



**COUNCIL OF
THE EUROPEAN UNION**



11556/06 (Presse 216)

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2746th Council Meeting

Justice and Home Affairs

Brussels, 24 July 2006

President

Ms Leena LUHTANEN

Minister of Justice

Mr Kari RAJAMÄKI

Minister of the Interior,
of Finland

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Main Results of the Council

The Presidency briefed the Council about its programme for issues relating to Justice and Home Affairs during the sixth months to come.

The Council had an extensive debate on the implementation of the Global approach on migration. Commission Vice-President Franco Frattini and the Executive Director of Frontex, Mr Ilkka Laitinen, reported on its implementation, in particular regarding measures in the Mediterranean and the Atlantic areas. The Council also stressed that the EU is fully committed to strengthen its cooperation with its African partners in this area.

Over lunch, Ministers discussed on the situation in Lebanon regarding the internally displaced persons and the time-frame for the establishment of the second generation of the Schengen Information System (SIS II).

Finally, the Council agreed on a mandate for the Presidency to negotiate and finalise with the European Parliament the SIS II legal instruments, with a view to their adoption as soon as possible.

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- The documents whose references are given in the text are available on the Council's Internet site <http://www.consilium.europa.eu>.
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the abovementioned Council Internet site or may be obtained from the Press Office.

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PARTICIPANTS

The Governments of the Member States and the European Commission were represented as follows:

Belgium:

Mr Jan DE BOCK

Permanent Representative

Czech Republic:

Mr František BUBLAN

Minister for the Interior

Mr Roman POLÁŠEK

Deputy Minister for Justice

Denmark:

Mr Claus GRUBE

Permanent Representative

Germany:

Mr Peter ALTMAIER

Parliamentary State Secretary to the Federal Minister for the Interior

Mr Lutz DIWELL

State Secretary, Federal Ministry of the Interior

Mr Günter BECKSTEIN

Minister (Bayern)

Estonia:

Mr Rein LANG

Minister for Justice

Greece:

Mr Anastasis PAPALIGOURAS

Minister for Justice

Mr Byron POLYDORAS

Minister for Public Order

Spain:

Mr Antonio CAMACHO VIZCAÍNO

State Secretary for Security

Ms María Consuelo RUMÍ IBÁÑEZ

State Secretary for Immigration and Emigration

Ms Ana María DE MIGUEL LANGA

Subsecretary for Justice

France:

Mr Pascal CLÉMENT

Keeper of the Seals, Minister for Justice

Mr Christian ESTROSI

Minister with responsibility for Regional Planning

Ireland:

Mr Michael McDOWELL

Minister for Justice, Equality and Law Reform

Italy:

Mr Giuliano AMATO

Minister for the Interior

Cyprus:

Mr Sofoklis SOFOKLEOUS

Minister for Justice and Public Order

Latvia:

Mr Dzintars JAUNDŽEIKARS

Minister for the Interior

Mr Guntars GRINVALDS

Minister for Justice

Lithuania:

Mr Raimondas SUKYS

Minister for the Interior

Mr Paulius KOVEROVAS

State Secretary at the Ministry of Justice

Luxembourg:

Mr Luc FRIEDEN

Minister for Justice, Minister for the Treasury and the Budget

Mr Nicolas SCHMIT

Minister with responsibility for Foreign Affairs and Immigration

Hungary:

Ms Judit FAZEKAS LÉVAYNÉ

Deputy State Secretary, Ministry of Justice

Mr Ferenc KONDOROSI

State Secretary, Ministry of Justice

Malta:

Mr Tonio BORG

Deputy Prime Minister, Minister for Justice and Home Affairs

Netherlands:

Mr Tom de BRUIJN

Permanent Representative

Austria:

Ms Liese PROKOP

Federal Minister for the Interior

Poland:

Mr Grzegorz BLIŹNIUK

Undersecretary of State, Ministry of Interior and Administration

Mr Wiesław TARKA

Undersecretary of State, Ministry of Interior and Administration

Portugal:

Mr Alberto COSTA

Minister for Justice

Mr José MAGALHÃES

State Secretary for the Interior, attached to the Minister for the Interior

Slovenia:

Mr Dragutin MATE

Minister for the Interior

Mr Lovro ŠTURM

Minister for Justice

Slovakia:

Mr Stefan HARABIN

Minister for Justice

Finland:

Ms Leena LUHTANEN

Minister for Justice

Mr Kari RAJAMÄKI

Minister for the Interior

Sweden:

Ms Barbro HOLMBERG

Minister at the Ministry of Foreign Affairs with responsibility for Migration Policy

United Kingdom:

Ms Joan RYAN

Parliamentary Under-Secretary of State, Home Office

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Commission:

Mr Franco FRATTINI

Vice-President

.....

