the Lisbon Treaty will mean in the form of decreased, national independence. The Committee on the Constitution would also like to underline the importance of designing information systems so that fundamental principles of the rule of law are maintained, especially as concerns the principles of non-discrimination and the prohibition of double penalties regarding the European Criminal Records Information System (ECRIS) and the linking of criminal registers with the aim of preventing certain crimes.

As concerns cybercrime, the Committee on the Constitution would like to assert the importance of the Government emphasising that measures taken in the continued struggle against cybercrime must be proportional, in accordance with the rule of law and well balanced as concerns integrity aspects. The Committee on the Constitution assumes that continued activity will be undertaken in a direction that does not affect the efficacy of the Swedish legal principles of freedom of expression and of the press. Mandatory regulations including requirements for Swedish authorities to block or instruct Internet suppliers to block websites with a certain content are difficult to reconcile with freedom of information and the Swedish freedom of the press and of expression legislation. As concerns the limitation of access to child pornographic pictorial material on Internet, the Committee on the Constitution notes the opportunity for cooperation on a voluntary basis with Internet suppliers. In Sweden such cooperation has been under way for a number of years.

The Committee on Justice's position

Combating serious cross-border crime requires international cooperation. Police and prosecution authorities need to get better at helping each other in major investigations concerning several countries. Europol and Eurojust are there to help them in this task. Both these authorities can become more efficient.

Facts and knowledge are needed in order to fight crime successfully. The exchange of information between national crime-prevention authorities is to be improved.

In the opinion of the Committee on Justice, a long-term view on the exchange of information between member states should be prepared, to clarify the cases in which information may be exchanged, what it may be used for and how long it may be saved. Measures should be taken to improve cooperation in this field. The police, prosecutors and judges from different countries in Europe need greater exchange between and understanding for each other.

The Committee on Justice welcomes measures designed to combat cross-border crime and in this context also wants to emphasise the importance of finding a balance between measures to combat crime and protecting the rights of the individual. In the opinion of the Committee, it is important to identify what is the responsibility of the national authorities and what can be implemented more efficiently at EU level.

The Committee on Justice also wishes to underline the importance of evaluating the effects and proportionality of measures that have been decided earlier.

Like the Committee on the Constitution, the Committee on Justice wishes to emphasise the importance, as regards personal data, of clear and careful regulation in the proposals that the Commission intends to present as part of the Stockholm Programme, in particular as regards the proposal to establish mechanisms for the automatic transfer of data to Europol and systematic information exchange to the extent that it concerns personal data. As regards the Commission's proposal on an electronic system for recording entry and exit and from the EU, the Committee on Justice considers it important to take into special account the proportionality and needs aspects.

In the case of the Commission's proposal on more effective European *police cooperation* the Committee on Justice notes that the abolition of internal border controls within the framework of Schengen cooperation has made it easier for people to travel between countries. Developments are also moving towards an increasingly international and globalised world. At the same time, this has made it easier for criminals to move across borders and has changed the conditions for cross-border crime. With these developments it is, in the opinion of the Committee, clear that the crime-prevention authorities must be given greater opportunities for cooperation to fight cross-border crime.

In this context, it is important to note that police operations are, in principle, exclusively a national concern and there should be careful consideration and clear regulations in the case that Swedish police officers are to participate in operational cooperation between member states' police authorities in the future. As regards regional police cooperation, the Committee would like to highlight its previous statement that there may be added value in greater operational cooperation across borders in the Nordic countries. In its report 2008/09:JuU22, the Committee made an announcement and demanded that the Government conduct a review

of the need, within the framework of Nordic cooperation, for creating better opportunities for operational cooperation across borders between the Nordic countries' police authorities.

As previously stated by the Committee (report 2008/09:JuU7), Europol has an important role in cooperation between crime-prevention authorities, at the same time as Eurojust and the European Judicial Network have acquired increasingly important roles in efforts to improve cooperation in criminal matters. This increased cooperation benefits the effectiveness of crime prevention and legal proceedings and creates substantially better opportunities to tackle serious and cross-border crime. The Committee on Justice considers it important that available information about serious threats to society can be made use of and that crime is, to as great an extent as possible, prevented. A greater flow of information can, however, also have disadvantages. Greater information exchange therefore demands good protection of individual integrity.

As regards the Commission's proposal to continue measures to improve the system for *exchange of information from criminal records*, the Committee on Justice considers that an enhanced and more efficient system for the exchange of information from criminal records is of great importance for legal cooperation in general and for Swedish crime prevention authorities in particular.

Like the Committee on the Constitution, the Committee wishes to stress the importance of designing information systems in a way that maintains fundamental principles of the rule of law, in particular the principles of non-discrimination and the prohibition of double penalties regarding the European Criminal Records Information System (ECRIS) and the linking of criminal records in order to prevent certain crimes.

As previously stated by the Committee (report 2007/08:JuU22), assistance with *obtaining evidence* is a central aspect of cooperation in criminal matters. A well-functioning system for obtaining evidence in the EU is of great value in combating all forms of crime, in particular as regards serious and cross-border crime.

Like the Government, the Committee considers it important to strengthen fundamental *procedural rights* for suspects and defendants in criminal proceedings, and supports the Government's assessment that it is necessary to draw up a new strategy with work for procedural rights, which is long-term and ambitious, but at the same time pragmatic, and that the EU should work with procedural rights in a step-by-step process, focusing on one or two rights at a time. In its Communication, the Commission especially underlines the right to defence.

The Committee on Justice shares the Commission's opinion that trafficking in human beings is a serious violation of human rights, and the Committee is positive to and welcomes initiatives for continued work in the EU to further strengthen work to counter and combat trafficking in human beings.

