

European Parliament Resolution under the JHA pillar (14 January 1999)

Caption: European Parliament Resolution of 14 January 1999 on the progress made in 1998 in the implementation of cooperation in the fields of justice and home affairs pursuant to Title VI of the Treaty on European Union.

Source: Official Journal of the European Communities (OJEC). 14.04.1999, n° C 104. [s.l.]. "Resolution on the progress made in 1998 in the implementation of cooperation in the fields of justice and home affairs pursuant to Title VI of the Treaty on European Union (14 January 1999)", auteur:European Parliament , p. 135.

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European Parliament Resolution on the progress made in 1998 in the implementation of cooperation in the fields of justice and home affairs pursuant to Title VI of the Treaty on European Union (14 January 1999)

B4-0111/99

The European Parliament,

— having regard to Article K.6 of the Treaty on European Union,

— having regard to the acts adopted by the Council in 1998 and listed in the annex to this resolution,

A. whereas the achievement of closer cooperation in the fields of justice and home affairs is overwhelmingly important with a view to deepening European integration, and is a priority for citizens, who are insisting on greater transparency of decision-making,

B. whereas the Union attains its goals while paying due respect to the principle of subsidiarity and taking account of the national identities of its Member States and of their systems of government which are based on democratic principles,

C. whereas the European Council ought to present a report to the European Parliament following each of its meetings,

D. whereas the debate, to be held each year pursuant to the third paragraph of Article K.6 of the TEU, on the progress made in the implementation of measures in the fields of justice and home affairs should be based on a report drawn up by the Council,

E. whereas the Amsterdam Treaty provides for the integration of Schengen into the framework of the Union and whereas the Council has begun its preparatory work with a view to that integration; whereas the establishment of the legal basis for the provisions and decisions adopted within the framework of Schengen will have far-reaching consequences for the contribution of the European institutions to future developments in the legal framework,

F. whereas, with a view to the gradual establishment of an area of freedom, security and justice, the Treaty of Amsterdam has incorporated into the Treaty establishing the European Community crucial policy areas which were previously matters for cooperation in the fields of justice and home affairs,

G. whereas, after the entry into force of the Treaty of Amsterdam, parliamentary control at European and national level will have to be further strengthened by a continuous exchange of information both in drawing up strategic documents and in considering specific legislative measures,

H. whereas during a transitional period of at least five years the powers of the European Parliament are limited to the right to be consulted,

I. whereas the binding democratic principles in the Union should prompt the Council to take account of the opinions of the European Parliament when it is taking decisions on legislation,

J. whereas, in its resolution of 12 December 1996 on the progress made in 1996 in the implementation of cooperation in the fields of justice and home affairs pursuant to Title VI of the Treaty on European Union ⁽¹⁾, the European Parliament called on the Council Presidency to:

— provide written information to Parliament's Committee on Civil Liberties and Internal Affairs at the beginning of each Presidency,

— hold a discussion with the members of that committee before each meeting of the Council (even before

informal meetings of the Council),

— forward every draft decision (joint action, resolution, convention, etc.) to the European Parliament with a request for its opinion,

— ensure that the Council takes account of the European Parliament's opinion when it is reaching its decisions,

— after a Council has been held, inform the Committee on Civil Liberties and Internal Affairs of its outcome and the response to the opinions delivered by Parliament,

K. whereas the Council is far from having acceded to these demands and the requirement set out in the first paragraph of Article K.6 of the TEU that the Committee on Civil Liberties and Internal Affairs must be informed before and after each meeting of the Council of Justice and Home Affairs Ministers has so far been ignored,

1. Regards as unsatisfactory the level of preparation of the work intended to lead to the establishment of an area of freedom, security and justice, and is concerned about the fact:

— that during 1998 the Council has not succeeded in drawing up coherent strategies on asylum and immigration or the field of criminal-law cooperation in the light of the objectives laid down by the Amsterdam Treaty;

— that the work involved in incorporating the Schengen *acquis* within the framework of the Union is still far from having been finalised;

