

Freedom, Security, Privacy – European Home Affairs in an open world



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Report

**of the Informal High Level Advisory Group on the
Future of European Home Affairs Policy
(„The Future Group“)**

Executive Summary

June 2008

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The Future Group

1. At the informal meeting of Ministers of Interior and Immigration in Dresden in January 2007, the German Minister of the Interior and the Vice President of the European Commission responsible for Justice, Freedom and Security proposed the creation of an informal Group at ministerial level with the objective to consider the future of the European area of justice, freedom and security. The findings and recommendations of the Future Group are meant to be an important contribution and a source of inspiration for the European Commission's proposal for the next multi-annual programme in the field of Justice and Home Affairs.
2. The Future Group was co-chaired by the Vice President of the European Commission and the Minister of Interior of the acting Presidency. It brought together, ad personam, the Ministers of Interior of the two current trios of Presidencies (Germany, Portugal, Slovenia; France, Czech Republic, Sweden) and a representative of the future Presidency trio, i.e. Spain, Belgium and Hungary. Further participants were a common law observer (United Kingdom), the President of the LIBE Committee of the European Parliament and a representative of the Secretariat General of the Council.
3. The Group reported regularly on the progress of its discussions to the ministers responsible for Home Affairs at Council meetings and an interim report on the Group's work was presented to all Member States by the Slovenian Presidency during the Informal Justice and Home Affairs Council in January 2008. The work of the Future Group has been summed up in this final report putting together the essential ideas and reflections of the Group. This report is aimed at both the Member States, Parliament and the general public in order to launch a debate on its content and the future of Home Affairs in the European Union.

What are the horizontal challenges for 2010-2014?

4. Throughout its mandate the Future Group strove to identify the major structural changes the European Union has undergone in recent years. When considering what the environment of the European Union will be in the period 2010-2014, three horizontal challenges appeared essential to safeguard and complete the area of justice, freedom and security in the light of continuously changing framework conditions:
 - preserving the "European model" in the area of European Home Affairs by balancing mobility, security and privacy;
 - coping with the growing interdependence between internal and external security;
 - ensuring the best possible flow of data within European-wide information networks.

Preserving Internal Security and External Stability

Police Cooperation

5. The Group recommends deepening law enforcement cooperation within the Union while ensuring that the different aspects of this cooperation progress consistently and while preserving active cooperation in the field. Police forces in the Union belong to Member States' field of competence. In the years to come, these law enforcement services should, however, get closer to each other. There is a need for improving the environment of police cooperation, especially by reinforcing Europol, exchanging knowledge and integrating police file management and security technologies.
6. To this effect, the Group proposes that the European Union should work towards a simplification of the regulations applied when a criminal investigation needs to be carried out on another Member State's territory. This could, for example, mean that certain non coercive acts carried out by police officers on another Member State's territory could be simplified or that a system of written requests for information could be organised.
7. Europol is to function as close partner and focal point for national police forces at the European level. Improving data transfers from Member States to Europol is necessary if it is to become a genuine information platform for Member States. The requirement of the so-called "Swedish" framework decision of 18 December 2006, aiming at better information sharing, could be fulfilled by means of creating automatic data transfer instruments. Furthermore, Europol should be, within its legal framework, increasingly used and expanded into a competence centre for technical and coordinative support.
8. The Group suggests that the European Union should establish a model of Police and Customs Cooperation Centre (PCCC) applicable to all Member States. The structure and missions of PCCCs could be re-evaluated, in order to make them real police-customs centres of crisis management capable of handling events on an international scale. Especially in the border zones, PCCCs should become a model of future police cooperation.
9. The technical management of SIS-, VIS- and Eurodac-type European files should be grouped within a single specific structure for greater efficiency, on the basis of a preliminary evaluation.
10. The research and development activity on European-level security equipment should similarly be considered a priority. In this context intensified use should be made of means available in the 7th Framework Programme for research and technological development. The entire area of security technology has undergone major developments. Efforts must be made to standardise new materials in order to obtain better interoperability.

11. Meanwhile, a common culture of all European Union police forces needs to be further developed with systematic common European training and a greater use of the European Police College for this purpose should be encouraged.

