

9845/03 (Presse 150)

PROVISIONAL VERSION

2514th Council meeting

- JUSTICE AND HOME AFFAIRS -

Luxembourg, 5–6 June 2003

President : **Mr Philippos PETSALNIKOS**
Minister for Justice, and

Mr Michalis CHRISOCHOÏDIS
Minister for Public Order

of the Hellenic Republic

Internet: <http://ue.eu.int/>
E-mail: press.office@consilium.eu.int

For further information call 32 2 285 95 48 – 32 2 285 68 08

CONTENTS¹

PARTICIPANTS..... 5

ITEMS DEBATED

PREPARATION OF THE THESSALONIKI EUROPEAN COUNCIL (20 June 2003) 7

– Status of third country nationals who are long-term residents 8

– Qualification and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection 9

– Minimum standards on procedures in Member States for granting and withdrawing refugee status 10

– Presidency and Commission reports on the follow-up to Seville on immigration, border control and asylum..... 11

– = Presidency report on the implementation of programmes, ad-hoc centres, pilot project and joint operations 11

– = Commission Communication on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external borders and the return of illegal residents 12

– = Commission Communication on Immigration, Integration and employment 12

– = Commission Communication towards more accessible, equitable and managed asylum systems..... 12

– Council Conclusions..... 13

FUNCTIONS OF THE SIS AND THE SIS II ARCHITECTURE – Council Conclusions..... 17

SIGNATURE OF AN EU-US AGREEMENT ON EXTRADITION AND MUTUAL LEGAL ASSISTANCE 22

¹ ▪ *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.*

JURISDICTION, RECOGNITION AND ENFORCEMENT OF JUDGEMENTS IN MATRIMONIAL MATTERS AND IN MATTERS OF PARENTAL RESPONSIBILITY.....	24
EUROPEAN ENFORCEMENT ORDER FOR UNCONTESTED CLAIMS	26
EXECUTION IN THE EUROPEAN UNION OF CONFISCATION ORDERS	28
APPLICATION OF THE PRINCIPLE "NE BIS IN IDEM"	29
NEGOTIATIONS WITH SWITZERLAND ON THE SCHENGEN ACQUIS	30
COMMISSION PRESENTATION OF THE JHA SCOREBOARD	31
OTHER BUSINESS	32
– European Return fund.....	32
– Protection of personal data	32
MIXED COMMITTEE.....	32
– Implementation of programmes, ad hoc centres, pilot projects and joint operations.....	32
– Sea–border control.....	33
– Visa Information System (VIS).....	33
– Functions of the SIS and SIS II Architecture	33
– Assistance in cases of transit for the purposes of removal by air.....	33
– Visas for members of the Olympic Family	33
– Schengen evaluation on Spain.....	34
– Schengen evaluation on France	34
– Schengen evaluation mechanism.....	34

ITEMS APPROVED WITHOUT DEBATE

ESDP

- Joint Action on the European Union military operation in the Democratic Republic of Congo (DRC) I

JUSTICE AND HOME AFFAIRS

- Terrorism.....II
- Europol.....II
- First Annual Report of Eurojust (calendar year 2002)II
- Mutual Evaluations "Law Enforcement and its Role in the Fight Against Drug Trafficking"II
- European Crime Prevention Network.....II
- Special Security Characteristics of Uniform Entry and Exit Stamps..... III
- Best Practices on the acquisition of travel documents and the removal of third-country nationals from Member States' territory III
- European Judicial Training Network..... III
- Action Plan on drugs between the EU and Countries of Western Balkans and Candidate Countries V

BUDGET

- Implementation for the Financial Year 2002 of the budget of the Fund set up for the financing of the Convention on the Future of the EU..... V

PARTICIPANTS

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

Belgium:

Mr Jan DE BOCK Ambassador, Permanent Representative

Denmark:

Ms Lene ESPERSEN Minister for Justice
Mr Bertel HAARDER Minister for Refugees, Immigration and Integration and Minister without portfolio with responsibility for European Affairs

Germany:

Mr Otto SCHILY Federal Minister for the Interior
Ms Brigitte ZYPRIES Federal Minister for Justice

Greece:

Mr Michalis CHRISOCHOÏDIS Minister for Public Order
Mr Philippos PETSALNIKOS Minister for Justice

Spain:

Mr Ángel ACEBES PANIAGUA Minister for the Interior
Mr José Maria MICHAVILA NUNEZ Minister for Justice

France:

Mr Dominique PERBEN Keeper of the Seals, Minister for Justice
Mr Nicolas SARKOZY Minister for the Interior, Internal Security and Local Freedoms

Ireland:

Mr Michael McDOWELL Minister for Justice

Italy:

