



Northern Ireland
Assembly

Research and Library Service Briefing Paper

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European Commission Work Programme 2010

Introduction

1. The Committee for the Office of the First and deputy First Minister's 'Report on its Inquiry into Consideration of European Issues', which was published in January 2010, contained a series of recommendations addressed to the Executive together with a number of actions which were for the Assembly itself to address. Action 8 of the report stated that:

The Committee [COFMdFM] will highlight to all statutory committees the importance of their role when dealing with European issues and departments should take into consideration European policies and directives when completing business plans and strategies. Research and Library Services will screen the annual European Legislative and Work Programme and produce a prioritised menu of scrutiny topics relevant to each statutory committee. For those scrutiny topics which

are of particular interest to statutory committees, the Research and Library Service should monitor the development of policy at European level and provide regular information updates which would, amongst other things, identify all relevant draft legislative acts. The Committee for the Office of the First Minister and deputy First Minister will receive all information from Research and Library Services. The Brussels Officer will also have input here.

2. Action 8 requires the Research and Library Service to support Committees by:
 - i. screening the annual European Legislative and Work Programme;
 - ii. producing a prioritised menu of scrutiny topics relevant to each statutory committee;
 - iii. monitoring the development of policy at European level;
 - iv. providing regular information updates; and
 - v. identifying all draft legislative acts.
3. This briefing paper contains the results of an initial screening of the European Commission's 2010 Work Programme to identify initiatives which relate to the work of the Justice Committee.

European Commission Work Programme 2010

4. Each year the European Commission publishes a work programme which sets out the legislative as well as non-legislative proposals which it will put forward during the forthcoming year. The work programme, which is usually published in the Autumn, is particularly important, as the Commission has the 'right of initiative' within the European Union. In other words, the Commission alone is responsible for drawing up proposals for new European legislation, which it presents to Parliament and the Council. The Commission is also responsible for managing and implementing EU policies and the budget. Furthermore, together with the Court of Justice, it is responsible for making sure EU law is properly applied in all Member States.
5. On 31st March 2010, the European Commission published its 2010 Work Programme for which it provided the following overview:

The Commission Work Programme (CWP) 2010 translates the priorities of President Barroso's political guidelines into concrete actions. Overall, emphasis of the CWP is on (1) putting the Europe 2020 Strategy into practice thereby building the basis for exiting the economic crisis and creating sustainable growth and jobs (2) enhancing the rights and security of European citizens and (3) strengthening Europe's role on the world stage.¹
6. Notably, the format of the 2010 Work Programme differs from that of previous years' legislative and work programmes. For the first time, the Work

¹ http://ec.europa.eu/atwork/programmes/index_en.htm

Programme provides a four-year rather than an annual overview of the Commission's legislative and non-legislative priorities. This format is designed not only to improve predictability for all stakeholders, but also to facilitate cooperation with the other EU institutions. Through annual updates of the Work Programme, the Commission will identify new annual strategic initiatives and adapt the multiannual strand as necessary.

7. Whilst the body of the Work Programme describes the Commission's ambitions and commitments for 2010 and beyond, a number of annexes provide detail on individual initiatives which it plans to take forward.
8. Under the following headings, Annex I contains a list of 34 strategic initiatives on which the Commission commits to deliver in 2010.
 - Tackling the crisis
 - Advancing the "Europe 2020" flagship initiatives
 - Tackling Europe's bottlenecks
 - Putting people at the Heart of European action and building a citizens' Europe
 - Ensuring an open and secure Europe
 - Addressing long-term societal changes
 - Deepening Europe's trade agenda
 - Modernizing EU instruments and the ways of working
9. Annex II contains a list of 280 major proposals under consideration during 2010 and beyond, which are tentative prospects for the rest of the mandate. These are broken down under the following headings, which map closely to the Departments and Services of the European Commission.²

Agriculture and Rural Development	Humanitarian Aid & Crisis Response
Budget	Industry and Entrepreneurship
Climate Action	Internal Market and Services
Competition	Justice, Fundamental Rights and
Development	Citizenship
Digital Agenda	Maritime Affairs and Fisheries
Economic and Monetary affairs	Regional Policy
Education, Culture and Youth	Research and Innovation
Employment, Social Affairs & Inclusion	Services of general interest
Energy	Smart Regulation
Enlargement and Neighborhood Policy	Taxation and Customs Union
Environment	Trade
Health and Consumers	Transport
Home Affairs	

10. A list of simplification proposals and withdrawals is included as Annexes III and IV to the Work Programme.

² The term 'Commission' is used within the European Union in two senses. First, it refers to the team of men and women from Member States appointed to run the institution and take its decisions. Secondly, the term 'Commission' refers to the institution itself and to its staff.

