

**P R E S S   R E L E A S E**

15691/02 (Presse 404)

**PROVISIONAL VERSION**

2477th Council meeting

**- JUSTICE AND HOME AFFAIRS -**

Brussels, 19 December 2002

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Minister for Justice

**Mr Bertel HAARDER**  
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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://ue.eu.int>.*
- *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 above mentioned Council Internet site or may be obtained from the Press Office.*

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Ambassador, Permanent Representative

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\* \* \*

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Member

\* \* \*

**Other participants:**

**Ministers of Iceland and Norway participating in the Mixed Committee:**

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Minister of Justice and Home Affairs

**Norway:**

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Minister of Justice

Ms Kristin ØRMENJOHNSEN

State Secretary

**ITEMS DEBATED**

**EU / USA AGREEMENT ON JUDICIAL CO-OPERATION IN CRIMINAL MATTERS AND ON EXTRADITION**

Following a Presidency report on the negotiations which had been held with the USA on the draft Agreement on judicial cooperation on criminal matters and on extraditions, the Council instructed its relevant bodies to continue the examination of the draft Agreement with a view to reaching an agreement on the package at one of its forthcoming sessions.

It is recalled that on 25 April 2002 the JHA Council approved a negotiation mandate to the Presidency and on 27 June 2002 COREPER established an Ad hoc Expert Group, which is to follow the negotiations and assist the Presidency during the negotiations.

Several negotiation meetings between the USA and the EU have taken place until now and the negotiations are proceeding as planned. The preliminary discussions on all subjects covered by the negotiation mandate have been completed so far.

The Council considers it essential to ensure that an agreement between the USA and the EU adds value to the existing cooperation between the USA and the Member States of the European Union, which is based on bilateral agreements. This agreement will have two Contracting Parties: the EU and the USA, which are thus different from the contracting parties of the bilateral treaties on extradition and mutual legal assistance that exist between the Member States and the USA. This future EU-USA Agreement will therefore in no way modify these bilateral agreements, but it will supplement them.

Some of the subjects contained in the negotiation mandate include the new forms of legal assistance, which modern technology has made possible, such as exchange of information on bank accounts and video conferencing. Discussions on some of the USA priorities, such as extradition of EU citizens to the USA, have been held and appropriate guarantees and safeguards have been addressed during these discussions.

PROTOCOL AMENDING THE EUROPOL CONVENTION

The Council reached a general approach on the text of the draft protocol amending the Europol Convention. The agreed text will be forwarded to the European Parliament in order to be taken into account when drawing up its opinion. The Europol Joint Supervisory Body will also be consulted on the text.

The aim of the amendment is to give the necessary support and means to Europol to function effectively as the focal point of European police co-operation.

It is recalled that the European Council has stated that Europol has a key role with respect to co-operation between Member States' authorities in the field of cross-border crime investigation in supporting Union-wide crime prevention, analyses and investigation and has called on the Council to provide Europol with the necessary support.

According to Article 2 of the draft Protocol, the objective of Europol shall be, within the framework of police cooperation between the Member States pursuant to the Treaty on European Union, to improve the effectiveness and cooperation of the competent authorities in the Member States in preventing and combating serious international crime where there are factual indications or reasonable grounds for believing that an organised criminal structure is involved and two or more Member States are affected in such a way as to require a common approach by the Member States owing to the scale, significance and consequences of the offences concerned.

For the purpose of the Europol Convention, the following forms of crime shall be considered as serious international crime: crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property, unlawful drug trafficking, illegal money-laundering activities, trafficking in nuclear and radioactive substances, illegal immigrant smuggling, trade in human beings, motor vehicle crime and the forms of crime listed in the Annex to the Convention or specific manifestations thereof.

### **COMBATING CORRUPTION IN THE PRIVATE SECTOR**

The Council, subject to a number of parliamentary scrutiny reservations, reached a general approach on the Framework Decision on combating corruption in the private sector.