Mr Roberto CASTELLI Minister for Justice
Mr Antonio D'ALI State Secretary for the Interior

Luxembourg:

Mr Luc FRIEDEN Minister for Justice, Minister for the Treasury and the Budget

Netherlands:

Mr Piet Hein DONNER Minister for Justice
Ms Rita VERDONK Minister for Immigration, Asylum and Integration

Austria:

Mr Dieter BÔHMENDORFER Federal Minister for Justice
Mr Ernst STRASSER Federal Minister for the Interior

Portugal:

Mr António Jorge FIGUEREIDO LOPES Minister for the Interior
Mr Joao MOTA DE CAMPOS State Secretary to the Minister for Justice

Finland:

Mr Johannes KOSKINEN Minister for Justice
Mr Kari RAJAMÄKI Minister for the Interior

Sweden:

Mr Jan O. KARLSSON Minister at the Ministry of Foreign Affairs, with responsibility for Aid and Migration
Mr Dan ELIASSON State Secretary to the Minister for Justice

United Kingdom:

Baroness SCOTLAND of ASTHAL Parliamentary Secretary, Lord Chancellor's Department
Lord Geoffrey FILKIN Parliamentary Under-Secretary of State, Home Office

* * *

Commission:

Mr António VITORINO Member

The Governments of the Acceding States were represented as follows:

Czech Republic :

Mr Stanislav GROSS
Mr Pavel RYCHETSKY

First Deputy Minister and Minister of the Interior
Deputy Prime Minister and Minister for Justice

Estonia :

Mr Ken–Marti VAHER

Minister for Justice

Cyprus :

Mr Dorus THEODOROU

Minister for Justice and Public Order

Latvia :

Mr Maris GULBIS

Minister for the Interior

Lithuania :

Mr Vytautas MARKEVICIUS
Mr Virgilijus Vladislova BULOVAS

Minister for Justice
Minister for the Interior

Hungary :

Mr Péter BARANDY

Minister for Justice

Malta:

Mr Tonio BORG

Minister of Justice and Home Affairs

Poland :

Mr Daniel LIPŠIC
Mr Paweł DAKOWSKI

Minister for Justice
Under-Secretary of State in the Ministry of Interior and
Administration

Mr Sylwester KRÓLAK

Under-Secretary of State in the Ministry of Justice

Slovenia :

Mr Marko STARMAN

Secretary of State, Ministry of Justice

Other participants:

Ministers of Iceland and Norway participating in the Mixed Committee:

Iceland:

Mr Björn BJARNASON

Minister for Justice

Norway:

Mr Odd Einar DØRUM

Minister for Justice

ITEMS DEBATED

PREPARATION OF THE THESSALONIKI EUROPEAN COUNCIL (20 June 2003)

In the context of the preparation of the Thessaloniki European Council (20 June 2003), the Council:

- examined three proposals for directives relating to:
 - the status of third country nationals who are long-term residents,
 - the qualification and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection, and
 - minimum standards on procedures in Member States for granting and withdrawing refugee status,

- held a first exchange of views on a number of Presidency and Commission reports on the following matters:
 - Presidency report on the implementation of programmes, ad-hoc centres, pilot projects and joint operations,
 - Commission communication on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external borders and the return of illegal residents,
 - Commission communication on Immigration, Integration and employment,
 - Commission communication towards more accessible, equitable and managed asylum systems

- examined three draft Conclusions on:
 - more effective management of the external borders of the EU Member States,
 - the development of a common policy on illegal immigration, external borders, the return of illegal migrants and cooperation with third countries,
 - the development of the Visa Information System (VIS).

– *Status of third country nationals who are long-term residents*

The Council, within the time limit decided by the Seville European Council (June 2003), reached political agreement on the draft Directive concerning the status of third-country nationals who are long-term residents.

Once the text has been reviewed by the Council's jurist/linguists and the pending parliamentary reservations have been lifted, the Directive will be adopted by the Council at one of its forthcoming meetings.

The purpose of this Directive is to grant an EC statute of long-term resident to third-country nationals who have legally resided for 5 years in the territory of a Member State.

This new status - which is not intended to replace the existing national long-term resident status - will

- a) enable third country nationals to enjoy a legal status comparable to that of citizens of the Member States, and
- b) allow the person concerned, under certain conditions, to move from one Member State to another, maintaining the rights and benefits granted in the first Member State without being required to all the procedures that new immigrants are subject to.

It is recalled that at its meeting of 8 May 2003, the Council welcomed the commitment of the Commission to table within one year and possibly by the end of 2003 a proposal for a Directive on the extension of the long-term resident status Directive to refugees and persons enjoying subsidiary protection.