11. The remainder of this paper identifies those initiatives contained in Annexes I and II which are most relevant to the work of the Justice Committee.

Table 1: Key EU Justice initiatives due in 2010

Nature	Title of the document	Likely date of publication
<i>Regulation</i>	Conflicts of law in matters concerning property rights, including the question of jurisdiction and mutual recognition, and for Regulation on the property consequences of the separation of couples	September 2010
<i>Communication</i>	Strategy to combat violence against women and domestic violence	October 2010
<i>Regulation (amendment)</i>	Jurisdiction, recognition and enforcement of judgments in civil and commercial matters (Brussels	December 2010
<i>Directive</i>	Right to Information in Criminal Proceedings	July 2010
<i>Communication</i>	Framework for the protection of personal data in the EU (with: a) a Communication on the protection of personal data, and b) Legislative proposals)	November 2010
<i>Communication</i>	The Common Frame of Reference in the area of EU Contract Law	July 2010
<i>Communication</i>	EU Strategy on Rights of the Child	December 2010

Table 2: Key EU Justice proposals to progress in the period 2011-14

Nature	Title of the document
<i>Green Paper</i>	Free circulation of civil status documents
<i>Directive</i>	Obtaining evidence in criminal matters based on the principle of mutual recognition and covering all types of evidence
<i>Directive</i>	Common standards for gathering evidence in criminal matters in order to ensure its admissibility
<i>Directive</i>	Rights of and support to victims of crime
<i>Green Paper</i>	Detention Issues
<i>Directive</i>	Legal Advice and Legal Aid

12. The tables above identify those proposals from the period 2010-2014 which appear to be most relevant to the work of the Justice Committee. It is proposed that the Research & Library Service will track developments relating to those initiatives of most interest to the committee. The number of initiatives, however, is sufficiently small to allow the Service to monitor all if so desired. In addition,

the Service will also monitor any new emerging policy proposals, legislative or otherwise, in the areas of judicial cooperation in relation to civil and criminal matters.

13. At a later date, should it become necessary to prioritise initiatives for continued monitoring, the criteria listed below could be employed.
 - Legislative versus non-legislative proposal (legislative higher priority)
 - Stage in policy development (earlier higher priority)
 - Relevance (links to other committee work for example)
 - Significance (based on likely impact of initiative in NI, for example financial)
 - Relevance to Executive's Priorities for European Engagement³
14. As a number of the initiatives highlighted above are legislative in nature, they may be subject to a subsidiarity check. This means that, within an eight week period of the publication of a draft legislative act, any national Parliament or any chamber of a national Parliament may send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It is for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers. In this context, however, it should be noted that the UK's involvement in justice and home affairs matters (now technically known as the area of freedom, security and justice) is complex and subject to it opting in specific measures in this area.

³ http://www.ofmdfmi.gov.uk/priorities_for_european_engagement-action_plan_2008-2009_3mb_-2.pdf

Appendix 1

Proposal for a Regulation on the conflicts of law in matters concerning property rights, including the question of jurisdiction and mutual recognition, and for Regulation on the property consequences of the separation of couples.

A Green Paper on conflict of law in matters concerning matrimonial property regimes was published in 2006.⁴ Despite vast migration between member states, the law in relation to what happens when a couple separates or when a spouse dies is still determined nationally. The Stockholm Programme called for the principle of mutual recognition to 'be extended to fields that are not yet covered but essential to every day life'.⁵

Objectives of the Proposal:⁶

- To make it sure that spouses and partners could know, if they have not chosen an applicable law, which law will be applicable in the management of their property and in the event of their liquidation;
- To make it possible for parties of a couple to bring all legal matters relating to their case before the same court, and to determine common rules of jurisdiction;
- To facilitate the recognition and enforcement of judgments and other decisions relating to international property regimes; and
- To tackle the problem of inadequate information on the existence of property regimes.