The Committee considers that international cooperation is a condition for success as regards the fight against trafficking in human beings and that European cooperation is of central importance.

The Committee on Justice further shares the Commission's opinion that a crucial aspect of the strategy to promote the rights of the child is to *protect children from the risk of sexual exploitation*. The Committee considers international cooperation in this area to be a condition

for success, and that European cooperation is of central importance. The Committee is therefore positive to and welcomes initiatives for continued work in the EU with the purpose of further strengthening work to counter and combat such violations.

In this context, the Committee would also like to refer to the Committee on the Constitution's statements as regards mandatory provisions with the demand that Swedish authorities are to block or assign Internet suppliers to block web pages with certain contents.

The Committee notes that *terrorism* is a phenomenon of an international and cross-border nature and that a common point of departure, shared by all member states, facilitates the fight against terrorism at an international level. The Committee sees an added value in cooperation at the EU level in fighting terrorism. At the same time, the Committee emphasises how important it is that each individual measure proposed needs to ensure that human rights and the rule of law, as well as constitutional freedoms and rights, are respected. The fight against terrorism must be conducted in a way that is appropriate in an open, democratic society governed by the rule of law. The Committee on Justice has earlier noted (report 2007/08:JuU30) that factors such as a lack of democracy and human freedoms and rights as well as environments characterised by violence and oppression contribute to an environment or situation in which terrorism can take root. In the opinion of the Committee, today's international terrorism has become increasingly difficult to address and protect oneself against, and modern information and communications technology plays a major role in the spread of the terrorist threat. Developments in communications technology, coupled with other favourable conditions for global movement of goods, capital, services and people, has had many positive effects, but has at the same time increased the possibilities of committing terrorist offences, where the Internet in particular is a cheap, quick and easily accessible tool with almost global range. In this context, the Committee would also like to highlight the fact that the Council of Europe has drawn up a Convention on Prevention of Terrorism.

The Convention was adopted in April 2005 and was signed by Sweden in May the same year. The Convention demands the criminalisation of public provocation to commit terrorist offences as well as recruitment and training of terrorists. It also contains provisions on extradition, legal assistance, crime prevention work etc.

Promoting a more integrated society: a Europe that displays responsibility and solidarity in immigration and asylum matters

The Commission's Communication

The Commission states in the Introduction that one of the EU's greatest challenges in the future will be to ensure that migration flows are dealt with in an effective manner, especially in view of our ageing populations. Immigration will have a major impact on population growth in the EU, and in the longer term it will contribute substantially to the EU's economic results. Solidarity must form the basis of our common policies, and the implementation of the principles and objectives of the Pact on Immigration and Asylum will serve as the foundation for EU measures in this area in the future.

Immigration policy must be part of a long-term vision where the emphasis is placed on respect for fundamental rights and human dignity. The issue of financial support for the handling of migration must be devoted special attention. An evaluation should be carried out

to establish whether the structures and distribution keys in the current internal instruments still meet the member states' needs.

Under the heading *Consolidating a global approach*, the Commission proposes that migration issues should be an integral part of EU external policy and asserts that a global approach is required. In the opinion of the Commission, member states should actively seek to step up dialogue and partnership with countries, regions and continents outside the EU. They should also plan to conclude new agreements covering the three dimensions of the comprehensive approach, namely promotion of mobility and legal immigration, support for development and controlling illegal immigration (including readmission and support for voluntary return and reintegration). A effective, solidarity-based system to prevent illegal immigration, assist immigrants in need of protection and asylum and prevent illegal immigration should be established. This is particularly important in the Mediterranean. The Commission further considers that the member states must deal more efficiently with illegal immigration and trafficking in human beings by developing information on migration routes, promoting cooperation on surveillance and border controls and facilitating readmission by promoting support measures for return. In addition they should formulate additional initiatives on migration and development, for example facilitating transfers of remittances and taking into account the drop in transfers as a result of the financial crisis, involving immigrant communities in the development of their country or region of origin and soften the effects of the brain drain. The EU's various instruments for cooperation need to be mobilised to increase the capacity of the central, regional and local authorities of non-member countries to manage migration issues, including improving their capacity to offer adequate protection.

Economic migration should be better matched to the needs of member states' labour markets. This would help to make better use of immigrants' skills and facilitate their integration. The EU needs a common framework in the form of a flexible admission system, that will enable it to adapt to increased mobility and the needs of national labour markets. This common framework will fully respect that member states' powers to determine the numbers of non-EU nationals admitted for employment purposes.

In this context, particular attention needs to be paid to two issues, namely the extent of immigrants' mobility within the EU and the consequences for the validity of their residence permits if they lose their jobs. The establishment of a monitoring function to analyse and understand migration issues could be considered. Coordination between the monitoring mechanism and existing networks working on migration issues must be assured. Immigration should be organised on the basis of overall assessment of the skills Europe will need up to 2020, taking into account the economic situation. Identifying the needs is not enough. Supply and demand have to match. To enable this, we should consider establishing a European platform for dialogue. With this platform we could identify how to manage labour migration better and what adjustments to legal and institutional frameworks are needed. It could bring together employers, unions and employment agencies of the member states, recruitment agencies and other stakeholders.

Mutual recognition of qualifications and skills by the EU and non-member countries would also be important in this context. The Commission proposes a proactive policy based on a European status for legal immigrants. To maximise the positive effects of legal immigration for the benefit of all – the countries of origin and destination, host societies and immigrants – a clear, transparent and equitable approach that respects human beings is required. To do this, an immigration code should be adopted to ensure a uniform level of rights for legal immigrants comparable with that of EU citizens.