The Governments of the Acceding States were represented as follows:

Bulgaria:

Mr Vesselin VALKANOV

Counsellor

Romania:

Mr Lazar COMANESCU

Permanent Representative

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Other participants:

Mr Ilkka LAITINEN

Executive Director of the EU agency for the management of the cooperation at the external borders of the EU (Frontex)

ITEMS DEBATED

HAGUE PROGRAMME REVIEW

The Presidency presented its programme concerning Justice and Home Affairs issues for the next six months to come.

Commission Vice-President Franco Frattini presented to the Council the following Commission Communications:

- Report on the implementation of The Hague Programme in 2005 ("Scoreboard +") (*11228/06 + ADD1 + ADD2*);
- Evaluation of EU Policies on Freedom, Security and Justice (*11223/06*);
- Implementing the Hague Programme : the way forward (*11222/06*), and
- The extension of the competence of the Court of Justice foreseen by Article 67(2) TEC (*11356/06*).

The Hague Programme Review will be discussed thoroughly at the informal ministerial meeting which will be held in Tampere in September 2006.

* * *

Report on the implementation of The Hague Programme in 2005 ("Scoreboard +")

This Communication is in response to the Council's call on the Commission to submit an annual report on the implementation of the Hague programme and action plan ("scoreboard")¹ and is the first practical instance for 2005. The methodology selected will be followed in the years' annual reports for the next four years.

¹ The Hague programme: strengthening freedom, security and justice in the European Union (OJ C 53, 3.3.2005, p. 1) and Council and Commission action plan implementing the Hague programme on strengthening freedom, security and justice in the European Union (OJ C 198, 12.8.2005, p. 1).

As with the Tampere scoreboard, the point is initially to monitor the adoption of the measures provided for in the Hague programme, including those involving the drugs action plan, the strategy on the external aspects of the area of freedom, security and justice, and the action plan on the fight against terrorism, which supplement the Hague action plan, in accordance with the set timetable. All the measures planned for 2005 are therefore reviewed in this communication.

It gives the state of play on each measure scheduled for 2005 or on a regular/ongoing basis in the Hague action plan. A broadly positive assessment can be reached from the following tables, even though progress was not equivalent in all areas.

Evaluation of EU Policies on Freedom, Security and Justice

The Hague Programme (2004)¹ states that “evaluation of the implementation as well as of the effects of all measures is, in the European Council's opinion, essential to the effectiveness of Union action”. The Action Plan implementing The Hague Programme (2005)², which sets out a policy framework for the European Union activities on freedom, security and justice over the next five years, provides for the adoption, in 2006, of a general Communication from the Commission on how to develop an evaluation mechanism at EU level in this area³.

The European Council had identified evaluation of implementation as a key tool to ensure that the significant results achieved by the Union and its Member States on the development of an Area of Freedom, Security and Justice are properly implemented and constantly reviewed, where appropriate.

¹ Annex 1 to the European Council Conclusions, November 2004.

² OJ C 198, 12.8.2005, p. 1.

³ The Action Plan also calls for a Communication on the systematic, objective and impartial evaluation of the implementation of EU policies in the field of justice, with a view to reinforcing mutual trust while fully respecting the independence of the judiciary. Later this year the Commission will present a further Communication which will address this issue in detail, in accordance with the general principles established in this Communication.

Implementing the Hague Programme : the way forward

In the absence of the entry into force of the Constitutional Treaty, it is still necessary to draw up a first political assessment of progress made in implementing The Hague Programme and to propose the necessary adjustments. The present Communication and the above mentioned Communications constitute the answer to the call made by the European Council in December 2004.

The aim of this comprehensive package is thus not to identify new priorities compared to those set out by the Hague Programme but mainly (1) to take stock of the progress made, (2) to assess the level of implementation at EU and national level and (3) to propose a thorough evaluation of results.