— that there is not yet any clear strategy regarding the operational role of Europol or its internal regulation and regarding the enhancement of judicial and parliamentary control at European and national level;

2. Regards as a breach of the Treaty on European Union the failure regularly to inform the European Parliament, as set out in the first paragraph of Article K.6 of the TEU, with particular regard to the preparations for and outcome of Council meetings and informal Council meetings;

3. Demands that its Committee on Civil Liberties and Internal Affairs should be able to send an observer to attend meetings of the justice and home affairs ministers;

4. Considers that the practice introduced by the Luxembourg Presidency, whereby, pursuant to Article 39 of the new version of the TEU (Treaty of Amsterdam), the European Parliament is to be consulted, must be maintained until such time as the Treaty of Amsterdam comes into force;

5. Calls on the Council to take into account the opinions of the European Parliament when it takes decisions on legislation on the basis of Title IV of the new version of the EC Treaty;

6. Calls once again on the Council to submit a six-monthly written report at the end of each Presidency, in preparation for the annual debates referred to in Article K.6 of the TEU (as already decided on 19 March 1998) ⁽²⁾;

7. Calls on the Council, after the entry into force of the Treaty of Amsterdam, to convert legal acts adopted or still being negotiated under Article K.3 of the TEU into the legal form prescribed therein and, in so doing, to involve the European Parliament in an appropriate manner;

8. Hopes that an interinstitutional agreement will be negotiated with the aim of organising the dialogue between the European Parliament, Commission and Council during the transition period;

9. Expresses its concern at the failure, so far, to present a proposal for a Council Decision determining the

legal basis of the Schengen *acquis*; considers that if the security clause were invoked so as to place the entire *acquis* in the third pillar, this would constitute a serious institutional and political defeat and badly damage the prospects for parliamentary and judicial control; calls on the Commission to take the initiative to overcome the impasse;

10. Considers that the European Parliament should be consulted on the substance of the Schengen *acquis* and on the proposal for a decision incorporating it into the Treaty, as this decision will create the legal basis for future regulation and thus also determine the role of the European institutions;

11. Welcomes the steps taken, in connection with the enlargement of the European Union to include the countries of Central and Eastern Europe, with regard to involving the competent authorities of the applicant countries in areas such as judicial cooperation, the fight against crime, border crossing, harmonisation of asylum and immigration policies, and affirmation of the pre-eminence of the law in democratic societies;

12. Welcomes, in particular, the conclusion of a pre-accession pact on organised crime with the applicant countries and calls for an assessment to be made of the way in which the applicant countries might be involved in action and training programmes seeking to promote cooperation in judicial matters;

13. Considers that judicial cooperation ought to progress more rapidly in order for the necessary civil- and criminal-law area to be created to guarantee the freedom and security which citizens of the European Union have the right to expect in an enlarged Europe;

14. Calls for particular efforts to be made to eliminate obstacles to judicial cooperation and greater efforts to establish the European Judicial Network with a view to the procedures for traditional legal assistance being replaced by direct contacts between the competent authorities;

15. Regrets that no legal acts have been adopted in the field of asylum, refugee and immigration policy;

16. Acknowledges that, with its strategy paper on migration and asylum policy, the Austrian Presidency has given the necessary impetus to the debate on a general public strategy in these fields at European level; urges that the European Parliament be consulted forthwith on this strategy document;

17. Notes the proposals recognising the need for a joint balanced policy on immigration and asylum problems and for the harmonisation of procedures in order to improve the processing of asylum applications and combat illegal immigration rings;

18. Recalls its commitment to the 1951 Geneva Convention on refugees and to the interpretation thereof in line with the UNHCR handbook on procedures;

19. Supports — given that the Geneva Convention on Refugees covers solely the conventional grounds for asylum — the establishment of a new instrument for the protection of refugees which should complement that Convention;

20. Calls for the Eurodac Convention to be extended to cover illegal immigrants;

21. Welcomes the entry into force of the Europol Convention on 1 October 1998 and calls on the Council to take the requisite measures to enable Europol to begin work immediately;

