

Permanente commissie
van deskundigen in
internationaal vreemdelingen-,
vluchtelingen- en strafrecht

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Aan: Commissie voor de JBZ-Raad
van de Eerste Kamer der Staten-Generaal

Kenmerk: CM 1005
Betreft: Aanbeveling prioritaire dossiers Wetgevings- en werkprogramma 2010 van de Europese
Commissie
Datum: 12 april 2010

Geachte leden van de Eerste Kamer,

De Commissie Meijers heeft kennis genomen van het Wetgevings- en werkprogramma van de Europese Commissie voor 2010, COM(2010)135 van 31 maart 2010. Ten behoeve van het overleg van uw Commissie over dit programma dat vanmiddag zal plaatsvinden, sturen wij u hierbij een aanbeveling omtrent de als prioritair te selecteren dossiers uit dit programma.

Op basis van de opdracht van de Commissie Meijers komen wij, na een eerste lezing, tot het voorlopige oordeel dat onderstaande dossiers bij voorrang de aandacht vragen van uw Kamer. Wij hebben met name dossiers opgenomen die voorstellen tot wetgeving betreffen. Naast 17 dossiers van wetgevingsvoorstellen, hebben wij ook vier dossiers opgenomen die geen wetgeving betreffen, maar die wij dusdanig van belang achten, dat wij aanbevelen dat uw Kamer deze eveneens selecteert.

Bij de nummering van de dossiers is de nummering aangehouden die door de Eerste Kamer is aangebracht in het originele overzicht van de Europese Commissie.

Tot nadere toelichting steeds bereid,

Met vriendelijk groet,



Prof. mr. C.A. Groenendijk
Voorzitter

cc. Minister van Justitie
Commissie Europese Samenwerkingsorganisaties

a. Annex I: Strategic initiatives scheduled for adoption in 2010 (april-december)

- **No.61 (25.) New comprehensive legal framework for data protection:** adaptation of the EU Data Protection Directive (1995) to new technological developments and in addition ensure data protection with regard to all EU action, as foreseen by the Lisbon Treaty and the Charter of Fundamental Rights (legislative).

b. Annex II: Indicative list of possible strategic and priority initiatives under consideration:

- **No. 139 Legislative proposal to set up Entry Exit System (EES):** to define the purpose, the functionalities and responsibilities for the EES, and to establish the conditions and procedures for the register, storage and consultation of entry/exit data of third country nationals crossing the EU external borders (legislative);
- **No. 140 Legislative proposal to set up Registered Traveller Programme (RTP):** to define the purpose, the functionalities and responsibilities for the EES, and to establish the conditions and procedures for the register, storage and consultation of entry/exit data of third country nationals crossing the EU external borders (legislative);
- **No. 153 Proposal for a review of Directive 2006/24/EC (Data Retention):** following an evaluation of the existing Data Retention Directive and recent judgments of MS constitutional courts, a review of the Directive is aimed at better matching data retention obligations with law enforcement needs, protection of personal data (right to privacy) and impacts on the functioning of the internal market (distortions);
- **No. 155 Legislative proposal amending the Schengen Borders Code:** amendment of Schengen Borders Code (SBC) to take account of (1) technical adaptations; (2) technical changes resulting from proposals for an Entry/Exit System and/or Registered Traveller Programme (legislative);
- **No. 159 Proposal for modification of Directive 2003/86/EC on the right to family reunification:** follow-up to the Green Paper of 2010 (legislative);
- **No. 161 EU Immigration Code:** consolidation of all legislation in the area of immigration, starting with legal migration, foreseen by Stockholm Programme;
- **No. 225 Proposal for a recommendation to authorise the negotiation of a data protection and information sharing agreement for law enforcement purposes with the USA:** a recommendation from the Commission to the Council to authorise the opening of negotiations for an agreement between the EU and the USA on the protection of personal data transferred or exchanged for law enforcement purposes is foreseen. This would bring legal certainty to operators when it comes to processing data in both the EU and the US (legislative);
- **No. 229 Directive on the right to information in criminal proceedings:** to facilitate mutual recognition of judgements throughout the EU, the commission will propose minimum rules on the right of suspects in criminal proceedings. These rules will ensure that the accused are informed promptly and in detail of their rights and accusation against them (legislative);
- **No. 231 Communication on the Fundamental Rights policy:** this communication will set out the EU system of protection of fundamental rights and present the Commission's approach to ensure the effectiveness of the Charter for Fundamental Rights across EU policies. It will e.g. propose a fundamental rights chapter to all impact assessments of the Commission and outline the importance of an annual report to monitor the implementation and the respect of the Charter;
- **No. 232 Communication on strategy for data protection:** communication on a strategy for the protection of the fundamental right to data protection after the entry into force of the Lisbon Treaty;
- **No. 233 Communication on the strategy on the rights of the child (2010 – 2014), on the basis of an evaluation of the impact of the EU instruments affecting children's rights:** the Communication will present the Commission's priorities as regards the rights of the child on the basis of the consultations carried out with EU Institutions, UNICEF, NGOs and with children. The communication will also include a stock-taking of the functioning of the hotlines for missing children;
- **No. 235 Legislative proposal on a comprehensive regime on obtaining evidence in criminal matters based in the principle of mutual recognition and covering all types of evidence:** this new model could have a broader scope and should cover as many types of evidence as possible, taking account of the measures concerned (legislative);
- **No. 236 Legislative proposal to introduce common standards for gathering evidence in criminal matters in order to ensure its admissibility:** existing rules aimed at ensuring the

