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**DRAFT OPERATIONAL PROGRAMME OF THE COUNCIL FOR 2003
SUBMITTED BY THE GREEK AND ITALIAN PRESIDENCIES**

Extract on justice and home affairs:

9. IMMIGRATION, FRONTIERS AND ASYLUM

Illegal immigration and border control

In the area of **illegal immigration** the Council will continue to examine policies to tackle illegal migration at its source, especially by examining ways of combating trafficking in human beings and economic exploitation of migrants, as well as by implementing the Return Action Programme.

In this regard the Council will continue to examine the proposed Directive on assistance in cases of transit for the purposes of expulsion by air, along with a new complementary initiative on the competencies of escorts in such transits. Furthermore, the Council will examine a new initiative for best practices for travel documents in returns, as well as a proposal for a draft Regulation to be submitted by the Commission, on burden allocation in mutual recognition of expulsion decisions, in implementation of Article 7 of Directive 2001/40.

With regard to the related issue of **border control**, the Council, continuing the work of the Danish Presidency, will be regularly informed about the various initiatives which have been set up in the framework of the plan for the management of the external borders of Member States. A number of these initiatives (projects and operations) have already been approved by the Strategic Committee on Immigration, Frontiers and Asylum, and it is possible that some of those projects, once finalised, will give rise to formal proposals during 2003 by the Commission or the Member States.

Giving the close relationship existing between border control and combating of illegal immigration, especially by sea, the Council will concentrate its efforts by June 2003 on:

- formalising comprehensive proposals in these fields
- achieving a common integrated risk assessment
- creating a core curriculum for border guard training and consolidating European provisions concerning borders
- promoting common visa data, an integral part of external border control measures
- considering the study by the Commission concerning burden sharing between Member States and the Union for the management of external borders
- following up on the feasibility study on the illegal immigration by sea, which will be presented by the Commission in the first months of next year
- establishing an ILO network against illegal immigration in the Western Balkans.

Priority will be given to the issue of the financing of activities in the fight against illegal immigration. In this context, the Thessaloniki European Council should, on the basis of a Commission study on burden sharing between the Member States and the European Union for the management of external borders, arrive at specific conclusions on actions to be implemented in the second half of 2003.

Legal immigration

In the field of **legal immigration** the Council will firstly have to pursue the examination of two proposals aiming at simplifying and clarifying the **situation of long-term residents** and the question of **family reunification**. As far as the long-term residents are concerned, the proposal - which should be adopted by June 2003 - sets out the provisions under which an EC statute of long-term resident may be granted, which could allow the person concerned to move under certain conditions from one Member State to another. The objective of the Directive on the right to family reunification - which should also be adopted by June 2003 - is to define the conditions and requirements to which this right will be subject, as well as the statute of the reunited persons. Two other proposals are on the table of the Council: a proposal on the **conditions of entry and residence of third country nationals for the purpose of paid employment and self employed economic**

activities, which sets out common conditions and requirements for access to the labour market, and a proposal on the **conditions of entry and residence for the purpose of studies, vocational training or voluntary service**, which is intended to address these specific issues.

The Council will continue to examine the proposed Directive on a short-term residence permit issued to victims of illegal immigration, the purpose of which is to give them an incentive to cooperate with the competent authorities in the fight against these illegal activities.

Visas and related issues

On **visa matters**, the Seville European Council recommended the introduction, as soon as possible, of a **common identification system** for visa data in the light of a feasibility study to be submitted in March 2003. In parallel with the finalisation of this feasibility study, a draft proposal is expected in March 2003 with a view to establish a legal framework for the database. In October 2002 the Commission presented a working paper on developing the Schengen Acquis on the **local border traffic**. In the light of the comments made by Member States on this working paper, the Commission will present a proposal - expected by mid-2003 - on the establishment of common minimum rules in this field.

It is also necessary to follow up on the recent Council Conclusions on strengthening consular cooperation in order to achieve uniformity in the implementation of the Schengen procedures as far as visa issuing is concerned.