The aim of this Framework Decision is in particular to ensure that both active and passive corruption in the private sector is a criminal offence in all Member States, that legal persons may also be held responsible for such offences, and that the offences incur effective, proportionate and dissuasive penalties.

It is recalled that Denmark submitted on 13 June 2002 the initiative for a Framework Decision on this matter. The purpose of the proposal is in particular to reinforce the substantial provisions of the 1998 Joint Action on corruption in the private sector and to replace the Joint Action by the much stronger legal instrument of a framework Decision. In addition, the proposal seeks to ensure that all Member States ratify the 1997 EU Convention on corruption and the 1999 Council of Europe Convention on corruption.

**CONFISCATION OF CRIME-RELATED PROCEEDS, INSTRUMENTALITIES AND PROPERTY**

The Council, subject to some parliamentary scrutiny reservations, reached a political agreement on the Framework Decision on confiscation of crime-related proceeds, instrumentalities and property.

The aim of the draft Framework Decision is to ensure that all Member States have effective rules governing the confiscation of proceeds from crime, inter alia in relation to the onus of proof regarding the source of assets held by a person convicted of an offence related to organised crime.

In accordance with the agreed text, each Member State shall take the necessary measures to enable it to confiscate, either wholly or in part, instrumentalities and proceeds from criminal offences punishable by deprivation of liberty for more than one year, or property the value of which corresponds to such proceeds. In relation to tax offences, Member States may use procedures other than criminal procedures to deprive the perpetrator of the proceeds of the offence.

It is recalled that the main motive for cross-border organised crime is financial gain. In order to be effective, therefore, any attempt to prevent and combat such crime must focus on tracing, freezing, seizing and confiscating the proceeds from crime.

This Framework Decision does not prevent a Member State from applying its fundamental principles relating to due process, freedom of association, freedom of the press and freedom of expression in other media.

**EXECUTION IN THE EU OF CONFISCATION ORDERS**

The Council had a first exchange of views on a certain aspect of the draft Framework Decision on the execution in the European Union of confiscation orders, namely the question of sharing of assets confiscated in application of the Framework Decision, in order to obtain guidance for future work on the proposal.

According to Article 14 of the draft, confiscated assets or proceeds of the sale of confiscated property shall, after deduction of the executing State's costs, be returned to the issuing State unless otherwise agreed between the issuing State and the executing State.

Among a number of options put forward by the Member States, a majority favoured the sharing of assets on the basis of a fixed allocation of the confiscated assets, unless otherwise agreed between both involved States, combined with a minimum threshold.

The Council invited the Permanent Representatives' Committee to continue the work in the light of the conclusions in order to come back to the proposal in a forthcoming Council meeting.

It is recalled that Denmark proposed in June 2002 a Framework Decision on the execution in the European Union of confiscation orders. This proposal should be seen in the context of the proposal submitted by Denmark on the same day for a Framework Decision on confiscation of crime-related proceeds, instrumentalities and property, which was also discussed by the Council. It is also linked to the draft Framework Decision on the execution in the European Union of orders freezing property and evidence, on which the Council reached a general approach on 28 February 2002, and which is expected to be adopted soon.

### COMBATING RACISM AND XENOPHOBIA

The Council decided to examine this item at one of its forthcoming meetings during the Greek Presidency.

The main purpose of this Framework Decision is to define a common criminal law approach in the EU to the phenomenon of racism and xenophobia in order to ensure that the same behaviour constitutes an offence in all Member States and that effective, proportionate and dissuasive penalties and sanctions are provided for natural and legal persons having committed such offences.

### MUTUAL RECOGNITION TO FINANCIAL PENALTIES

The Council agreed that the Presidency's text on the draft Framework decision on the application of the principle of mutual recognition to financial penalties should be considered as a good basis for reaching an agreement on this issue in the near future.

It is recalled that, at its meeting on 14 and 15 October 2002, the Council agreed on the definitions of the proposal (Article 1): "decision", "financial penalty", "issuing State" and "executing State". This established a clear reference point for the purpose of the further examination of a number of key Articles.

The Council, at that meeting, also confirmed that the Framework Decision would not have the effect of amending the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.