Fight against terrorism

12. The Group recommends that the work initiated within the scope of the 2005 European Union Strategy be carried on and further developed so as to fight terrorism based on a comprehensive global approach. The European Union must ensure that Member States' competences and resources are better tapped, since these are responsible for the operational fight against terrorism.

13. The Group deems it advisable that the different actors of the fight against terrorism be better coordinated within the Union and that, therefore, a concept should be developed on the future institutional architecture in this area. The Group suggests an improvement of the information flow between Member States' law enforcement authorities, Eurojust and Europol. In this context, the role of the Joint Situation Centre (SitCen) should be analysed with particular consideration.

14. Terrorist risks could be better taken into account by European policies: weapons control, the fight against explosives, transport protection, control of financial transactions. Progress is necessary in the preparation of European-level crisis management.

15. Regarding external relations, better political, technical and operational cooperation should be reached with third countries, especially with countries most affected by the menace of terror as well as the Union's major strategic partners – the United States and Russia.

16. The Group suggests promoting exchanges of best practices between the Union's Member States and possibly with third states concerning the legal tools for expulsion and surveillance as well as on appropriate measures to fight home-grown terrorism.

17. From a political standpoint, the Group recommends focusing on mid- and long-term prevention, especially as regards recruitment and radicalisation, by reinforcing the cooperation already started in this field at European Union level, and by continuing the fight against the use of Internet for terrorist purposes. As terrorism is often accompanied by political propaganda, the Union must develop a positive counter-system based on its values: the rule of law, fundamental rights, peace and liberty. The European Union has to improve communication with civil society, using every communication mode, including Internet.

18. A responsible and up-to-date European counter terrorism policy should take into account the possible threat of terrorist attacks with nuclear, biological or chemical weapons. The group suggests creating a platform or mechanism for

sharing information between the Member States' special police units responsible for dealing with current Chemical Biological Radio Nuclear situations.

Third Country Missions

19. The Group observes an increase in the number of European Union peace-keeping missions throughout the world. These interventions increasingly require comprehensive support in terms of military, police, civil protection, development aid and rule of law devices. The Group recommends making the most of past experience gained in this area.
20. To this end, the Group calls for greater coordination of police, diplomatic and military action in order to improve the preparation and assessment of these missions, with closer cooperation between different Council structures. Pooling together European Union's financial resources for third country missions should also be considered. Member States participating could be asked to provide Integrated Police Units for certain missions. Future reflections should also include the integration of the "European Gendarmerie Force" and civilian police units from Member States into the legal framework of the European Union.
21. The Group also suggests improving the coherence of missions by integrating their different components right from the start, when the operation is in the planning stages. The different civil, military and judicial entities taking part in the same mission could be grouped together in Mission situation centres.
22. Finally, greater care should be taken to disseminate the information obtained by these missions in the European Union. Europol and the Member States should receive this information. Conversely, the missions should be able to access appropriate information. The Group deems it necessary to seek an effective information-sharing method.

Managing Migration, Asylum, External Borders and Integration

Migration policy

23. There seems to be a consensus in the European Union about the fact that migration is an inherent phenomenon in our increasingly globalised societies and economies. Demographic trends will create even more demand for labour migration. The Future Group is convinced that the response needs to be at a European level, and recommends the implementation of a forward-looking and comprehensive common immigration policy.
24. With regard to cooperation with partner countries and implementation of the Global Approach to Migration, an integrated approach should be applied. Dialogue, cooperation and partnership with countries of origin and transit should be deepened and broadened in terms of both actions and resources in

a fully balanced manner. The notions of a mobility partnership, circular migration and co-development should be further developed. Member States, third countries and migrants will be able to benefit.