The extension of the competence of the Court of Justice foreseen by Article 67(2) TEC

The Amsterdam Treaty sets the objective of progressively establishing an area of freedom, security and justice. For this purpose, some of the matters previously covered by Title VI of the Treaty on European Union (the “third pillar”) were brought within the EC Treaty under certain conditions. Meanwhile, establishing this area has become a Union priority thanks to the political impetus given in particular by the European Council in 1999 (Tampere) and 2004 (Hague programme) and the sound cooperation of all the institutions.

The purpose of this communication is to contribute to the adaptation of the special provisions of Article 68 of the EC Treaty concerning the jurisdiction of the Court of Justice in the fields covered by Title IV. In the Commission’s opinion, this adaptation should consist of aligning that jurisdiction on the general scheme of the Treaty.

GLOBAL APPROACH TO MIGRATION

The Council had an extensive debate on the implementation of the global approach on migration, which was adopted in December 2005.

Commission Vice-President Franco Frattini and the Executive Director of the EU agency for the management of the cooperation at the external borders of the EU (Frontex), Mr Ilkka Laitinen, reported on the current state of implementation of the Global Approach, in particular regarding measures in the Mediterranean and the Atlantic areas relating to coastal patrolling, identification of illegal migratory routes and surveillance of maritime borders.

The Council welcomed these measures and emphasized the need to strengthen operational cooperation, in particular by developing joint operations.

The Council also stressed that the EU is fully committed to strengthen its cooperation with its African partners, in particular in the perspective of the organisation of an EU-Africa Ministerial conference, and underlined the role of development in this context.

It welcomed the outcome of the Euro-African ministerial conference on migration and development, which took place in Rabat on 10 and 11 July 2006 and which resulted in a agreed political declaration and action plan.

Furthermore, the Council recalled the EU position, agreed on 17 July 2006, concerning the UN High Level Dialogue on international migration and development which will take place in New York on 14 and 15 September 2006.

Finally, the Council asked its preparatory bodies to keep the developing situation in the Mediterranean area and Africa under review with a view to assessing action to be taken and responding as appropriate.

MANAGEMENT OF MIGRATION FLOWS

The Council held a debate on a Commission Communication on the Policy Plan on Legal Migration and on a Communication on Illegal Immigration. The Council welcomed the two Communications, which address the two dimensions of the migratory phenomenon, and invited its relevant bodies to take work on them forward.

The Commission Communication on a Policy Plan on Legal Migration was issued on 21 December 2005, following an invitation contained in the Hague Programme. This Plan constitutes the follow-up of the dialogue initiated at EU level on issues of economic migration. It also lists a series of legislative proposals that the Commission intends to submit to the Council in the area of legal migration in the time-frame 2007-2009.

The Communication on a Common Policy on Illegal Immigration has been issued by the Commission on 19 July 2006. Its objective is to define a comprehensive approach vis-à-vis the illegal immigration. It identifies a series of priority areas: cooperation with third countries, further strengthening the external borders, fight against trafficking in human beings, tackling illegal employment, regularisation of illegal immigrants, return policy, and improved information exchange.

MOLDOVA: VISA FACILITATION AND READMISSION AGREEMENTS

The Council invited the Commission to undertake consultations with Member States within the relevant Council preparatory bodies foreseen by paragraph 11 of the common approach on visa facilitation on the possible initiating negotiations on visa facilitation and readmission agreements with Moldova.

The Commission is invited to submit an evaluation report in advance of the October Council.

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Over lunch, Ministers discussed on the situation in Lebanon regarding the internally displaced persons and the time-frame for the establishment of the second generation of the Schengen Information System (SIS II).

MIXED COMMITTEE

– *SIS II*

The Mixed Committee (EU + Norway, Iceland and Switzerland) reached agreement on a number of outstanding issues concerning the legal instruments of the second generation of the Schengen Information System (SIS II), in particular:

- the long-term operational management of SIS II;
- the use of biometrics, and
- the transitional period applying to the content of the old alerts.

Regarding the question of alerts relating to surrender procedures, the Mixed Committee asked the Council preparatory bodies to finalise a compromise text.

On that basis, the Presidency of the Council will negotiate with the European Parliament with a view to having the SIS II legal instruments adopted as soon as possible.