ANY OTHER BUSINESS

– *SCOREBOARD TO REVIEW PROGRESS ON THE CREATION OF AN AREA OF "FREEDOM, SECURITY AND JUSTICE"*

The Council heard a presentation by the Commission on the biannual update of the scoreboard to review progress on the creation of an area of freedom, security and justice in the European Union.

– *PROTECTION OF THE ENVIRONMENT THROUGH CRIMINAL LAW*

The Council adopted the following statement:

"The Council, having in mind the serious accident of the oil tanker PRESTIGE off the north west coast of Spain, welcomes the steps taken for the purpose of the rapid adoption of the draft Framework Decision on the protection of the environment through criminal law.

In this context, the Council notes the conclusions of the European Council of 12 and 13 December 2002 regarding Maritime safety/marine pollution, that welcomes the action undertaken by the Commission to confront the consequences derived of that event and "its intention to examine the need for further specific measures" and, among them, "questions relating to liability and the corresponding sanctions". Therefore, in full consistency with the measures to be considered in accordance with the Community powers in the fields of protection of transport safety<sup>2</sup> and protection of the environment<sup>3</sup>, the Council should consider complementary measures to strengthen the protection of the environment, in particular the seas, through criminal law."

– *FIGHT AGAINST ORGANISED CRIME*

The Council was informed by the Presidency on the state of play concerning, on the one hand, the issue of increasing cooperation between European Member States with regard to disqualifications, and on the other hand, the issue of a comprehensive mechanism for evaluating the application and implementation at national level of acts and instruments relating to police and judicial cooperation in criminal matters.

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<sup>2</sup> Transport Council Conclusions (6 December 2002)

<sup>3</sup> Environment Council Conclusions (10 December 2002)

**MIXED COMMITTEE**

In the margins of the Council, the Mixed Committee at Ministerial Level (EU + Iceland and Norway) met in the context of the Schengen arrangements.

Discussions, under the chairmanship of Mr Odd Einar DØRUM, Minister of Justice and the Police of Norway, covered the following points:

– ***IMPLEMENTATION AND APPLICATION OF THE SCHENGEN ACQUIS BY THE NEW MEMBER STATES FOLLOWING THEIR ACCESSION TO THE EU***

The Mixed Committee agreed on forwarding a note to the new Member States following their accession to the European Union, concerning the process leading to the implementation and application of the Schengen acquis.

– ***INTRODUCTION OF SOME NEW FUNCTIONS TO THE SCHENGEN INFORMATION SYSTEM***

The Mixed Committee agreed on the principle that Europol and the national members of Eurojust should have an efficient and workable access to the Schengen Information System (SIS).

A decision on how this access should be implemented will be taken at a later stage, on the basis of a report prepared by experts.

– ***CATALOGUE OF RECOMMENDATIONS FOR THE CORRECT APPLICATION OF THE SCHENGEN ACQUIS AND BEST PRACTICES***

The Mixed Committee decided to publish a catalogue of recommendations for the correct application of the Schengen acquis and best practices.

This booklet intends to explain in very concrete terms the functioning of the system, it gives a good indication to Candidate countries, it serves as a reference tool for evaluation and it allows to draw the Council's attention to the need, where appropriate, to amend certain provisions of the Schengen acquis.

– ***COMMON USE OF LIAISON OFFICERS POSTED ABROAD BY THE LAW ENFORCEMENT AGENCIES OF THE MEMBER STATES***

The Mixed Committee, subject to the opinion from the European Parliament and the lifting of a parliamentary scrutiny reservation, noted agreement on the text of the Draft Council Decision on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States. The Decision will be formally adopted at a forthcoming session of the Council.