The proposal 'is likely to combine non-legislative features (to increase awareness of the existing problems) and legislation (either extending the scope of the Brussels II⁷ regulation to cover matrimonial property rights or a new regulation).⁸

Communication on a strategy to combat violence against women and domestic violence

The Communication likely to be published in October 2010 will seek to provide 'special support and greater protection, including legal protection, of persons that are subjected to violence in close relationships and are victims of gender based violence'.⁹ Seven policy areas will be encompassed: civil and criminal justice; employment; migration and asylum; development cooperation; trade negotiation; education; and health.¹⁰

Violence against women remains hidden and under-reported in many member states, with 25% of women having been subjected to physical violence and 10% subjected to sexual

⁴ http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=COMfinal&an_doc=2006&nu_doc=400

⁵ <http://register.consilium.europa.eu/pdf/en/09/st14/st14449.en09.pdf>

⁶ http://ec.europa.eu/governance/impact/planned_ia/docs/68_jls_matrimonial_property_rights_en.pdf

⁷ http://ec.europa.eu/justice_home/doc_centre/civil/doc/parental_resp_ec_vdm_en.pdf

⁸ <http://www.scottish.parliament.uk/s3/committees/europe/papers-10/eup10-06.pdf>

⁹ http://ec.europa.eu/governance/impact/planned_ia/docs/70_jls_violence_against_women_en.pdf

¹⁰ See above

violence.¹¹ Protection and support for women varies between member states and harmonisation of 'existing practices and awareness-raising can significantly improve the situation in many Member States.¹²

The European Commission's Roadmap on this issue outlines that the specific objective:

Would be contributing to the prevention of, and the fight against, all forms of violence occurring in the public or private domain against women, including female genital mutilation, sexual exploitation and trafficking in human beings, by consolidating efforts at EU level, by taking preventive measures and by providing support and protection for victims and groups at risk.

It's expected after the adoption of the Communication that 'further soft law is expected to emerge including guidelines for law enforcement officers and social workers.'¹³ It's envisaged that a specific directive may follow. A feasibility study on standardisation of national legislation on violence against women across EU is currently being carried out.

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 44/2001 on jurisdiction, recognition and enforcement of judgments in civil and commercial matters (Brussels I)

The European Commission's Roadmap on this issue outlines that:¹⁴

Regulation (EC) No 44/2001¹⁵...provides the legal framework at EU level for cross-border litigation by businesses and citizens in all civil and commercial cases. It sets out which courts should hear a case, and how a judgment given in one Member State can be recognised and enforced in another Member State.

There is still 'not a free circulation of all judgments in civil and commercial matters...a person must apply for a certificate of enforceability before a judgment can be enforced in another Member State.'¹⁶ This process is both costly and lengthy; and in order to address this problem strengthened cooperation is needed between courts.

The amendment will pursue the following objectives:¹⁷

- Move towards the abolition of the exequatur in civil and commercial matters, as prescribed by the conclusions of the 1999 Tampere, 2004 Hague and the 2009 Stockholm European Councils;
- Extend the scope of the Regulation to situations involving relations with third states; in particular adapt the provisions of the Regulation to new international instruments in the area concerned, such as the Hague Convention on the exclusive choice of court agreements;

¹¹ See above

¹² See above

¹³ <http://www.scottish.parliament.uk/s3/committees/europe/papers-10/eup10-06.pdf>

¹⁴ http://ec.europa.eu/governance/impact/planned_ia/docs/20_ils_revision_brussels_en.pdf

¹⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001R0044:EN:HTML>

¹⁶ http://ec.europa.eu/governance/impact/planned_ia/docs/20_ils_revision_brussels_en.pdf

¹⁷ See above

- Improve the operation of those provisions of the Regulation where problems have been detected in their application, for example in relation to litigants using the Regulation's rules to deliberately escape a choice of court they have agreed to and, if this proves necessary and opportune in relation to consumer contracts and arbitration; and
- Strengthen effective cooperation between courts.