Asylum

Discussions in the Council will continue in 2003 on a series of proposals submitted by the Commission in 2000 and 2001 aimed at reducing disparities between Member States' legislation and practices by defining a **set of common minimum standards**. Proposals establishing, on one hand, minimum standards for the reception of applicants for asylum and, on the other hand, criteria and mechanisms for determining the Member State responsible for examining an asylum application have been intensively discussed in past months and it is possible that they will be adopted before the end of this year. However, if

the difficulties still pending are not solved before then, work will have to continue in the first half of 2003.¹

Two other proposals are on the table of the Council in the field of asylum. The first one, which, following the agreed timetable, should be adopted before June 2003, lays down minimum standards for the qualification and status of third country nationals and stateless persons as refugees. It aims at guaranteeing a high level of protection for those who genuinely need it while, at the same time, preventing abuses which would undermine the credibility of the system. The second proposal deals with minimum standards and procedures in Member States for granting and withdrawing refugee status. To this end it sets out the legislative tools and mechanisms which Member States can use to operate a system that processes cases as swiftly as possible. Its adoption is foreseen before December 2003.

External aspects

As regards the **external dimension** of the fight against illegal immigration, the Council will follow along the lines decided on in a number of recent Council conclusions on intensified cooperation on the management of migration flows with relevant third countries (notably Albania, China, the Federal Republic of Yugoslavia, Morocco, Russia, Tunisia, Ukraine, Libya and the candidate country Turkey). More specifically, the Union should dispose of provisions on readmission and on the joint management of migration flows with relevant third countries, either by the insertion of such clauses into more general agreements currently under negotiation or through the conclusion of specific EU agreements in this field.

Regarding older negotiation mandates, the decisions for signature and conclusion of the agreement with Sri Lanka are expected to be adopted in 2003. The negotiations with Macao are almost concluded and the adoption of the agreement is also expected in 2003. For Morocco, Russia, Pakistan and Ukraine formal negotiations have not yet been launched or have only just started, for example in the case of Ukraine. Mandates for negotiating readmission agreements with Turkey, China, Albania and Algeria are expected to be adopted by the end of 2002.

Particularly relevant in this respect is the examination by the Council of the provision of the necessary technical and financial assistance for strengthening the ability of these countries to combat effectively trafficking in human beings and to cope with their readmission obligations towards the Union and the Member States.

10. POLICE AND CUSTOMS COOPERATION

Police cooperation

The Council will continue its **peer evaluations**, notably the evaluation by the Multidisciplinary Group on Organised Crime of the submission by Member States of sensitive data to EUROPOL and the evaluation by the Article 36 Committee of national anti-terrorist arrangements. In 2003 the Schengen evaluation exercise will cover the implementation of the Schengen acquis in Spain and Portugal as well as in the UK (partial implementation) and the collective evaluation will continue in respect to the candidate countries with whom negotiations have not been completed. In the course of 2003 the Council should look into the rationalisation of the different evaluation processes.

The Council will continue work to improve the operational aspects of EUROPOL's activities. To this end, the promotion and participation of EUROPOL in national investigations and a wider contribution by Member States to the EUROPOL Data Base will be considered.

The Council should also give consideration to improving police cooperation through an enhancement of the strategic role of the European Police Chiefs Task Force.

Throughout 2003 the Council will also be responsible for ensuring the application – and, if necessary, the reinforcement and adjustment – of the **action plan to combat terrorism** adopted in response to the events of 11 September 2001, by regularly updating the roadmap drawn up for that purpose.

With regard to the **action plan to combat drugs (2000-2004)**, all aspects of its implementation should be vigorously pursued, in the light, in particular, of the guidelines to be given by the European Council in Copenhagen on the basis of a mid-term evaluation.

Preliminary work will be undertaken under the Greek presidency on guidelines for the post-2004 new Action Plan. The Council will promote regional cooperation in combating drug trafficking, by carrying out joint operations among Member States which participate in EUROPOL and SECI Member States. Following strategic target 7, par. 4.2.3 of the EU Action Plan (2000-2004) the Council will also promote a draft Action Plan on drugs between the EU and the Balkan States.

As regards the **external dimension** of police cooperation, the Council will follow up on its recent conclusions on this subject. Existing Action Plans with third countries such as Russia and the Ukraine will be further developed, while particular emphasis will be placed on the fight against organised crime in the Western Balkans (following the London Statement of 25 November 2002), especially in the area of drug trafficking.