25. The Group thinks that the principles of responsibility, solidarity and mutual trust are prerequisites for the definition of a common policy in this area. The need for implementation of these principles will have to be fully integrated into the next multi-annual programme.
26. The Group recommends designing a common immigration policy as a function of long-term demographic and economic evolutions, in line with Member States' competencies. Prerequisite for such legal migration is a demand for specific qualifications on the labour markets of the Member States on the one hand and a supply of workers from third countries possessing such qualifications on the other. Based on these principles, the Group suggests that Member States should fully exploit all possibilities of intra-European economic migration.
27. The Group agrees that general regularisations should be avoided. In the future, regularisations in exceptional circumstances and with individual case-by-case approach could be acceptable.
28. On the subject of illegal immigration, the Group encourages an effective European return policy, which would allow for an organised coordination of Member States' actions in this field. The Group suggests avoiding general and unconditional regularisations in one Member State.
29. Finally, the ways and means for successful integration need to be deepened. They are an integral part of legal migration policy. Respecting the different national competencies, a set of common minimum standards and requirements of both the immigrant and the Member State should be further implemented as a complement to national integration policies.

Asylum Policy

30. The Group notes that wide divergences in practices still exist between Member States in the granting of refugee status and subsidiary protection, despite the adoption of common minimum standards.
31. The Group recommends pursuing the implementation of the Common European Asylum System (CEAS), based on the Geneva Convention, as envisaged by the Hague-Programme. Increasing practical cooperation between the Member States is a very important step. The role of the European Support Office in coordinating such practical cooperation is essential. It must help reduce the differences in the treatment of asylum seekers by different Member States and improve the support to States faced with exceptional pressure.

32. The Group deems it necessary that the Union has to continue to provide secure borders and prevent illegal immigration at the same time as ensuring that those with a genuine right to asylum are able to claim it.
33. Support for refugees in the regions of the world most concerned must become a strong European Union policy. There should be an increased emphasis on the external dimension of the asylum policy. The concept of Regional Protection Programmes should, on the basis of an evaluation, be developed and if necessary redesigned. A common resettlement instrument should be agreed.

Border Management and Cooperation with Third Countries

34. The European Union border management policy is coming to the end of its first phase, which aimed mainly at the abolition of internal borders controls. Member States admit that the cooperation of law enforcement teams on external borders is necessary to reach an effective and mutually supportive policy.
35. The Group encourages the European Union to outline an integrated border management strategy capable of coping with the increasing flows of migrants and the impressive mobility of today's world, while ensuring mutual support among Member States.
36. Fully aware that border control itself is only one element of a global policy of security management, the Group recommends integrated control of European Union borders, up and down stream. This should include one stop approach integrating all checks and controls carried out for different purposes. Possibilities offered by new technologies, hand in hand with well-trained border guards, must play a central role. As a complement, adequate data protection tools are necessary.
37. The Group thinks that Frontex must play a central role in maximising threat analysis; cooperation between Member States (Frontex should especially be in a position to manage joint operations); training of Member States' border guards and reinforcing links with third countries in this field. The resources belonging to Frontex – personnel and equipment – must be reinforced. The agency should also be given the responsibility to regularly evaluate and inspect national border forces.
38. The Group strongly recommends developing further a strategy vis-à-vis third countries particularly in the fight against illegal migration, with a focus on border management problems, and support measures such as development of mobility partnerships and circular migration. This strategy should be mutually beneficial for all partners. The Group recognises that a comprehensive European strategy on visas gives political leverage when dealing with third countries.

Developing Civil Protection

39. Civil protection is a genuine responsibility of Member States. Yet, the Group supports the development of a European policy in this area in order to improve overall consistency, better efficiency and even greater solidarity between Member States.
40. The key to the future is striking the right balance between the principle of Member States' responsibility and that of solidarity at the European level. This is all the more important since the Union today faces multiple risks – natural but also technological disasters especially in the context of terrorist Chemical Biological Radio Nuclear threats.
41. The importance of prevention has been stressed in the Group, which considers this aspect of civil protection as something that need to be developed in order to create a safer environment.
42. The Group proposes improving information management, developing common training and exercises in this area and setting up a network between schools. Better interoperability of operational techniques and systems must be sought. Similarly, the capacity of the Monitoring and Information Centre should be strengthened so as to turn it into a central coordination point and to develop its monitoring functions.
43. A European mutual assistance would develop reaction capabilities based on the Member States' resources, in order to help countries deal more effectively with major events in Europe and in the world. This system would operate on a voluntary basis. The European Union would thus be in a better position to tackle today's civil protection challenges.

