

**THE EUROPEAN CONVENTION**

THE SECRETARIAT

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**CONTRIB 49**

**COVER NOTE**

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from :	Secretariat
to :	Convention
Subject :	<b>Contribution from Mr Jan Kavan, member of the Convention</b>

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The Secretary-General of the Convention has received the contribution annexed hereto from Mr Jan Kavan, member of the Convention.

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**Contribution from Mr Jan Kavan, member of the Convention**

Since the ratification of the Amsterdam Treaty, the importance of one of the goals of the European Union has increased significantly that being the creation of a zone that ensures freedom, security and justice. Due to the forthcoming enlargement of the Union, the importance of these goals has become even greater and I am very glad to see the determination to make real changes and achieve progress in this area.

Moving certain policies from the third pillar to the first one, which occurred with the ratification of the Amsterdam Treaty, had several positive consequences, particularly with regard to legal instruments, institutional security and the practical application of legislative procedures.

Transforming parts of the third pillar into communitarian policies I regard as important and highly desirable. The removal of the internal borders of the Union and freedom of movement places increased demands on ensuring the security of citizens of the Union and overcoming crime. Developing co-operation within the context of Europol is a very welcome step forward in this respect. Co-operation in this field is in the common interest of all Europeans states.

I support very much also the idea of creation of the common police troops for the protection of the external European Union borders. The agreement of the ministers of home affairs from both European Union and candidate countries reached last week on the creation of the European border police focused on the fight against the organized crime is a very positive step. It is however necessary to pay attention to some institutional questions related to the democratic control of the common operational activities of Europol and national police. If Europol is given the operational powers, the activities of the operational units should be subject to similar judicial control by the national Courts as it applies to the national police.

I support also the deepening of co-operation in the area of immigration and asylum policy and its interconnection to other relevant European Union initiatives and activities, such as the employment policy, and the protection of basic rights and freedoms. The goal of interconnecting these policies is to ensure both economic growth and a high level of protection of the rights of citizens, and at the same time guarantee the full integration of asylum seekers into society. In order to reach this goal it is necessary to achieve full harmonisation of the European Union legislation, such as for example

the exact definition of the European asylum status.

Citizens will not acquire a feeling of freedom, security and justice without easier access to courts in other Member States, which relates also to the matter of full acceptance of court rulings issued in other Member States. And more direct access to the Court of Justice of the European Communities has to be one of the significant proofs of the move towards a more united and just Europe.

In my opinion co-operation and integration in the sphere of justice and home affairs can create great advances in the areas of asylum and immigration policies, in connection with the struggle against organised crime, controls of the external borders of the Union and co-operation between courts dealing with criminal and civil law cases.

It is already clear now which kinds of criminal activity require closer co-operation at a European level, for example the criminal acts listed in Section 2 of the Europol Treaty or in Section 4 of the Council Resolution from 28 February 2002 on the establishment of Eurojust, which are documents that act as reinforcements in the fight against serious crime. It is without doubt the most serious crimes that require Europe-wide resolve to bring the perpetrators to justice (such as financial crime, money laundering, trafficking in drugs or humans). On the other hand, it is not necessary to be restricted to co-operation only on these criminal acts and renounce closer co-operation between police and courts on criminal cases of a less serious nature, which also have a considerable impact on all the member states. Co-operation should also focus on everyday violent crime (such as murder and robbery).

The effectiveness of decision-making in joint asylum and immigration policies should benefit the simplification, or increased compatibility, of legal instruments used, so that for example the “framework decisions”, which are common in the Third Pillar, could directly become Directives, as this is the level of legal significance that they carry today and in terms of the system in which they operate, it is the Directives known from the first pillar to which they correspond. Effectiveness could also be increased by the European Commission taking the legislative initiative on this point. In my opinion, this measure would also contribute to increased transparency and uniformity in procedures for the entire sphere of justice and home affairs, which is absolutely necessary.

The Charter of Fundamental Rights and Freedoms represents an important driving force for the constitution of this legal area without borders inside the EU, where the freedoms and rights of

citizens can be cultivated. As a further step in the right direction, consideration should be devoted to giving the Charter a more prominent legal statute, included in the system of treaties. Greater emphasis on the legal relevance of the Charter in this zone of freedom would contribute to forces for security and justice working in greater alignment both in civil law and criminal law matters, thus developing a greater awareness of the law and strengthening the sense of responsibility of integrating institutions in their respect for the rights of the citizen.

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