– ***REGULATION LISTING THE THIRD COUNTRIES WHOSE NATIONALS MUST BE IN POSSESSION OF VISAS WHEN CROSSING THE EXTERNAL BORDERS OF MEMBER STATES AND THOSE WHOSE NATIONALS ARE EXEMPT FROM THAT REQUIREMENT***

The Mixed Committee, subject to the opinion from the European Parliament and the withdrawing of a parliamentary scrutiny reservation, noted agreement on the text of a Council Regulation amending Regulation (EC) N° 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

It is recalled that, on the basis of an evaluation of contributions from Member States, the Commission presented, on 3 December 2002, a proposal for a regulation amending Regulation 539/2001.

The only substantial change is that nationals from Ecuador will be subject to visa requirements as from 1.4.2003. The other two amendments are the consequences of respectively, East Timor's independence and of the Agreement on free movement of persons signed with Switzerland.

– ***MANAGEMENT OF THE EXTERNAL BORDERS - IMPLEMENTATION OF THE SEVILLE CONCLUSIONS***

The Mixed Committee took note of a Council's Presidency report on the follow-up to the Seville conclusions, in particular with regard to the implementation of the Plan for the management of the external borders and the comprehensive plan to combat illegal immigration and trafficking in human beings.

The Mixed Committee also heard a presentation by Commissioner VITORINO of the Commission's Communication on integrating migration issues in the EU's relation with third countries and was informed about the state of play of the VIS (Visa Information System).

– ***ISSUE OF VISAS AT THE BORDER, INCLUDING THE ISSUE OF SUCH VISAS TO SEAMEN IN TRANSIT - DRAFT COUNCIL REGULATION***

The Mixed Committee noted agreement on the text of the Draft Council Regulation on the issue of visas at the border, including the issue of such visas to seamen in transit. This text will be submitted to the Council for adoption at one of its forthcoming meetings, once the European Parliament has given its opinion.

The aim of this Regulation, which the Spanish delegation submitted to the Council on 27 May 2001, is to clarify and update the rules for issuing visas at the border, including to seamen in transit, and to allow group transit visas to be issued at the border to seamen who are of the same nationality and are travelling in a group.

– ***EXTERNAL BORDER CHECKS AND COMBATING ILLEGAL IMMIGRATION***

The Mixed Committee noted agreement on the conclusions which would be submitted to the Council for adoption (see page I of this press release).

– ***INFORMATION FROM THE EU***

The Mixed Committee was informed by the Council's Presidency on the main achievements during the Danish Presidency as regards the enlargement of the EU, which will lead to enlarging the Schengen area, and Europol.

**ITEMS APPROVED WITHOUT DEBATE**

**JUSTICE AND HOME AFFAIRS**

**Supplemental Agreement between the United States of America and Europol**

The Council authorised the Director of Europol to conclude the draft Supplemental Agreement between the United States of America and Europol on the exchange of personal data and related information and to exchange the Letters related to the Supplemental Agreement.

**External border checks and combating illegal immigration**

The Council adopted the following conclusions:

- "1) The competent authorities of the Member States are under an obligation to check cross-border movement at external borders, in accordance with the provisions of the Schengen acquis as integrated into the framework of the European Union;
- 2) In accordance with the Schengen acquis and following the objective of implementing systematic border checks at the external borders, Member States shall ensure that border checks are only relaxed in very exceptional cases. In such cases, entry checks should as a rule take priority over exit checks;
- 3) Member States shall ensure that, during checks at authorised border crossing points, an entry stamp indicating the date on which the external border was crossed, as well as the other information required by the relevant rules, is systematically affixed to the travel document of those third-country nationals for whom this is required by the provisions of the Common Manual;
- 4) The Council considers that, where an entry stamp has not been affixed to the travel document of a third-country national for whom this is a requirement, an overall assessment should be made on the lawfulness of that person's presence in accordance with national legislation; this assessment should take account of any other relevant information which may be provided (this information could include the person's transport tickets and receipts, or information obtained from the border crossing point through which the person claims to have entered, etc.);
- 5) In accordance with national legislation and following the overall assessment referred to in point 4, Member States should expel persons who are found to be unlawfully present and who are not leaving the territory voluntarily. In this regard, the Council recalls the Schengen acquis as integrated into the framework of the European Union;
- 6) In order to reach the objective mentioned in paragraph 2, the Council invites the Commission to clarify, before the next Justice and Home Affairs Council, the existing rules of the Schengen acquis and to reflect on amending the relevant rules accordingly. The consequences of a lack of entry stamps in travel documents should also be examined, including the question of presumption of irregular stay. In this regard, proposals could be submitted, if necessary, with a view to harmonise the practices of stamping of travel documents, also in the perspective of enlargement.
- 7) Finally, the Council invites its relevant bodies to examine the possible technical developments and best practices necessary to ensure the organisation of border checks, including stamping of passports."