The main objectives for the forthcoming Commission Proposal are to:¹⁸

- Ensure a genuine free circulation of judgments in all civil and commercial matters;
- Improve the protection of EU citizens in disputes connected with third states; and
- Address the main difficulties reported in the operation of the Regulation, including the interface between Regulation and arbitration.

An impact assessment is currently ongoing, covering the following points of the envisaged review:¹⁹

- The abolition of intermediary proceedings for recognition and enforcement;
- The operation of Regulation 44/2001 in the international legal order;
- The interface between the Regulation and arbitration; and
- Gathering of further data on consumer contracts.

The results of the impact assessment are expected by summer 2010.

Directive on the Right to Information in Criminal Proceedings

This proposal is the second measure in the Procedural Rights Roadmap. The Commission has been attempting to develop legislation since 2002 on procedural rights but member states have favoured mutual recognition over regulation. The Roadmap in relation to Information in Criminal Proceedings outlines the difficulties in the present situation.²⁰

The operation of mutual recognition measures such as the European Arrest Warrant is hindered because there are insufficient levels of trust between judicial authorities in different Member States and a reported concern that some Member States do not offer suspects and accused persons sufficient safeguards in criminal proceedings to enable judicial decisions from other Member States to be recognised as fully equivalent.

Currently suspects and accused persons facing criminal proceedings in another country may not receive sufficient information about their rights and charges they face due to language difficulties for example; this can lead to unsafe convictions leading to Member States having concerns about the proceedings in other Member States.²¹

¹⁸ http://ec.europa.eu/governance/impact/planned_ia/docs/20_jls_revision_brussels_en.pdf

¹⁹ See above

²⁰ http://ec.europa.eu/governance/impact/planned_ia/docs/73_jls_information_right_criminal_proceeding_en.pdf

²¹ See above

Objectives of the Directive:²²

- Promote mutual trust by having common minimum standards of procedural rights;
- To reinforce fundamental rights, especially the right to fair trial as laid down in Articles 47-50 of the Charter of Fundamental Rights; and
- Achieve a situation whereby all Member States have in place an effective and verifiable method for the transmission of essential information to suspects and accused persons in criminal proceedings.

A new comprehensive framework for the protection of personal data in the EU (with: a) a Communication on the protection of personal data, and b) Legislative proposals)

Article 8 of the EU Charter of Fundamental Rights sets out the principles for the protection of personal data and since the enactment of the Lisbon Treaty this is now binding at primary law level.²³ Article 16 of the Lisbon Treaty provides a single legal base with regard to the protection of personal data.²⁴ A Directive 95/46/EC²⁵ is already in place for the protection of personal data.

Objectives of the Comprehensive Framework:²⁶

- Continue to guarantee a high level of protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States, in all areas of the Union's activities, as well as free movement of such data;
- Achieve the consistent and effective legal implementation and application of the fundamental right to protection of personal data;
- Ensure proper adaption to and application of the Treaty of Lisbon's new legal bases for the protection of personal data in all areas of the Union's activities;
- Modernise the existing system for the protection of personal data in all areas of the Union's activities to meet challenges from globalisation, new technologies and public authorities; and
- Improve the clarity and coherence of the EU legal framework for personal data protection.

Ultimately given the cross-border nature of challenges like globalisation and developing new technologies action at EU level is necessary regarding the protection of personal data.

Communication to European Parliament and Council on the Common Frame of Reference (CFR)

²² See above

²³ http://ec.europa.eu/governance/impact/planned_ia/docs/72_jls_data_protection_strategy_and_legal_framework_en.pdf

²⁴ See above

²⁵ http://ec.europa.eu/justice_home/fsj/privacy/docs/95-46-ce/dir1995-46_part1_en.pdf

²⁶ http://ec.europa.eu/governance/impact/planned_ia/docs/72_jls_data_protection_strategy_and_legal_framework_en.pdf

This relates to the fragmented nature of national contract laws with the EU and the Roadmap document in relation to this outlines the consideration behind the Communication.²⁷

The work on the CFR could result in an optional instrument for business to consumer and/or business to business contacts. Any optional instrument will co-exist alongside the Union's 27 national contract laws. However, one chosen by the parties, it will bind the parties to the contract and the courts called to enforce the contract.