Family reunification is one of the main reasons for immigration and accounts for a large proportion of legal immigration. The EU should adopt common rules to manage effectively the influx of immigrants entering for family reunification. Since there has been little harmonisation of national legislation, a revision of the family reunification directive might be proposed after wide consultations.

It is further stated that a reduction of illegal immigration and related criminal activities while upholding respect for human rights is an essential counterpart to the development of a common policy on legal immigration. In particular, efforts to combat criminal networks must be stepped up. Illegal employment must be stopped with preventive and enforcement measures, and protection should be given to immigrants who are victims. The implementation of the directive's provisions on sanctions against employers that hire labour from non-member countries who are illegally resident in the EU needs to be supported and monitored. There must be zero tolerance of smuggling and trafficking in human beings. Adequate investments should be made in human and financial resources in order to increase controls, at the workplace in particular, and also to simplify the conditions for issuing residence permits to victims.

An effective policy on removal and return in accordance with the law and with human dignity has to be formulated. The rules on return set out in the directive will come into force in December 2010. The implementation of the directive will be monitored closely, especially as regards the effective enforcement of expulsion measures, detention, appeal procedures and treatment of vulnerable people. Voluntary returns should be given priority and actively encouraged, particularly under the existing financial instruments. In the absence of clear rules, we should study national needs and practices, and consider the possibility of establishing common standards for taking charge of illegal immigrants who cannot be deported. The exchange of information between member states concerning regularisations should be improved. Guidelines for their implementation could be prepared. Another especially difficult issue that should be studied in depth is that of unaccompanied minors who enter the EU illegally.

On the basis of this study an action plan to underpin and supplement the relevant legislative and financial instruments and strengthen forms of cooperation with the countries of origin, including cooperation to facilitate minors' return, should be drawn up.

As regards asylum issues, the Communication states that the EU must continue to build a true common area of protection and solidarity based on respect for human rights, high standards of protection and a general improvement in the quality of national systems, while stepping up efforts to stamp out abuse.

In the opinion of the Commission, the legislative proposals in the second phase of the harmonisation process need to be adopted quickly with the aim of establishing a single asylum procedure and a uniform international protection status no later than 2012.

On the operational level, the EU must give the Asylum Support Office the means to do its job. All officials responsible for handling asylum applications in the member states will have to follow common training modules. They will also be given sound information on the countries of origin. National courts should be involved in this process. In 2013, following an evaluation, the tasks of the Office may be expanded to take account of progress in solidarity and the

sharing of responsibilities. Strict controls and a proper application of legislation in the asylum area should make the scheme credible and inspire mutual trust among member states in the good governance of their respective asylum systems. Periodic evaluation mechanisms could be put in place to facilitate alignment of asylum systems in the member states. Furthermore, solutions have to be found for asylum seekers who do not obtain refugee status or subsidiary protection, but cannot be returned for specific reasons. A detailed evaluation will be made of the transposal and implementation of second-phase legislative instruments and of progress in aligning practices and supporting measures. On this basis, by the end of 2014 the EU should formally enshrine the principle of mutual recognition of all individual decisions granting protection status taken by authorities ruling on asylum applications. This will mean that protection can be transferred without the adoption of specific mechanisms at EU level.

Responsibility for the reception and integration of refugees must be shared. Although the EU has chosen to preserve the central principles of the Dublin system at present, it must be possible to take new initiatives. A mechanism for internal resettlement among the member states of persons enjoying international protection that is voluntary and coordinated should be considered. Denna. An initial stage would consist in the introduction of a systematic programming of the funds for refugees under the European Refugee Fund as part of this internal solidarity. The mechanism may include support for the setting-up of permanent reception and transit platforms in some member states, plus specific arrangements for partnership with the UNHCR. In this context the feasibility and legal and practical implications of joint processing of asylum applications inside and outside the EU should be carried out. Based on these studies and on an evaluation of the initial solidarity mechanism, a more permanent solidarity system might be envisaged from 2013. This system would be coordinated by the Support Office.

Solidarity in the EU as regards financial responsibility should be reviewed. For 10 years it has been implemented through the European Refugee Fund, which has supported the successive stages of harmonisation. New criteria should be identified for the contributions and areas of intervention, taking into account developments in the common policy. Solidarity with non-member countries confronted with large flows of refugees or hosting large numbers of refugees and displaced persons is essential. Access to protection and adherence to the principle of non refoulement must be assured. The EU will also support the building of greater capacity in non-member countries so that they can develop their own systems of asylum and protection. In this context new forms of responsibility for protection might be considered. Procedures for protected entry and the issuing of humanitarian visas should be facilitated, including calling on the aid of diplomatic representations or any other structure set up within the framework of a global mobility management strategy.

To further strengthen the external dimension of its asylum policy, the EU may extend the regional protection programmes in partnership with the UNHCR and the countries concerned, using the Support Office and the Community's external financial instruments. The Union will step up its resettlement efforts in order to provide permanent solutions for refugees.

The comments of the Committee on Social Insurance

Like the Government, the Committee on Social Insurance is positive to the Commission's proposed programme. Further border controls must go hand in hand with the opening up of more channels for legal immigration and better opportunities to actually seek asylum. Regarding border controls into and out of the EU area, the Committee considers that high

levels of security demand full respect for human rights and international protection. Regarding the external dimension of asylum policy, the EU has a strong interest in ensuring that international conventions and rules for the protection of refugees are maintained. In the opinion of the Committee, the EU should be a central actor at international level and strengthen its role as a partner of the UNHCR, both financially and politically.