**1996 Hague Convention**

*(Doc. 15063/02)*

The Council adopted the Decision authorising the Member States to sign, in the interest of the European Community, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (the 1996 Hague Convention).

**Compensation for Oil Pollution Damage**

The Council authorised the Commission to negotiate on behalf of the European Community a new Protocol to supplement the International Convention on the Establishment of an International Fund for compensation for Oil Pollution Damage, 1992.

**Judicial co-operation between the EU and Iceland and Norway**

The Council authorised the Presidency to open negotiations with a view to concluding agreements between the EU and Iceland and Norway on the application of certain provisions in the field of judicial co-operation in criminal matters on the basis of article 24 and 38 of the Treaty on the European Union.

**Non-confidential report on the terrorism situation and trends in Europe (TE-SAT report)**

*(Doc. 14280/2/02)*

The Council took note of the non-confidential report on the terrorism situation and trends in Europe. The report prepared by Europol covers the period from October 2001 to October 2002.

**Implementation of specific measures to combat terrorism**

*(Doc. 12608/02)*

The Council adopted a Decision on the implementation of specific measures for police and judicial cooperation to combat terrorism in accordance with Article 4 of Common Position 2001/931/CFSP. This article provides that Member States shall, through police and judicial cooperation in criminal matters, within the framework of Title VI of the Treaty on European Union, afford each other the widest possible assistance in preventing and combating terrorist acts.

**Staff Regulations applicable to Europol employees**

*(Doc. 14893/02)*

The Council amended the Staff Regulations applicable to Europol employees with a view to regulating the position of members of the Directorate of Europol, in particular their selection and possible disciplinary procedures.

**Law enforcement and its role in the fight against drug trafficking**

*(Doc 12359/3/02 )*

The Council adopted a summary Report on the second round of mutual evaluation concerning the law enforcement and its role in the fight against drug trafficking. This document reflects the conclusions and recommendations contained in the first five reports prepared with regard to Italy, Greece, Denmark, Spain and Ireland.

The primary purpose of the second round was to evaluate the application and implementation at national level of instruments dealing with law enforcement and drug trafficking, of the resulting legislation and practices at national level and of international co-operation. In particular, the evaluation was to assess co-operation and co-ordination between different law enforcement structures and operational practices in them. Overall, the main focus of the evaluation was to be the practical day to day co-operation between different units both at national and international level.

**Negotiation of readmission agreements**

The Council decided to appoint the Migration and Expulsion Working Party as the responsible body for assistance and consultations to the Commission in relation to the negotiation of readmission agreements.

**Information technologies and the investigation and prosecution of organised crime**

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION

(1) CONSIDERS that the maintaining and developing of the Union as an area of freedom, security and justice as laid down in Article 2 of the Treaty on European Union and the creation of the high level of safety in this area which is the general objective of Article 29 of the Treaty depends on the possibility to carry out criminal investigations and prosecutions sufficiently, thoroughly and effectively, while respecting human rights and fundamental freedoms as laid down in Article 6 of the Treaty on European Union.

(2) CONSIDERS that general use by all the inhabitants of the European Union of the possibilities afforded by the constant developments in the information technology field is an essential element in economic and social development throughout the European Union, and that the confidentiality of electronic communications should be limited only when such limitations constitute a necessary, appropriate and proportionate measure within a democratic society to safeguard national security and defence, public security and the prevention, investigation, detection and prosecution of criminal offences.