The Schengen Information System constitutes an essential tool for the application of the provisions of the Schengen acquis. In order to allow SIS II to be operational as soon as possible and consequently to lift the checks at the internal borders for the new Member States, the legislative instruments have to be adopted by the Council and the European Parliament quickly. The legislative instruments which will set out the legal basis for SIS II consist of two Regulations to be adopted by the codecision procedure (European Parliament and Council) and one Council Decision.

– *Rapid border intervention teams*

The Mixed Committee took note of a Commission's proposal for a Regulation establishing a mechanism for the creation of rapid border intervention teams and amending Council Regulation EC 2007/2004 as regards that mechanism.

The Council invited its preparatory bodies to start the discussions on this proposal.

It should be noted that the European Council adopted a Global Approach to Migration on 15 and 16 December 2005. This Global Approach contains a list of priority actions to be implemented by the Commission, Frontex and the Member States. As one of these actions, the Commission was invited to bring forward a proposal for the creation of rapid reaction teams made up of national experts able to provide rapid technical and operational assistance at times of high influxes of migrants.

The Commission proposal was adopted on 19 July 2006 and consists of two parts, one dealing with the establishment of a mechanism for the creation of the Rapid Border Intervention Teams, their tasks and funding, and the other amending Council Regulation (EC) No 2007/2004 for the purpose of implementing the Rapid Border Intervention Teams in the framework of Frontex.

It aims at establishing a mechanism whereby Member States facing extreme difficulties in controlling their external borders would be able to make use of the expertise and manpower of border guards of other Member States on a temporary basis. In order to ensure that the officers of border guards of other Member States are used in the most efficient way, the proposal also defines the tasks which these officers should perform during operational activities in another Member State.

It therefore combines the creation of teams of national experts, Rapid Border Intervention Teams that will act within the framework of Frontex with the introduction of common rules on the tasks which can be carried out by guest officers of border guards of other Member States operating for the purpose of joint operations or deployment as members of a team under the aegis of Frontex.

– *Development of the Common Visa Policy*

Commission Vice-President Franco Frattini informed the Mixed Committee about a Commission proposal for a Regulation for a Community Code on visas, which was adopted on 19 July 2006.

He also informed about the Commission's plans for pilot projects in relation to common visa application centres.

Regarding the "Visa Code", the Hague Programme "underlined the need for further development of the common visa policy as part of a multi-layered system aimed at facilitating legitimate travel and tackling illegal immigration through further harmonisation of national legislation and handling practices at local consular missions." To this end, among other measures, the Commission was invited "to review the Common Consular Instructions".

The Commission proposal aims at setting up a visa code which contains all the legal provisions governing the processing of visa applications.

Concerning the Common visa application centres, the European Council invited the Commission to present "a proposal on the establishment of common application centres focusing inter alia on possible synergies linked to the development of the VIS". At the Justice and Home Affairs Council on 1-2 June 2006, the Commission presented a Proposal for a Regulation amending the Common Consular Instructions on visas for diplomatic and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications (*10023/06 VISA*).

The Commission also signalled at that time its intention to organise pilot projects for the purpose of the common visa application centres and making use of possible funding under the Argo programme for setting up such projects.

OTHER ITEMS APPROVED

JUSTICE AND HOME AFFAIRS

Political cooperation

The Council adopted a Decision amending Decision 2003/170/JHA¹ on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States (10571/06).

EU agency of cooperation at external borders - Annual report

The Council took note of a report presenting the work undertaken by Frontex during 2005.

The report includes a description of the tasks carried out to enable the start of operational activities of the Agency since its inauguration on 3 October 2005.

FRONTEX was established in 2004 by Council regulation 2007/2004 (published in the Official Journal L 349 of 25.11.2004).

United Nations convention against organised crime

The Council adopted decisions approving the conclusion of two protocols supplementing the United Nations convention against transnational organised crime to fight against the smuggling of migrants by land, sea and air, and to prevent, suppress and punish trafficking in persons, especially women and children (11384/06).

Civil judicial cooperation

Pending the European Parliament's opinion, the Council reached a general agreement on a Decision establishing for the period 2007-2013 the specific programme "Civil Justice" as part of the general programme "Fundamental Rights and Justice" (10800/1/06).

This Decision is aimed at facilitating the creation of a European area of justice in civil matters and lowering the barriers to the good functioning of cross border civil proceedings in the Member States.