The Committee further considers it vital that opportunities for resettlement in the EU are increased. As regards immigration issues, the Committee shares the opinion in the Commission's Communication that well managed migration is something that can be positive for all actors involved – for the member states and for the EU as a whole, but also for the countries of origin and individual migrants. The Committee's principle opinion is that a future common immigration policy should be based on regulated immigration and should take into account the positive opportunities and effects of immigration, both for recipient countries and for countries of origin. The Committee considers that more opportunities for legal immigration should be created and that a needs-driven labour immigration to Europe should be promoted. In this context, the Committee, which notes that extensive efforts are being made in the EU to achieve a common regulatory framework for labour immigration, wants to draw attention to the recently implemented Swedish reform (Government bill 2007/08:147, report 2008/09:SfU3, Communication from the Riksdag 2008/09:37) which provides greater opportunities for labour immigration and opens new paths into Sweden, without unnecessary bureaucracy. The Committee notes that the Communication, as regards for example asylum issues, mainly pursues the ideas previously presented by the Commission in, for example, the Green Paper on the Future Common European Asylum System, COM (2007) 301.

The right to seek asylum is fundamental. A common European asylum policy must therefore, in the opinion of the Committee, guarantee the right of each and every person to legally secure systems of protection and be based on solidarity between member states.

In its statement on the Commission's Green Paper on the Future Common European Asylum System, the Committee has also stated that a future common asylum system must be legally secure and open, at the same time as it safeguards the right to seek asylum. Measures to combat illegal immigration and smuggling of human beings must be designed in such a way that they do not undermine the right to asylum and respect for fundamental human rights in the asylum procedure. Any developments towards a closing of Europe's borders must be avoided. The Committee also considers that if a common European asylum system is to be sustainable, a reasonable division of responsibility within the Union is required (statement 2006/07:SfU13). The Committee notes that a financial framework programme for the period 2008-2013 has been decided, with the aim of ensuring an equitable economic division of responsibilities between member states in the implementation of a common asylum and immigration policy. The Committee further wants to stress how important it is that other funding and economic support are made available for achieving the long-term objectives of a common asylum and immigration policy. Finally, the Committee can note that an implementation of some of the proposals presented in the programme will necessitate amendments to the treaties and do not fall within the EU's current legislative framework, which to some extent involves minimum standards.

The Committee on Justice's position

Like the Committee on Social Insurance, the Committee on Justice considers that further border controls must go hand in hand with the opening up of more channels for legal immigration and better opportunities to actually seek asylum.

The Committee on Justice also shares the Committee on Social Insurance's opinion that that high levels of security in connection with border controls into and out of the EU area demand full respect for human rights and international protection. As regards immigration issues, the Committee supports the position that well managed migration is something that can be positive for all actors involved – for the member states and for the EU as a whole, but also for the countries of origin and individual migrants.

The Committee on Justice agrees with the Committee on Social Insurance which, in its statement, has asserted that the future common immigration policy should be based on regulated immigration. The also Committee considers that more opportunities for legal immigration should be created and that a needs-driven labour immigration to Europe should be promoted. Like the Committee on Social Insurance, the Committee on Justice considers that the right to seek asylum is fundamental and that a common European asylum policy must therefore guarantee each and every individual access to legally secure protection systems and be based on solidarity between member states. Measures to combat illegal immigration and smuggling of human beings must be designed in such a way that they do not undermine the right to asylum and respect for fundamental human rights in the asylum procedure, and any developments towards a closing of Europe's borders must be avoided. With these comments, the Committee on Justice agrees with the comments of the Committee on Social Insurance.

Reservations

The Committee's proposal for a decision by the Riksdag and positions resulted in the following reservations.

The heading includes in each case which point in the Committee's proposal for a decision by the Riksdag that is referred to in that particular section.

1. An area of freedom, security and justice in the service of the public - grounds for reservation (SocDem)

by Thomas Bodström (SocDem), Margareta Persson (SocDem), Elisebeht Markström (SocDem), Karl Gustav Abramsson (SocDem), Christer Adelsbo (SocDem) och Kerstin Haglö (SocDem).

Position

Sweden has held the Presidency of the EU since 1 July. Through its leadership of the Council of Ministers, Sweden has an important role to play in pushing forward the legislative and political process. As the presiding country, Sweden also has enormous opportunities for influencing developments in major issues.

One of the issues of major importance that is to be dealt with during this six-month period is the preparation of a new programme that will establish the framework for EU work on police and customs cooperation, rescue services, criminal and civil justice cooperation, asylum, migration and visa policy for 2010-2014. The programme will replace the Hague Programme and be called the Stockholm Programme.

Many of the issues raised in the Commission's Communication about the new Programme are of such character that they may have far-reaching consequences for each individual country once they are implemented at national level. In order to make an assessment of the legal consequences of the new Programme, it is therefore important to be as concrete as possible in our description of the measures stated in the Communication. The member states and the citizens of Europe must be able to foresee possible developments. From Sweden's point of view, it is especially important that the new programme is concrete as regards proposals that might considerably affect Swedish legislation or where there is a risk that fundamental rights and freedoms may be restricted in some way. The same is true for measures that affect the privacy of the individual. The Government must therefore work towards giving the Programme more concrete form during the autumn.

We Social Democrats consider that it is necessary to continue working to combat cross-border crime, as well as economic crime, trafficking in human beings and terrorism. The EU has an important part to play in this work. Many steps have been taken over the last few years to deepen cooperation in the field of justice and home affairs. It is important that this cooperation is deepened further. But it is also of central importance, when the programme is then to be translated into concrete proposals, that the cooperation takes place in such a way that it does not conflict with Swedish interests. We also support developments towards further common asylum and migration policy in the EU.