(3) **CONSIDERS** it essential that any legislation on electronic communications respects the requirements regarding privacy and the protection of personal data which stem from the European Convention on Human Rights of 4 November 1950; the Council of Europe Convention of 28 January 1981 for the protection of individuals with regard to automatic processing of personal data; Community law, notably the general principles of Community law, including those referred to in Article 6 (1) and (2) of the Treaty of the European Union, Article 15 (1) of Directive 2002/58/EC<sup>1</sup> on the processing of personal data and the protection of privacy in the electronic communications sector, and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

(4) **NOTES** with concern that the technological innovations brought about by the continuous development of the internet and other electronic communications services as well as the increase in electronic banking, in parallel with their great benefits to society, also make it possible for criminals, in particular criminal organisations to further exploit these technologies.

(5) **NOTES** that because of the significant growth in the possibilities afforded by electronic communications, data relating to the use of electronic communications is now a particularly important and useful tool in the investigation and prosecution of crime, in particular organised crime.

(6) **URGES** all parties concerned (governments, parliaments, law enforcement and judicial authorities, industry, data protection authorities and other interested parties), as a matter of priority, to engage in an open and constructive dialogue at national and EU level aimed at finding solutions to the issue of traffic data retention that satisfies both the need for effective tools for prevention, detection, investigation and prosecution of criminal offences and the protection of fundamental rights and freedoms of natural persons, and in particular their right to privacy, data protection and secrecy of correspondence. In this connection the EU Forum on Cyber Crime set up by the European Commission could be used to enhance coordination between key stakeholders at EU level.

(7) **AGREES** that the adoption of rules on the approximation of Member States' legislation on the obligation of electronic communication services providers to retain specific traffic data concerning electronic communications for a limited time should take into account the dialogue between interested parties. If it is found necessary to establish such rules, they should at any rate ensure that such traffic data is available insofar as it is necessary – according to the standards of a democratic society and existing provisions of a constitutional nature of each Member State –, appropriate and proportionate for the prevention, detection, investigation and prosecution of criminal offences.

(8) **RECOMMENDS** that the Member States and the European Union while respecting the right to free encryption constantly seek possible solutions in partnership with industry to the problems faced by law enforcement authorities through the increased use of encryption and existing provisions of a constitutional nature of each Member State, so as to strike a balance between the citizens' right to privacy and to secrecy of their correspondence and the judicial and law enforcement authorities' ability to investigate and prosecute organised crime effectively.

(9) **POINTS OUT** that it is expressly stated in the political guidelines in the Action Plan to combat organised crime adopted by the Council on 28 April 1997 that there is a need to pave the way for a policy ensuring that law enforcement and judicial authorities have the possibility to prevent and combat the criminal misuse of new technologies.

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<sup>1</sup> CJL 201, 31.7.2002, p. 46.

(10) REFERS to the Council conclusions of 20 September 2001, which highlight the need to ensure that law enforcement authorities are able to investigate criminal acts involving the use of electronic communications, while striking a balance between the protection of personal data and the law enforcement and judicial authorities' need to gain access to data for the purposes of criminal investigations and prosecution, as well as to the Council of Europe Convention on Cybercrime.

(11) RECOMMENDS that, to the greatest possible extent, the Member States and the European Union follow developments within the communications and information technology field and constantly ensure that the law enforcement authorities receive further training in this area. In this connection maximum use should be made of the possibilities offered by the Framework Programme on police and judicial cooperation in criminal matters (AGIS), managed by the Commission in co-operation with the Member States.

(12) URGES the Member States to increase their efforts to comply with the provisions laid down in the Council Act of 29 May 2000<sup>1</sup> to ensure that decisions on the interception of electronic communications and on access to data concerning electronic communications are taken with the greatest possible speed and in respect of fundamental rights and freedom of individuals, especially in the case of mobile electronic communications, where the free movement of mobile users across borders is not matched by a legal seamless interception system, with the consequent need for close and speedy cooperation between the Member States.

