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Summary of the report

The External Dimension of the EU's Area of Freedom, Security and Justice

Progress, potential and limitations after the Treaty of Lisbon

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Although the European Union's (EU) "area of freedom, security and justice" (AFSJ) is primarily an internal political project to provide citizens with an area without internal frontiers, in which the free movement of persons is ensured, external action is of vital importance to its realisation. Many of the challenges the AFSJ is expected to respond to have a major – and in some cases, such as organised crime, terrorism and illegal immigration, even a primarily – international dimension. Not meeting the international threats to the huge vulnerable open internal space which the AFSJ constitutes could put into question its very existence.

This report considers first the reasons for the development of the AFSJ external dimension and the post-Lisbon legal and institutional frameworks before then analysing the major forms of EU action and assessing the implications of this external dimension for both the EU and the Member States and its future developments prospects.

The emergence of the external dimension of the AFSJ has allowed the EU to complement internal action on AFSJ objectives with an increasingly wide range of forms of action: from strategy formulation over cooperation with third-countries, capacity-building and common action within international organisations. The use of the combined political weight of the EU, regrouping both the Member States and other EU external policies of relevance to thirdcountries, has made it easier to secure cooperation of third-countries on a range of AFSJ relevant issues from readmission, over anti-money-laundering measures to the sharing of law enforcement data.

Yet the benefits which the external AFSJ dimension is bringing to the EU do not stop with their contribution to achieving the AFSJ's internal objectives. The rapid growth of this domain of EU external action since 1999 has added a substantial new dimension to the Union's role in international relations beyond its already established actorness in fields like trade, development and foreign and security policy. There can be no doubt that in the aftermath of the 9/11 terrorist attacks the fact that the EU could – via its new external competences introduced by the Treaty of Amsterdam – become the agent of a collective international European response and be accepted as such by the United States has added to its international weight and visibility. The same can also be said, for instance, with regard to visa facilitation as third-countries have had to accept that with the harmonisation of EU (Schengen) visa lists, the only way of obtaining visa concessions has become to engage negotiations with the EU as whole which, inter alia, normally means accepting readmission agreements in return.

The Treaty of Lisbon has strengthened the EU's potential to further develop the external dimension of the AFSJ through the abolition of the 'pillar structure', the creation of a single legal personality, a unified procedure for the negotiation and conclusion of agreements, the extension of qualified majority voting and some extension of EU internal competence on AFSJ matters which – if used – could extend external action possibilities. The 2009 to 2014 Stockholm Programme also places a greater emphasis on this dimension of the AFSJ than any of its predecessors. This, as well as the fact that the external challenges to the

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AFSJ continue to figure prominently in EU threat assessments, should contribute to a growing expansion of the AFSJ external dimension until the end of the current programming period, and beyond. Such an expansion will not come without funding implications, especially in view of the EU's interest in law enforcement and migration management capacity building in (mostly neighbouring) third countries. The negotiations on the upcoming new Multiannual Financial Framework 2014-2020 provide an opportunity to establish an adequate financial framework for the growth potential of the AFSJ external dimension.

Yet a number of factors will continue to impact negatively on the development potential of the external side of the AFSJ: The diversity of the fields covered – from asylum and immigration over civil and criminal justice to police

cooperation – limits the potential for the external AFSJ dimension to develop into a single 'policy'. The resulting relative fragmentation makes it more difficult for AFSJ external objectives to be given the same political weight as that of other more established and homogenous external EU policies (such as the CFSP, trade, development). This in turn contributes to the difficulties of its effective integration with other external EU policies, which is also hampered by different strings of decision-making and the complex post- Lisbon institutional structure. If one adds to this the continuing limitations of the EU's only 'shared' competences, it seems clear that ultimately further progress will continue to depend heavily on the Member States' realisation of their common interests in this domain of vital interests to their citizens – and to agree on common external action accordingly.