Careful consideration is required as to how registers and other control functions are to be designed so that they will become effective means for combating crime, while maintaining the balance towards privacy. In the Communication it is proposed that it should be easier for

member states to gain access to each other's databases and that the EU should be able to build up its own registers. Data systems should be made compatible so that they will be able to communicate more easily with each other. The more people who have direct access to various registers and the bigger the registers, the easier it is that details on individuals is spread in a way that was not originally thought or used in a way that was not intended. We do not believe that large registers at the EU level constitute any significant advantage when it comes to reducing crime. Such registers can also be a threat to personal privacy. They run the risk of becoming ineffective while the risk of leaks and corruption increases. In addition, there is a risk that efforts to develop joint EU registers will take resources from other urgent crime-prevention efforts carried out by the Swedish Police. It is therefore surprising that the Government should express its support for the Commission's proposal in this section and then also market the programme as an improvement from the point of view of privacy. We would like to see clearer and tighter limits for the release of information as well impact assessments.

Intensified cooperation within the EU is a good thing, both as regards the police and the prosecution service. If serious organised crime is to be combated effectively, the police will have to be able to cooperate across borders. At the same time, police activities are part of the core activities of every nation. For us, it is important that it is Swedish police that perform operational police work in Sweden. We have different police cultures and legal traditions in the EU. The Commission's proposal indicates that we could be moving towards a common police force with operational responsibility. Efforts of this kind could be both ineffective and create complications, and could also mean a deterioration of rights of individual citizens. As the presiding country, the Government of Sweden should influence the programme as regards cross-border operative police cooperation, so that the focus of efforts instead should be on police cooperation and the development of Europol. Europol can be given an even clearer coordinating role in police operations encompassing several member states.

It is extremely important that the EU take vigorous measures to combat trafficking in human beings. Trafficking must be combated both outside and inside EU borders. One important part of the fight against trafficking in human beings for sexual purposes is to fight prostitution. The connection between prostitution and trafficking in human beings for sexual purposes must be clearly shown and recognised. If efforts are made to reduce the demand for buying sexual services, trafficking in human beings will also be reduced. Swedish legislation on the Prohibition of the Purchase of Sexual Services is a good example of how prostitution is being combated. It is surprising that this perspective is not referred to in the Communication, when trafficking in human beings is mentioned as a priority issue. The Government must therefore make an effort to include the issue of criminalising the purchase of sexual services in the Programme.

The Commission considers that it should be possible to extend the principle of mutual recognition to new areas, for example continuing to recognise judgments. While we are positive to a development of the field of justice, it is important that Sweden should stand up for its system and for human rights and freedoms. Recognition would mean that a judgment delivered in one member state would have to be accepted and enforced in other member states without obstruction. A precondition for this would be great mutual trust - that the judicial actors can rely on each other's legal systems. Unfortunately, we have seen examples of things in a number of EU member states that could jeopardise such trust. An example of this is the Lithuanian Parliament's proposed law that includes prohibiting public dissemination of information that can be considered to give a positive description of homosexuality. Discriminatory legislation is forbidden according to both EU legislation and the European

Convention. It is important that the Government should incorporate this way of thinking into their work on the Programme. Clear grounds for refusal should be included as regards mutual recognition in cases where legislation is discriminatory or is in contravention of human rights and freedoms.

The Commission proposes that access to translation and interpretation in connection with legal proceedings should be made easier. Unfortunately, this proposal does not even reach the minimum requirements of the European Convention. Despite the fact that all EU member states have signed the European Convention for the Protection of Human Rights, suspects still lack the most fundamental of rights. In many EU member states, suspects are not allowed to have a solicitor present when questioned by the police, and in many countries they have to pay for a solicitor themselves. The Government must therefore obviously push for the right to defence counsel to be included in the Programme. A programme that does not even reach the minimum requirements of the European Convention must be seen as a failure.

Large sections of the Commission's draft Stockholm Programme also lack a civil law dimension, while a description of future challenges is actually partly illustrated with aspects of civil law. This makes it difficult to assess the consequences of the Stockholm Programme in all its details. It is particularly difficult to take a position on vacuous formulations without being able to refer to any concrete proposals. We want to see greater clarity in this area in the Programme.

It is positive that focus is being directed towards removing obstacles that would hinder EU citizens from moving freely inside the Union. Free movement is basically very positive, and demands should be placed on the regulatory frameworks of member states so that individuals, such as children, parents and spouses, do not risk finding themselves trapped between conflicting regulations. At the same time, it is difficult at present to see what the consequences of the loose formulations in the Programme might be in future for Swedish family law and the reforms that we have achieved in Sweden in this area. There is reason here for great caution. However, we are positive to a development towards greater consensus in the area of family law as far as the importance of the best interests of the child, and a non-discriminatory marriage legislation are concerned. This is an issue that we believe should be stated explicitly in the Programme.

Lastly, we would like to comment on the section of the Communication concerning the promotion of economic activity. Here, there are several examples of how the EU can be given joint legal regulations for example in the area of commercial law. The Commission's proposed Stockholm Programme does not have any analysis of how future changes in regulations in the area of commercial law may affect the regulatory burden for EU small and medium-sized companies. We would like to recall the EU's aim to reduce the regulatory burden by 25% by 2012. We would also like to remind you of the Social Democrats' earlier positions regarding European private limited companies, in which we made clear that we can only express our support for proposals that would afford a high degree of protection to creditors, minority stockholders and employees. We have in this connection clearly put forward our criticism of the proposal that the lowest permissible level of share capital should be 1 euro.

2. An area of freedom, security and justice in the service of the public - grounds for reservation (Lft) by Alice Åström (Lft).