– *Qualification and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection*

The Council, following an exchange of views on the draft Directive on the qualification and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection, instructed the Permanent Representatives Committee to further examine it with a view to reaching an agreement as soon as possible.

The purpose of the proposal is to provide a framework for an international protection regime, based on existing international and Community obligations and current Member States practice, and separated into the two complementary categories of refugee and subsidiary protection. The proposal includes provisions on the minimum rights and benefits to be enjoyed by the beneficiaries of refugee status and of subsidiary protection status.

This proposal does not address the procedural aspects of granting and withdrawing refugee status or subsidiary protection status. The procedures for asylum applicants are laid out in the proposal for a Council Directive on minimum standards on asylum procedures which was also examined by the Council.

– *Minimum standards on procedures in Member States for granting and withdrawing refugee status*

The Council reached agreement on certain provisions of the amended proposal Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status, in particular those concerning the detention of asylum seekers and the procedure to be followed in case of implicit withdrawal or abandonment of an application for asylum.

The Council instructed the Permanent Representatives Committee to further examine the Directive with a view to reaching an agreement within the time limit decided by the Seville European Council (end 2003).

According to the agreement, Member States shall not hold a person in detention for the sole reason that he/she is an applicant for asylum. Where an applicant for asylum is held in detention, Member States shall ensure that there is the possibility of speedy judicial review. Member States shall ensure that the determining authority takes a decision either to discontinue the examination or to reject the application on the basis that the applicant has not established an entitlement to refugee status.

Furthermore, and concerning the procedure in case of implicit withdrawal or abandonment of an application for asylum, Member States shall ensure that the determining authority takes a decision either to discontinue the examination or to reject the application on the basis that the applicant has not established an entitlement to refugee status.

The Council and the Commission also took note of the statements presented by several Member States concerning the establishment of a common minimal list of safe countries of origin.

- *Presidency and Commission reports on the follow-up to Seville on immigration, border control and asylum*

The Council, in view of the preparation of the European Council of Thessaloniki, held a first exchange of views on the Presidency and Commission communications/report and decided to ask the Permanent Representatives Committee to pursue the examination of these communications/report.

= Presidency report on the implementation of programmes, ad-hoc centres, pilot project and joint operations

This report is of primary importance in order to be able to take an inventory and evaluate the development of measures and actions undertaken at the initiative of Member States in the context of implementing the Seville conclusions and the Plan for the Management of the external borders of the EU. The final Evaluation Report will be submitted to the European Council of Thessaloniki.

- = **Commission Communication on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external borders and the return of illegal residents**

- = **Commission Communication on Immigration, Integration and employment**

- = **Commission Communication towards more accessible, equitable and managed asylum systems**

Following a presentation by the Commission of these three communications, the Council held a first exchange of views and asked the Permanent Representatives Committee to pursue their examination, in view of the European Council of Thessaloniki.

– *Council Conclusions*

DRAFT COUNCIL CONCLUSIONS ON THE DEVELOPMENT OF A COMMON POLICY ON ILLEGAL IMMIGRATION, EXTERNAL BORDERS, THE RETURN OF ILLEGAL MIGRANTS AND COOPERATION WITH THIRD COUNTRIES:

The Council discussed draft Conclusions on the development of a common policy on illegal immigration, external borders, the return of illegal migrants and cooperation with third countries.

The debate mainly focused on the question of the financing of a common policy on return of illegally residing persons and on the Community financial resources and burden-sharing mechanisms. Following the discussion, the Council instructed the Permanent Representatives Committee to finalise the outstanding questions of the conclusions, with a view to submitting them to the European Council in Thessaloniki.

COUNCIL CONCLUSIONS ON A MORE EFFECTIVE MANAGEMENT OF THE EXTERNAL BORDERS OF THE EU MEMBER STATES:

The Council adopted the following Conclusions:

"Recalling the European Council conclusions in Seville on 21 and 22 June 2002, where the Heads of State and Government agreed on the creation of the "*Common Unit for external border practitioners*" composed of the Heads of the Border Control Services of the Member States and of Norway and Iceland, to coordinate the measures contained in the plan for the management of the external borders;

Recalling point 44 of the plan for the management of the external borders, where the working principles and competencies of the Common Unit are defined;

Recalling that following the European Council's request that a Common Unit should be created within the framework of the Council, this Unit was composed of the Strategic Committee on Immigration, Frontiers and Asylum enlarged with the heads of border control services, the so-called "SCIFA+";

Recalling the views exchanged in the context of the work of the Common Unit during the Greek Presidency, concerning its operational role, the answers provided by Member States as well as Norway and Iceland to the questionnaires in documents 7485/03 and 8203/03;

