

**ADDRESS BY Mrs. AYFER YILMAZ,
MEMBER OF THE TURKISH GRAND NATIONAL ASSEMBLY
AT THE MEETING OF THE CONVENTION
HELD BETWEEN 6-7 JUNE 2002**

ON THE AREA OF FREEDOM, SECURITY AND JUSTICE

Mr. President,

It is without doubt that the Union, in the area of justice and home affairs, presents a very complex picture by its structure divided between first and third pillars as well as by the diversity of legal instruments it uses. However, I believe that reasons behind this disorganized structure should be sought in the unique characteristic of the integration process.

As is known, the three-pillar structure of the Union has been established by the Maastricht Treaty. By the Amsterdam Treaty, matters related to immigration, asylum, visa policy and freedom of movement have been included in the sphere of Community policies. This meant that the conditions established by the Maastricht Treaty were temporary in nature and eventually there would be a return to the Community method. I believe that as much as the conditions allow, the matters that are currently under the third pillar could gradually be transferred to the first pillar.

At present, in the area of justice and home affairs, legal instruments such as decision, framework decision, convention between Member States, position and common position are used. Yet, convention between Member States is no longer used as a legal instrument. Setting aside the instrument of common position that defines in general political tendencies of the Member States, it could be observed that decisions and framework decisions, which require their transposition into domestic law by the Member States, are also not truly operational. For this reason, legal instruments such as legislation and directives that are used under the first pillar should be used more often whereas the ones that are not operational should be eliminated.

Gradual transfer of matters from the third pillar to the first should be accompanied by procedures of qualified majority voting and co-decision with the European Parliament. This is essential for enhancing democratic legitimacy within the European Union.

Achievement of greater transparency at the Union is very essential. However, we have to admit that transparency should have limits in the area of justice and home affairs as it also covers matters sensitive in nature. For example, can we ask to have the meetings of the Council open to public when discussing issues such as immigration and terrorism?

Another way of enhancing democratic legitimacy for the decision making mechanism in the area of justice and home affairs, would be increasing the competences of the Court of Justice for legal control over the decisions taken in this

area. Similarly, extending the right to the citizens to bring a case before the Court of Justice would be step taken towards enhancement of democratic legitimacy within the European Union.

According to the public surveys, citizens would like the Union to assume a greater role in the fight against terrorism, trafficking of human beings, organized crime and drugs. A step forward in this direction has been made by the adoption of EU Arrest Warrant, Framework Decision, Common Position and Legislation on terrorism.

In the context the enlargement process, the expansion of the common borders is important. We consider developments such as the Best Practices Manual in the Implementation of the Schengen System and the Conference organized for establishing an EU Border Control Guard as important steps in the right direction. We have to advance step-by-step in this area and if necessary, we could provide the Europol with operational powers. However, we need to develop political and legal control mechanisms for such operations of the Europol.

Thank you.4