Position

During the second half of 2009, Sweden is holding the Presidency of the EU. The Presidency means that Sweden has a great opportunity to make its mark on the matters decided on during the year. In the area of Justice and Home Affairs cooperation, a new programme is to be developed entitled “An area of freedom, security and justice in the service of the public” – also known as the Stockholm Programme. The Left Party views developments in the EU with great concern, because policy is focusing more and more on control and repressive measures. This further confirms the well-known long-standing view of the Left Party that supranational authority in the EU, for example in the areas dealt with by the proposed Stockholm Programme, has to be counteracted. Furthermore, the Commission’s proposal has major deficiencies as regards proposals that should strengthen the rights of the individual, particularly concerning measures designed to strengthen privacy. This is worrying.

There was already severe criticism of this during the initial stages of work on the Stockholm Programme. The criticism applied to the lack of guarantees to protect legal rights and the absence of the perspective of the individual, particularly concerning those parts that deal with what is referred to as cooperation on refugee issues. The Left Party to all intents and purposes joins in this criticism and further develops it below.

The respect for *personal privacy and the protection of personal data* must be guaranteed regardless of national borders. On these grounds, the Left Party therefore rejects the proposals in the Commission’s Communication on the Stockholm Programme. In its Communication, the Commission suggests a number of proposals regarding the release of personal data between national agencies and EU institutions which would mean taking great steps towards a repressive surveillance society. Personal privacy and the protection of personal data are being undermined. The Communication contains proposals on building up more joint data bases in the EU and extending existing EU data bases such as Europol. In general, it can be said that data bases containing personal data always run the risk of being misused. The larger the registers and the more people with access to them, the greater is the risk of error and misuse. The EU Commission proposes that it should be easier for member states to gain access to each other’s databases and that the EU should be able to build up its own registers. The member states should also ensure that data systems be made compatible, so that they can communicate with each other. According to the Commission’s Communication, in future journeys into and out of the Union will be registered.

The proposals that the Left Party primarily sees as problematic regarding personal privacy and the protection of personal data are:

1. the proposal to link certain registers together, section 3.4;
2. the establishment of a European information model to make the exchange of information between national agencies and European actors more effective, section 4.1.2;
3. the establishment of mechanisms for automatic transfer of information to Europol, section 4.2.1;
4. the linking together of criminal registers and an improved system for the exchange of criminal registers, known as ECRIS, section 4.2.2;

5. electronic registration of journeys into and out of EU member states, and a programme for registered travellers, section 4.2.3.2.

The Left Party considers that the proposals regarding extended exchange of information in the Stockholm Programme constitute great risk of intrusion into personal privacy, especially considering the deficiencies demonstrated by the Directive on Data Protection. It may also be mentioned that the European Data Protection Supervisor has, for example in a statement from 3 March 2008 concerning the Commission's Border Control Package, criticised the Commission's lack of consultation with both the European Data Protection Supervisor and national data protection agencies. The criticism included the handling of biometric details and the importance of impact assessments of the effect of the measures on the privacy of the individual. In summary, the Left Party considers that these proposals in the Commission's Communication on the Stockholm Programme concerning registration of people on a massive degree are difficult to reconcile with a society built on transparency and democracy.

Regarding *cooperation in criminal law*, in Sweden there is a tradition of working to prevent crime. In the Commission's Communication on the Stockholm Programme, in principle there are no proposals directed towards crime prevention work. In the case of trafficking in human beings for sexual purposes, the Commission states that a campaign may perhaps be launched that would warn potential crime victims in third countries. This, in the Left Party's view, is an excessively defensive strategy. The most important way to work is to counteract the demand and make sure that men in the EU do not purchase sex from women and children, either from countries outside or inside the EU. The Left Party considers that during our EU Presidency Sweden should have focused on the question of prohibiting the purchase of sexual services.

Legal cooperation in the EU should comply with the requirements of the European Convention. If a particular freedom is to be restricted, it must be necessary, and the objective must be acceptable in a democratic society. In Sweden the Left Party has long been working towards attempting to focus on the issue of efficiency with regard to methods for combating crime that infringe on personal privacy. In the proposed Stockholm Programme there is no attempt to motivate these proposals that violate liberties – neither with arguments of efficiency nor necessity. This, in the Left Party's view, is a very serious deficiency.

The Left Party further considers that approximation of legislation in matters concerning cross-border crime and mutual recognition is extremely problematic because there are aspects in the various legal systems in Europe that are in direct violation of human rights. This may apply to issues of sexual orientation, discrimination against ethnic groups or women's rights.

In the Commission's proposed Stockholm Programme, measures are also mentioned to counter discrimination, racism, anti-Semitism, xenophobia and homophobia. All these are important issues that should be dealt with. In Europe, Islamophobia has long been on the increase. The Left Party considers that Islamophobia must also be taken seriously and be fought with the same intensity.

Legislating through framework decisions is both undemocratic and impractical. It is a fact that consultation rounds and similar procedures are rarely or never carried out, which is now also the case for the current Stockholm Programme. Furthermore, the Riksdag has no possibility to assess the consequences for Swedish legislation when a framework decision is approved, since the Government as a rule does not present any proposed legislation in connection with

the approval. The proposals in the Commission's Communication on the Stockholm Programme pave the way for more such decisions.

The proposals in the Commission's Communication also go a long way regarding operational cooperation - without the proposals having been the subject of referral for consultation or for public discussion. This, in the Left Party's view, is a deficiency that must be rectified.