Customs cooperation

Concerning **customs cooperation** the Council will ensure the implementation of the CIS Convention and will adopt the Protocol which amends this Convention as regards the creation of the Customs files identification database (FIDE). Given the need to provide assistance to the candidate countries, mainly concerning new sectors such as the CIS Convention, the Council will continue its efforts, with the cooperation of the Commission services, to provide the necessary infrastructure to the administrations of the candidate countries for a pilot implementation of CIS in those countries for training purposes.

With regard to border control, the Council will examine the Communication regarding the role that customs can play at the external borders and will be informed about the initiatives which can be set up in this framework. In addition, in 2003 the Council will continue the examination, with a view to its adoption, of a strategic programme for customs in the third pillar to complement the existing programme in the first pillar. Finally, the Council will proceed to evaluate the Joint Customs Operations among the administrations of the Member States that took place in 2002 and will organise new ones in order to improve and enhance the efficiency and effectiveness of cooperation.

11. TOWARDS A EUROPEAN AREA OF JUSTICE

In the field of civil law

After the entry into force of the Nice Treaty, all areas under judicial cooperation in civil matters, with the exception of family law, will be subject to the codecision procedure.

With regard to **internal legislative activity**, in 2003 the Council will complete its examination of the draft Regulation concerning jurisdiction and the recognition and enforcement of judgements in matters of **parental responsibility**, aiming to adopt it in the first half of the year. The same applies to the draft Regulation creating a **European enforcement order for uncontested claims**, which is currently under discussion and is intended to abolish the exequatur procedure between Member States. In addition, in 2003 the Council will receive a number of Commission initiatives on, inter alia, compensation for victims of crime and determination of the law applicable to extra-contractual obligations (Rome II).

With regard to the **external dimension of judicial cooperation in civil matters**, activity will focus on the following areas in particular: replacement of the Lugano Convention by a new instrument on the recognition and enforcement of judgements in civil and commercial matters, a new Worldwide Exequatur Convention in the framework of the Hague Conference and, lastly, a Convention on the law applicable to securities held by intermediaries. In addition, in the next few months the Council should adopt a negotiating brief with a view to the Community's accession to the Hague Conference.

In the field of criminal law

The discussions on the European Arrest warrant have shown that it is often necessary to approximate criminal law so as to ensure an efficient application of the instrument on mutual recognition. The more harmonised the law the easier it becomes for the judicial and police authorities of the Member States to cooperate. It is therefore probable that proposals will be submitted in 2003 for further approximation of criminal law, especially concerning the 32 categories of offences mentioned in article 2 of the European Arrest warrant. Among the initiatives already announced by the Commission are a framework

decision on a **uniform EU wide system to combat money laundering by natural or legal persons** using large-scale cash payments to conceal the conversion of criminal proceeds as well as the creation of a **register of natural persons involved in the financing of terrorist activities**.

As far as mutual recognition is concerned, following the Tampere European Council the Council has adopted a programme of measures concerning mutual recognition of criminal pre trial orders or judgements. After having adopted the European Arrest warrant, the Council will examine the proposals on **mutual recognition of financial penalties and related questions**. More generally the Commission is currently considering a communication on **minimum standards under criminal procedural law** which is planned to be tabled early in 2003 and to be examined during the second half of the year. This file is closely linked to the whole programme on mutual recognition and is, to a certain extent, a condition of its success. The Council will continue its efforts to bring about intensified judicial cooperation with third countries in a number of areas. An agreement on mutual assistance in criminal matters and on extradition on the basis of Articles 24 and 38 of the TEU will continue to be negotiated with the US, while further similar mandates for agreements with Canada, Russia, Switzerland and other countries of specific interest may also be considered.

[Other issues]

the proposal amending the **statute of the Ombudsman** concerning, among other issues, the question of access to "confidential" documents and finally, in the same field, the negotiation of an **interinstitutional agreement on access by the EP to sensitive information in the area of Justice and Home affairs** following the IIA already agreed as far as sensitive information in ESDP is concerned, which should enter into force in early November 2002. Those negotiations should normally be completed during the first half of 2003.

1 Text to be possibly updated (after the GAERC)