It's also envisaged that the proposed instrument might complement the proposed Directive on Consumer Rights. The present problems affect both businesses and individuals within the EU who engage in cross-border transactions. The principal objective of the Communication is to 'move forward the work on European Contract Law by setting the path for future activities'.²⁸

Communication on the EU strategy on the rights of the child 2011-2014

Children's rights are fundamental rights protected under the EU Charter of Fundamental Rights as well as international instruments like the UN Convention on the Rights of the Child. A previous Commission Communication entitled 'Towards an EU strategy on the Rights of the Child'²⁹ COM (2006) 367 final 'laid the foundations for an EU policy on children's rights, in internal and external policies alike'.³⁰

Since the initial Communication a number of problems have been identified namely need for a focused approach, need for data for developing an evidence based approach and need to reinforce the involvement of all parties in particular children themselves.³¹

The policy objectives of the Communication are:³²

- **Mainstreaming:** The horizontal nature of the strategy allows for a more coherent approach that complies with international standards like UNCRC;
- **Addressing priorities:** The communication will focus on four major areas of intervention – poverty, vulnerable children, violence and child-friendly justice;
- **Providing stronger support to Member States:** The existing EU Forum on Rights of the Child could provide stronger support to Member States when developing and implementing children's policies. The strategy could aim to provide high standards of protection for children in line with UNCRC; and
- **Ensuring participation:** The Forum on the Rights of the Child would be adapted to better serve its role of a body to design and monitor EU and Member States actions. Participation of children should be enhanced.

²⁷ http://ec.europa.eu/governance/impact/planned_ia/docs/23_jls_common_framework_reference_contract_law_en.pdf

²⁸ See above

²⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0367:FIN:EN:PDF>

³⁰ http://ec.europa.eu/governance/impact/planned_ia/docs/69_jls_rights_of_child_en.pdf

³¹ http://ec.europa.eu/governance/impact/planned_ia/docs/69_jls_rights_of_child_en.pdf

³² See above

Part 2 – EU Justice Issues in the period 2011-2014

Free circulation of civil status documents

Essentially the purpose of this Green Paper is to establish how best to facilitate the mutual recognition of legal documents, the value of which has been recognised across the EU.

Obtaining evidence in criminal matters based on the principle of mutual recognition and covering all types of evidence

This proposed Directive stems from a previous Green Paper entitled 'Obtaining evidence in criminal matters from one Member State to another and securing its admissibility'.³³ The new Directive is expected to widen the scope of evidence covered to include as many types of evidence as possible.

Common standards for gathering evidence in criminal matters in order to ensure its admissibility

The aim of this proposed Directive would be to address deficiencies, between Member States, in the gathering of evidence in criminal matters.³⁴ This would help national standards of evidence gathering to be raised together, to improve that evidence's admissibility when brought before the courts.

Rights of and support to victims of crime

This Directive proposes to bring together the Directive on compensation to victims³⁵ and the Framework Decision on victims³⁶ 'to create a single comprehensive legal instrument on the protection of victims'.³⁷

Detention Issues

This Green Paper will seek to examine ways to improve mutual trust and recognition in the field of detention within the EU. The Green Paper will also explore the possible implementation of the 2006 European Prison Rules.³⁸

Legal Advice and Legal Aid

The intention of this possible Directive will be to apply greater consistency across the EU in relation to the provisions of legal aid systems in different Member States.

³³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0624:FIN:EN:PDF>

³⁴ <http://www.scottish.parliament.uk/s3/committees/europe/papers-10/eup10-06.pdf>

³⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0080:EN:NOT>

³⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:082:0001:0004:EN:PDF>

³⁷ <http://www.scottish.parliament.uk/s3/committees/europe/papers-10/eup10-06.pdf>

³⁸ <https://wcd.coe.int/ViewDoc.jsp?id=955747>