The Left Party also rejects the proposals in the Commission's Communication with regard to respect for national self-determination in *the field of civil law*. In its Communication, the Commission recommends not only general mutual recognition of court rulings regarding civil disputes, and an expansion of the mutual recognition of judgments to more areas of civil law, but also harmonisation of civil law, for example decisions concerning custody. Several countries in the EU have a legal tradition in the field of civil law, above all in the field of family law, that is completely different from that of Sweden. In its Communication on the Stockholm Programme, the EU Commission proposes a harmonisation of family law, which the Left Party considers unacceptable. It can, for instance, be mentioned that work on gender equality concerning family law has come a long way in Swedish legislation, compared with certain other EU countries. The EU Commission also advocates that EU member states should mutually recognise court rulings by abolishing the exequatur procedure, and that this should also apply to areas such as inheritance, wills, property of spouses and the effect of a separation on property of spouses. The Left Party considers that the expansion of the area of recognition and enforcement of judgments from other countries should not apply without due consideration being given to the maintenance of existing guarantees to safeguard legal rights and the satisfaction of the interests of protection. Judgments pronounced in certain countries cannot automatically be enforced in Sweden without a Swedish court examining whether these judgments are compatible with Swedish law and Swedish legal tradition. The proposals the Left Party primarily considers to be problematic regarding civil law are:

- the general abolition of the exequatur procedure in civil disputes, and an expansion of mutual recognition of judgments to cover areas such as inheritance, wills, property of spouses and the effect of a separation on property of spouses, section 3.1;
- the development of minimum standards at the European level for certain aspects of civil law, for example mutual recognition of decisions on parental responsibility, including decisions on custody, section 3.3;
- the consequences for Swedish contract law of the EU Commission's proposal on common standards for which type of contract law is to be applied for company law, insurance contracts, transfer of claims and consensus regarding insolvency procedures for banks, section 3.4.2.

The focus on the individual and his/her rights in the EU is to be welcomed, provided these rights are genuine rights that have come about in accordance with the rule of law and with guarantees protecting legal rights designed to safeguard the security of the individual. In summary, the Left Party considers that the legal traditions of the EU member states within the field of civil law are far too different to allow Sweden to accept such positive formulations on the harmonisation of civil law and family law, as contained in the EU Commission's proposed Stockholm Programme.

Furthermore, the proposals regarding *asylum and migration* in the Commission's Communication on the Stockholm Programme are yet another example of policy that is making it more difficult for asylum seekers and refugees to have their right -as regulated in

the European Convention – to seek asylum and receive protection against persecution guaranteed. The EU's refugee and immigration policy has in fact already embarked on a dangerous path, and considering the increase in support gained by extreme right-wing and xenophobic parties in the elections to the European Parliament, there is a risk that this restrictive policy may dramatically escalate. Under the Amsterdam Treaty refugee policy was made into a supranational matter in the EU. Because there was great concern that a system with minimum rules would mean a harmonisation downwards towards a lowest permitted level concerning statutory rights and treatment of refugees, there was resistance towards a transfer from intergovernmental cooperation to supranational authority. Regrettably, we can confirm that the concerns that were raised have proved to be justified. A number of the adopted directives have been designed in various ways in such a way that the right to asylum has been set aside and the Geneva Convention has been rendered useless. If the member states shared a serious ambition to join efforts to attempt to achieve adequate protection for refugees, there would be other approaches to take rather than uniting around increased supranational authority and considering a joint asylum system. Member states should work jointly towards improving legal protection in the current directive rather than creating a common harmonised asylum system. The walls surrounding the EU are being made higher and higher, and virtually all possibilities to cross Europe's borders have been removed. While EU member states are holding far-reaching talks on how the need for the import of labour into Europe can be met, the borders are kept closed to immigration of refugees. The overall strategy for migration and partnership with countries of origin and transit is yet another way of reinforcing these obstacles. This so called cooperation has had the unavoidable consequence that the EU has dramatically increased the pressure on countries of origin and transit to keep asylum seekers away from EU borders. For example, in 2005 more than 500 people, who had failed to enter the EU, were driven out into the desert and dumped there by Moroccan police. Further, far too great a focus on returning has characterised EU activities, rather than the right of asylum. The efforts that have been made so far, including for example readmission agreements, tend to focus on keeping asylum seekers as far away from Europe as possible. The same is true for the discussion on resettlement within the framework of regional protection programmes. To increase solidarity as regards asylum there are a number of other measures that could instead be taken to stop the militarisation at the external borders of the EU, create legal routes to Europe and strengthen the rights of people who lack papers. For example, the only reasonable principle that should govern which country should process an asylum application is to let the asylum seeker him/herself make this decision. Furthermore, measures must be taken to counteract the considerable differences that exist between member states when it comes to the actual possibility of seeking asylum. In all likelihood, a fully harmonised migration policy will not lead to more uniform rules in the member states which at the same time are more humane and legally secure. On the contrary, there is a risk that such a harmonisation will lead "downward". The efforts that are to be made jointly by member states as regards asylum must be based on the fact that we are dealing with unconditional rights that cannot be stretched in relation to economic conditions or the need for labour. In the light of this, it is particularly important that the right to asylum – which is a fundamental human right - is not confused with labour immigration. The European system for labour immigration, as is the case with the Swedish system, furthermore does not provide any guarantees that salaries and conditions in the labour market in member states will be the same for immigrants as they are for domestic workers. The fact that the EU has created a special VIP lane for highly educated workers from countries outside Europe is as a matter of principle very problematic and also means that the countries of origin have to deal with the great risk of a brain drain. Common rules for labour immigration do not present any solution, either, for all those who are forced to flee their home countries and are denied the right of asylum through

the EU's restrictive common refugee policy. Instead, legal ways must be created for people to seek asylum in the EU, at the same time as a just national system for labour immigration from outside Europe is created that can guarantee fair pay and working conditions.