admissibility of evidence obtained from another Member State only approach the issue indirectly as they do not set any common standards for gathering evidence. There is a risk that the exchange of evidence in criminal matters will only function between Member States with similar national standards for gathering evidence (legislative);

- **No. 237 Directive on rights of and support to victims of crime:** develop one comprehensive legal instrument on the protection of victims, by joining together the Directive on compensation to victims and the Framework Decision on victims, on the basis of an evaluation of the two instruments (legislative);
- **No. 239 Legislative proposal on Legal Advice and Legal Aid:** procedural rights – measure C Suspects and accused persons in criminal proceedings do not consistently receive adequate access to legal advice which is (partially) free of charge where necessary as provisions on legal aid vary significantly between Member States (legislative);
- **No. 241 Legislative proposal on an ECRIS-TCN system regarding convicted third country nationals:** to create a common index and a hit/no hit system enabling the criminal records central authority of each Member States to find quickly whether a third country national has been previously convicted and in which other Member States (legislative);
- **No. 243 Legislative proposal amending Decision 1995/553/EC implementing the right to consular protection:** any EU citizen who is in a third country where his or her Member State is not represented, is entitled to receive effective consular assistance from embassies or consulates of any other Member State on the same conditions as their nationals. The Commission aims to assist the Member States with this task by proposing concrete measures which aim to ensure that all EU citizens are informed of their rights and that the scope of protection is clarified. Under the Lisbon Treaty the Commission can initiate legislative proposals to facilitate such protection (legislative);
- **No. 246 Proposal for a Regulation on Eurojust:** provide Eurojust with powers to directly initiate investigations, making its internal structure more efficient and involving the European Parliament and national parliaments in the evaluation of Eurojust's activities, in accordance with Art. 85 TFEU (legislative);
- **No. 247 Communication on the establishment of European Public Prosecutor's Office (EPPO) from Eurojust:** possibility to give further powers to the Eurojust national member, reinforcement of powers of Eurojust College or setting-up of a European public Prosecutor.

c. Annex III: List of simplification initiatives:

- **No. 28 Proposal for amendment of EU legal instruments on data protection:** the EU legal framework for Personal Data Protection will be brought into line with the Lisbon treaty, and will be simplified and adapted to technological developments (revision).