(13) RECOMMENDS that, including within the framework of the dialogue described in Conclusion no. 6, Member States consider possible and appropriate means of identifying the users of prepaid mobile telephone cards with a view to facilitating the application of the interception measures recognized by the Council resolution of 17 January 1995 on lawful interception of telecommunications insofar as it is necessary – according to the standards of a democratic society and existing provisions of a constitutional nature of each Member State – appropriate and proportionate for the detection, investigation and prosecution of criminal offences."

### **Schengen Consultation Network**

The Council decided to update and to partly declassify the technical specifications of the Schengen Consultation Network with regard to examining visa applications.

### **Schengen Evaluation of the Benelux countries**

The Council approved the evaluation of the application of the Schengen acquis by the Benelux countries. The scope of the evaluation covers the entire Schengen acquis, e.g. border management, visa, Schengen Information System, Data Protection and police and judicial cooperation.

The conclusions of the evaluation mention that the Benelux countries comply with the Schengen acquis in a sufficient and - for most parts - also a very thorough manner with only minor deficiencies. The conclusions include as well a number of recommendations for further improvement of the application of the Schengen acquis. The Benelux countries are invited to report in writing in principle within six months, on the follow-up on the recommendations in the evaluation reports.

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<sup>1</sup> Council Act of 29 May 2000, establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States and the European Union, Title III (Interception of Communications), in: OJ C 197/1, 12.7.2000, pp. 1-23.

### **Schengen Information System (SIS)**

The Member States agreed on the financing of expenditure in relation to the SIS and meeting within the Council, approved the management report concerning the implementation of the SIS installation and operation budget for 2001.

### **Implementation and application of the Schengen acquis by the new Member States**

*(Doc. 15440/02)*

The Council took note of information from the Presidency concerning the process leading to the implementation and application of the Schengen acquis in full by the new Member States. The Presidency attempts to describe and to clarify the process as well as to inform on practical and procedural aspects of the process in order to help the new Member States prepare themselves successfully for the Schengen acquis following their accession to the European Union.

### **Catalogue for the correct application of the Schengen acquis**

*(Doc. 15443/02)*

The Council approved the second volume of a Catalogue for the correct application of the Schengen acquis. This volume deals with the Schengen Information System, notably the application of the SIRENE manual.

The purpose of the Catalogue is to clarify and detail the Schengen acquis and to indicate, on the one hand, recommendations which should make it possible to establish a basis for the correct application of the acquis or for monitoring it, and, on the other hand, best practices which must be considered as the optimal application of the acquis.

The Catalogue will serve as a reference tool for future evaluations undertaken in the candidate countries.

CIVIL PROTECTION

**Special civil protection assistance**

The Council adopted the following Resolution:

"THE COUNCIL OF THE EUROPEAN UNION,

Whereas:

The current Civil Protection Action Programme approved by Council Decision 1999/847/EC, of 9 December 1999, establishing a Community action programme in the field of civil protection <sup>1</sup>, states, in its 6th recital, that the isolated and outermost regions of the Union have special characteristics because of their geography, terrain and social and economic conditions which have an adverse effect and make it difficult to deliver aid and means of assistance in the event of major danger.

Council Decision 2001/792/EC, Euratom of 23 October 2001 establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions <sup>2</sup>, states, in its 10th recital that the isolated and outermost regions and some other areas of the Community often have special characteristics and needs owing to their geography, terrain and social and economic circumstances. These have an adverse effect, hamper the deployment of assistance and intervention resources making it difficult to deliver aid and means of assistance, and create particular needs for assistance in the event of serious danger of major emergency.

The new guidelines for the programmes co-financed by the Structural Funds under the INTERREG III Community initiative <sup>3</sup>, aim at promoting cross-border cooperation, including civil protection cooperation in border, outermost and insular regions and transnational cooperation in risk management in areas prone to natural disasters.

In addition to the outermost regions as defined in Article 299 paragraph 2 of the Treaty establishing the European Community and the least favoured regions or islands, including rural areas, as referred to in the second paragraph of Article 158 of the Treaty, there are isolated regions, remote regions which are not easily accessible and sparsely populated regions in the European Union such as those in the northern part of Europe which have characteristics that affect the proper planning and implementation of civil protection.