3. An area of freedom, security and justice in the service of the public - grounds for reservation (Grn) by Mehmet Kaplan (Grn).

Position

The EU's proposed five-year plan, the Stockholm Programme, for police and customs cooperation, rescue services, criminal and civil justice cooperation, asylum, migration and visa policy, is basically an important document for EU member states' work on security and safety. The draft plan that has now been put forward, however, gives rise to serious doubts regarding how respect for personal integrity, the protection of privacy and the right to asylum are upheld.

According to the draft plan, existing EU databases are to be extended and made commonly accessible (these include Europol and Frontex, for example), and this has been called a "European information model" among other things. Building common databases of this size that contain information on who is travelling where and at which points in time, as well as details from criminal records concerning all those who are inside the EU, constitutes a great risk for personal privacy, especially with regard to the deficiencies demonstrated by the Directive on Data Protection. It may also be mentioned that the European Data Protection Supervisor has, for example in a statement from 3 March 2008 concerning the Commission's Border Control Package, criticised the Commission's lack of consultation with both the European Data Protection Supervisor and national data protection agencies. The criticism included the handling of biometric details and the importance of impact assessments of the effect of the measures on the privacy of the individual.

In a society based on the rule of law, thorough consideration has to be taken with regard to the objective, of the possible violation of privacy on the one hand and the proportion of benefit of such a violation of personal privacy on the other. There is no register that has never leaked information to unauthorised people, who have then misused the said information. In the view of the Green Party, it is very alarming to see the creation of a new political principle for the EU that says that every detail in the lives of EU citizens that can be registered shall also be registered. This should be kept in mind when Sweden is to state its views regarding these issues in the EU. Personal privacy must not be deviated from, but must be respected according to the European Convention on Human Rights, particularly Article 8, which provides for the protection of privacy.

In the case of whether to mutually recognise judgments between member states, it must be noted that there are still great differences between how the various member states respect human rights and freedoms. The Green Party therefore sees great difficulties in many cases regarding the enforcement of judgments for example of homosexuals, who in many EU member states are treated more harshly because of their sexuality. There are also countries in which women, merely because they are women, have worse statutory rights. The Green Party considers that Sweden must stand up for the European Convention and guarantee that people living in Sweden are not violated on relation to the Convention, even if the violation is based on a judgment from another EU member state.

As far as civil law is concerned, the Green Party considers that there is a certain risk that this cooperation could result in progress that has been made in the field of family law, for example, in Sweden being lost. Free movement is basically something that is very positive, but demands should be placed on member states so that individuals, such as children and parents, do not risk finding themselves trapped between conflicting regulations. This is particularly the case in the field of family law. However, the Commission's communication is unclear and difficult to interpret. It is difficult to envisage what the consequences could be for the regulatory frameworks for example governing inheritance, wills and property of spouses.

As far as migration is concerned, the migration flows to EU member states differ, and a uniform system in the Green Party's view would therefore risk being far too inflexible and would exclude many of those who today in one way or another are able to enter the EU. The reality is such that refugees governed by conventions make up only a fraction of all those who flee from environmental catastrophes and effects of climate change, as is the case for those fleeing from hunger and economic misery. The concept of regulated immigration has in Swedish alien law developed into something closer in meaning to limited immigration. The Green Party believes that it is wrong to export this limiting concept to other countries. Instead of proposing that all countries should have limited immigration, each country should itself be entitled to define its immigration policy. Future common immigration policy in the EU should therefore be based on regulated immigration.

As far as dialogue and collaboration with countries of transit and origin is concerned, this is especially important, and the starting point must be cooperation on strategies for migration and development, partly in order to strengthen the country of origin and partly so that fewer would wish or need to leave their country of origin, and also to find more legal ways to enter the Union. Every human being should have the right to move freely in the world. Voluntary migration is basically something that is very positive and enriching both for the person migrating and for the receiving country. In order to make the best of the positive possibilities of migration, future immigration policy must be open. The overall strategy for migration and partnership with countries of origin and transit is, however, yet another way of closing the borders and preventing people from entering the EU.

Refugee issues and development cooperation must be seen in the same context. Those who return can contribute to the development of their home countries. Focus should however not be directed towards returning, but efforts should be focused more on development cooperation and peace support efforts aimed at achieving a situation in which people do not need to leave their home countries, which most do not want to do. At the same time, it is important in the long term to increase the possibility of crossing borders freely in order to work and earn money. In this way, migrating people can also themselves contribute to the building up of sustainable local economies. It would be positive if more countries took a greater responsibility for resettlement as part of the system for quota refugees. This increased responsibility should however go hand in hand with greater shared responsibility for other migrants. Today it is impossible in principle to approach or enter into the EU to seek asylum. It is therefore essential that the possibility of introducing an asylum visa is looked into. Regardless of how much the reception of migrants is harmonised with the aim of preventing secondary movements, these will always occur. It is therefore the individual's choice of country that should decide where the examination of a particular asylum case should occur. The creation of a single uniform procedure aimed at further regulating immigration would risk resulting in a situation in which individual needs are not placed at the centre of such an examination and fewer people would be allowed to stay in the EU.

Concerning labour immigration it is important that nationals of third countries domiciled in the Union should as far as possible have the same rights as citizens of the Union. A harmonisation is however not desirable since it would probably result in the regulatory framework ending up at the lowest possible level. As far as the rules for highly qualified labour immigration are concerned, they are discriminatory as they imply a more beneficial treatment of certain third country nationals in relation to others and that different rules apply for different age groups.