Using new technologies and information networks

44. In a space where people and goods move freely, information exchange is a key component of European security. The Hague-Programme established the Principle of Availability. The Group estimates that European information networks should now be developed from a legal as well as from a technical standpoint, with a global and coherent approach taking fully into account operational needs. It therefore recommends implementing a European Union Information Management Strategy (EU IMS) promoting a coherent approach to the development of information technology and exchange of information.
45. The Group proposes putting forward a "top ten" of data categories where exchange should be developed between Member States within the scope of the Union's global information exchange strategy.
46. Efforts should be made to launch an "European Security Tool-Pool" Initiative. Such a "tool pool" would allow Member States and European Union institutions to make available tools of proven or potential use in the security

field for appraisal and or testing by authorities of other Member States and, when useful, support its mutual deployment.

47. A working group of the Council must be in charge of drafting this global strategy. This perspective, however, requires decision-making on data protection and on the authority in charge of compliance and control. Reflection should also be given to the common stance to adopt vis-à-vis third countries.

Implementing the External Dimension of Home Affairs Policy

48. The Group is aware that external and internal security issues are intrinsically linked and that the external dimension of Home Affairs policy is vital if common action is to be taken in the area of security and migration along the lines of the 2005 European Union Strategy for the External Dimension of the Area of Justice, Freedom and Security. An intensified cooperation between ministers of Home Affairs, Foreign Relations, Development and Defence shall ensure an integrated approach. European policies in this area must promote the development of the rule of law and fundamental rights in third countries. They must also help prevent threats to the European area.
49. A differentiated approach to individual third countries and regions is warranted. Measures have to follow a geographical prioritisation and political differentiation.
50. The Group advocates tightening links with the Union's neighbouring States and with its strategic partners – especially the United States and Russia. By 2014 the European Union should make up its mind with regard to the political objective to realise a Euro-Atlantic area of cooperation in the field of freedom, security and justice with the United States. Furthermore, it deems that Home Affairs issues should be linked with the Union's external relations in the political as well as technical dimensions; this is a major challenge for the internal security of the European area. The Justice and Home Affairs sector itself will have to overhaul its working methods in this respect.

Which strategy can best take up the 2010-2014 challenges?

51. In the first years of Justice and Home Affairs policies, the European Union strove to set up forms of cooperation allowing Member States to face common issues together and organised information availability between Member States. The next step must now be taken. Member States preserve essential competences in the area of internal affairs – especially law enforcement activities. The Group considers it important for Member States to continue to look for practical opportunities to co-operate together, even in areas which clearly remain the national responsibility of those states.
52. The underlying thread to a coordinated management of European migration and security issues could be the *convergence principle*. The aim of this idea is to bring Member States closer not only by means of standardisation when necessary but also by operational means. Common training programmes,

exchange networks, solidarity mechanisms, the pooling of some equipment, simpler cooperation procedures, and of course, information exchanges are essential ways of reaching true and genuine operational cooperation between the Union's Member States.

53. The *convergence principle* would apply to all areas where closer relations between Member States are possible: agents, institutions, practices, equipment and legal frameworks. These closer relations would be based on the Union's Acquis and would make full use of the European Union instruments. Added value would be systematically sought in the definition and implementation of the corresponding projects. Seeking added value and developing the convergence principle lead to the same goal. The closer Member States cooperate with each other, the clearer the shared values as well as the national reservations will be.
54. To achieve these goals, the Group deems it desirable to promote good understanding of every actor's current competences in the European Union. It therefore suggests that a structured and consolidated compilation of all law instruments in force in the area of European Home Affairs should be made available to the public on the Internet. Better coordination should be sought regarding the transposition of directives and framework decisions. Both European legislation in force and certain agreements between Member States could be codified in a user- and reader-friendly way. These Codices could provide an advanced and flexible system of legislation in the European Home Affairs and could become a key element for making the Acquis more transparent, easier to understand and to apply. Political action needs to be "disentangled", i.e. citizens need to be able to understand on which level a decision was taken and why.
55. The European Pact on migration and asylum tabled by the French Presidency is an example of the methods that could be used in the future: a collective commitment to be translated into concrete objectives and actions at European Union and national level; an approach targeting practical results that are easy to understand by our citizens. In this manner, they will better make the actions of the European Union their own.