22. Urges the Council to tackle immediately and resolutely the further development of Europol pursuant to Article 30 of the new version of the TEU after the entry into force of the Treaty of Amsterdam;

23. Regrets that no legal act has yet been adopted concerning the temporary protection of displaced persons and calls on the Council to reach agreement in particular on an appropriate scheme for burden-sharing, should there be an exceptional influx of refugees;

24. Deplores the delays in ratifying numerous conventions and, with a view to making good the accumulated delay and overcoming the current state of legal uncertainty, calls on the Commission to present in good time for the entry into force of the Amsterdam Treaty and at all events before the end of 1999 the necessary legislative proposals to transform the Convention on Extradition among the Member States of the European Union ⁽³⁾ into a 'framework decision' and the following acts into Community measures:

- the Convention on the Use of Information Technology for Customs Purposes ⁽⁴⁾,
- the Protocol to the Convention on the Protection of the European Communities' Financial Interests ⁽⁵⁾,
- the Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the Convention on the Protection of the European Communities' Financial Interests ⁽⁶⁾,
- the Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the Convention on the Use of Information Technology for Customs Purposes ⁽⁷⁾,
- the Convention on the service in the Member States of the European Union of judicial and extrajudicial documents in civil or commercial matters ⁽⁸⁾,
- the Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the Convention on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters ⁽⁹⁾,
- the Convention relating to the fight against corruption involving officials of the European Communities or of the Member States of the European Union ⁽¹⁰⁾,
- the Second Protocol to the Convention on the Protection of the European Communities' Financial Interests ⁽¹¹⁾,
- the Convention on mutual assistance and cooperation between customs administrations ⁽¹²⁾,
- the Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters ⁽¹³⁾;

Institutional aspects

25. Considers that the entry into force of the Amsterdam Treaty will compel the institutions, in particular the Council, to alter the working methods substantially and introduce greater transparency throughout the decision-making process, be it with regard to new strategies or to specific legislative measures;

26. Decides to hold an interparliamentary conference in March 1999 to consider, together with national parliaments and representatives of civil society, the draft action plan for the establishment of an area of freedom, security and justice approved by the Vienna European Council on 11 and 12 December 1998;

27. Undertakes not to adopt a position on any text forwarded to it by the Council before the expiry of the six-week period provided for by the Protocol to the Amsterdam Treaty relating to the participation of national parliaments; calls on those parliaments to participate in the establishment of an information and early-warning system to monitor the decision-making process in these fields;

28. Considers it desirable, as from the beginning of the new parliamentary term, to hold regular meetings between the Committee on Civil Liberties and Internal Affairs and the Justice and Home Affairs Council at the time of the latter's informal meetings, to facilitate dialogue between political decision-makers, free of any bureaucratic harassment;

29. Calls on the Commission to submit an assessment of the impact of these new powers on the

Commissioners (designation of a single Commissioner for the area of freedom), on the administration (establishment of one or more new Directorates-General to concentrate duties currently dispersed) and on the committees, bodies and operational structures (Schengen information system) and the measures to be taken which are required in order to carry out this work;

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30. Instructs its President to forward this resolution to the Council and Commission and the governments and parliaments of the Member States.

(1) OJ C 20, 20.1.1997, p. 185.

(2) Decision of the Justice and Home Affairs Council, Doc. 6889/98 (Presse 73), p. 4, conclusion (iii) 'making available a progress report towards the end of each Presidency on JHA business. Such a document would be drawn up under the responsibility of the Presidency. It could be supplemented, as necessary, by explanatory publications on JHA matters, taking account of the resources available'.

(3) Signed on 27 September 1996.

(4) Signed on 26 July 1995.

(5) Signed on 27 September 1996.

(6) Signed on 29 November 1996.

(7) Signed on 29 November 1996.

(8) Signed on 26 May 1997.

(9) Signed on 26 May 1997.

(10) Signed on 26 May 1997.

(11) Signed on 19 June 1997.

(12) Signed on 18 December 1997.

(13) Signed on 28/29 May 1998.