¹ OJ L 67, 12.3.2003, p. 27

SCHENGEN

Schengen Information System - Application of new functions

The Council adopted two decisions fixing the dates of 1 October and 1 November 2006 as dates of application for introduction of some new functions for the Schengen Information System, including in the fight against terrorism (*11336/06 and 11337/06*).

EUROPOL

Appointment of deputy director

The Council adopted a decision appointing Mr Michel QUILLÉ as deputy director of Europol from 1 September 2006 to 31 August 2010.

EXTERNAL RELATIONS

Montenegro and Serbia - Stabilisation and association agreements

The Council adopted decisions authorising the Commission to negotiate a stabilisation and association agreement (SAA) with Montenegro and amending the negotiating directives for the SAA with Serbia, in order to take into account the recent independence of Montenegro.

Following the 21 May referendum in Montenegro and the subsequent Montenegrin Parliament declaration of independence of 3 June, the current framework of EU negotiations with Serbia and Montenegro for a SAA has to be adapted.

Russia - Meeting on transports

The Council took note on the preparations concerning the first meeting of the EU-Russia permanent partnership council on transport to be held on 8 September in Lappeenranta, Finland.

Liberia - Exemptions to arms embargo - Renewal of ban on imports of diamonds

The Council adopted a common position modifying certain restrictive measures imposed against Liberia in order to give effect to United Nations Security Council (UNSC) resolutions (11056/06).

Under the common position:

- the restrictive measures imposed by common position 2006/31/CFSP will not be applied, under certain conditions, to weapons intended for use by members of the Liberian police and security forces, with the purpose of implementing UNSC resolution 1683(2006) introducing further exemptions to the arms embargo against Liberia;
- the restrictive measures imposed by common position 2004/137/CFSP on the prohibition of imports from Liberia of rough diamonds will continue to apply until 22 December 2006, with the purpose of implementing UNSC resolution 1689(2006).

The Council also adopted a regulation, which amends regulation 234/2004 and repeals regulation 1030/2003, in order to implement these measures at Community level (11489/06).

DEVELOPMENT COOPERATION

ACP countries - Review of the economic partnership agreements negotiations

The Council approved a draft joint ACP-EU declaration on the review of the economic partnership agreements (EPAs) negotiations.

The Cotonou partnership agreement provides that, in the course of 2006, a review of the negotiations for all countries and regions must take place, to ensure that the deadline of 1 January 2008 for the entry into force of the EPAs can be met.

TRADE POLICY

Anti-dumping - Lever arch mechanisms - China

The Council adopted a regulation imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of lever arch mechanisms originating in China (11286/06).

TAXATION

Rationalisation of VAT derogations*

The Council adopted a directive aimed at extending to all member states the option to simplify the procedure for charging VAT and to apply certain derogations to combat tax evasion or avoidance, as and when the need arises, by incorporating existing derogations into the 6th VAT directive (11025/06 and 11400/06 ADD1).

The directive will modify the 6th VAT directive (77/388/EEC) on the harmonisation of the laws relating to turnover taxes, by incorporating provisions to:

- ensure that measures relating to the taxable person and the transfer of a business are not exploited to evade and avoid tax;
- allow member states to ensure that there is no loss of tax revenue through the use of connected parties to derive tax benefits;
- ensure taxation of investment gold where, by virtue of being worked, it lost its status of investment gold;
- allow member states to include certain services with the nature of capital items in the scheme which allows the adjustment of deductions for capital items over the lifetime of the asset;
- allow member states to designate the recipient of supplies as the person responsible for paying and accounting for VAT in order to simplify the rules and counter tax evasion and avoidance in identified sectors and on certain types of transactions.

By extending the option to all member states, the provisions of the directive seek at improving the operation of the VAT system in the internal market.

Certain derogations covering similar problems were granted by the Council to individual member states under varying terms, pursuant to article 27(1) of 6th VAT directive. The current directive replaces 10 of these derogations.

TRANSPARENCY

Public access to documents

The Council adopted:

- the reply to confirmatory application 28/c/03/06, the Swedish delegation voting against (10532/06);
 - the reply to confirmatory application 29/c/01/06, the Hungarian delegation voting against (10895/06);
 - the reply to confirmatory application 30/c/02/06, the Danish and Swedish delegations voting against (11020/06).
-