The establishment of plans in those regions is far more costly in terms of human and material resources than those initiated in other parts of European Union and the training and necessary updating of staff involved in such plans is also more expensive.

Obtaining a certain level of response in these regions involves a far more intensive use of human and material resources than in a similar situation in other regions. The geographical features (insularity, terrain, land shortage) lead to serious problems when teams are put into place and deployed, especially taking into account the scarcity of resources in the Member States closest to the outermost and isolated regions and in most of the insular or remote regions.

Solidarity among citizens of the European Union must be demonstrated in providing safety and protection for such citizens irrespective of their place of residence,

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<sup>1</sup> OJ L 327, 21.12.1999, p. 53.

<sup>2</sup> OJ L 297, 15.11.2001, p. 7.

<sup>3</sup> Communication from the Commission to the Member States of 28 April 2000 laying down guidelines for a Community initiative concerning trans-European cooperation intended to encourage harmonious and balanced development of the European territory - INTERREG III - (OJ C 143, 23.5.2000, p. 6).

HAS ADOPTED THE FOLLOWING RESOLUTION:

While Civil Protection is primarily the responsibility of the Member States, efforts should be made at the level of the Community to endeavour to ensure that its citizens living in or visiting outermost, isolated, insular, remote or sparsely populated regions enjoy a level of safety similar to that existing in other areas of the Union. For that reason and taking into account the socio-economic situation of some of these territories compared with the rest of the European Union and the additional cost involved in achieving safety levels similar to those elsewhere in the Union, measures ensuring adequate assistance should be provided.

It is necessary to encourage the execution of joint projects between outermost, isolated, insular, remote and sparsely populated regions, geared to the identification of common risks, exchange of information and procedures for a more uniform approach to risk assessment; all this is required in order to draw up and implement integrated strategies and actions to provide each territory with appropriate early-warning systems, and appropriate land use planning on the basis of the different risks.

Planning for emergencies should provide for and take into account those issues arising from existing risks, the demographic, socio-economic and geographical characteristics of the territory, and the particular socio-economic vulnerability to disaster of the outermost, isolated, insular, remote and sparsely populated regions.

Recognition is given to the fundamental importance of communications in emergency management, both within the region (sometimes problematic because of its geographic features and terrain) and with other parts of the country and other neighbouring regions. There is a need for redundant and reliable voice, data and image communications, which allow for effective coordination of interventions in any situation.

Emphasis is laid on the advisability of having Specialised Intervention Teams in those Member States with outermost, isolated, insular, remote or sparsely populated areas, and on the fact that effective implementation of the mechanism to facilitate reinforced cooperation in civil protection assistance interventions allows the rest of the European Union to make a contribution to solidarity.

Given the special importance of the tourism sector on the economy in some of these territories, it is important to conduct information campaigns on self-protection measures for visitors. These campaigns could be coordinated at Community level.

The Member States are invited to take better advantage of the use of existing Community programmes, in particular INTERREG III, to develop measures that are complementary to those of the Community Action Programme in the field of Civil Protection.

The Member States concerned are invited as far as possible to report on the follow-up to this Resolution to the Commission, who will report further to the Committee for the action Programme and for the Mechanism in the field of Civil Protection.

This Resolution does not prejudice specific measures that may be taken in favour of outermost regions as defined in Article 299 paragraph 2 of the Treaty."

**APPOINTMENTS**

**Committee of the Regions**

*(Doc. 15084/02)*

The Council adopted a Decision, following a proposal from the Irish Government, appointing Ms Josie CONNEELY as a full member of the Committee of the Regions in place of Mr Sean O'NEACHTAIN for the remainder of his term of office, which runs until 25 January 2006.

**TRANSPARENCY**

**Public access to Council documents**

*(doc. 14692/02).*

The Council adopted a reply to the confirmatory application made by MEP Maurizio TURCO (the Danish, Dutch, Finnish and Swedish delegations voting against).

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