Recalling the new operational needs that may arise from the use of the results of the forthcoming risk analysis on the situation developing at the external borders;

Drawing on the results of the implementation of various operational programmes proposed by Member States and approved by the Common Unit in the second half of 2002, during the Danish Presidency;

The Council has adopted the following conclusions:

- 1) It notes the views expressed by Member States concerning the need for improving the procedures and methods of work of the Strategic Committee on Immigration, Frontiers and Asylum and the Common Unit in order to strengthen the operational role of the Common Unit. Therefore, SCIFA+ should henceforth be known as the Practitioners' Common Unit.
- 2) It deems necessary the further activation of the Common Unit, taking into account the nature, variety and extent of the issues involved in the management of the external borders which have been the subject of discussion in meetings of the Common Unit since its inception, the difficulties involved in placing more emphasis on operational matters, in its current formation, and the evaluation of the results of the implementation, by Member States, of the various pilot projects and common operations.
- 3) In order to secure adequate handling of topics of an operational character by the Common Unit, as they are defined in point 44 of the Plan for the management of the external borders, the Strategic Committee on Immigration, Frontiers and Asylum has to determine the appropriate way and procedures for holding separate sessions of the Common Unit which will deal exclusively with operational issues.

- 4) The Strategic Committee, as head of the common policy on the management of external borders, will prepare the common strategy for the gradual introduction of an integrated border management, while the Common Unit will prepare the operational implementation and coordination of the measures contained in the Plan for the Management of the external borders, as agreed upon by the Strategic Committee, on the basis of the reports of the operational centres, informed by risk analysis.
- 5) When dealing with the topics described under point 44 of the Plan for the Management of the external borders, the Common Unit will constitute a constant source of information to SCIFA about the measures which are taken and the prevailing situation at the external borders of the Member States; the Common Unit will manage the operational matters and prepare strategic decisions to be taken by the Strategic Committee concerning notably:
 - the assignment, study and utilisation of regular or ad hoc risk analysis, to be provided by the relevant authority;
 - the determination or submission of proposals, put forward by the relevant ad hoc centres, concerning pilot projects or common operations on the basis of a strategy for achieving concrete results;
 - the monitoring and evaluation of the above projects and operations carried out under the supervision of the relevant ad hoc centres;
 - the determination of terms, prerequisites and guidelines for the implementation of common projects and operations at the external borders, as well as for the legal framework of participation;
 - the rational evaluation of the operation of existing centres and other current projects, on the basis of strictly operational criteria; a preliminary evaluation of already approved and implemented projects, operations or programmes must be the necessary prerequisite for the setting-up of a relevant new ad hoc centre;
 - the creation of ad hoc centres for maritime borders and for air borders, based also on the experiences gained from the ad hoc Centre for Land Borders. The prompt establishment of these ad hoc centres is necessary in order to have all aspects of the EU external borders covered.
- 6) In order to determine minimum adequate standards of training for border guards, thus enabling Member States to follow uniform procedures in the exercise of external border controls, the Common Unit ensuing a decision by the Strategic Committee is called upon to promote in due time the introduction of a common core curriculum for border guard training, based on the expertise of the national training institutes. The introduction of the common core curriculum should go together with an exchange of different experiences and approaches through a common platform of national training experts and allow for its regular evaluation and adaptation.

- 7) The Common Unit should also strive to secure the widest possible participation of the new Member States and candidate countries in the various operational programmes and projects so as to facilitate a speedy implementation and full application by them of the Schengen acquis in the domain of an effective control and monitoring of the borders.
- 8) The General Secretariat of the Council will ensure the preparation and follow-up of the meetings of the Common Unit. It could be assisted in this task, as a first step, by experts detached by the Member States. Their task will be to provide the Common Unit with the necessary overview and follow-up of all activities carried out on the basis of the Plan for the management of the external borders, including improving the effectiveness and coordination of the operations and projects undertaken in this field.
- 9) Furthermore, the Common Unit is to examine the possibilities of further developing common operational patterns in the area of a more effective common management of the external borders."

CONCLUSIONS ON THE DEVELOPMENT OF THE VISA INFORMATION SYSTEM (VIS):

The Council adopted the following Conclusions:

"The Council,

1. building upon the Conclusions of the European Council of Laeken and Seville, underlines the importance of creating a common European system for an exchange of visa data and welcomes the feasibility study, as presented by the Commission,
2. confirms the objectives for such a Visa Information System (VIS) as set out in the guidelines adopted by the Council on 13 June 2002,
3. invites the Commission to continue its preparatory work on the development of the Visa Information System (VIS) in cooperation with Member States on the basis of a centralised architecture, taking into account the option of a common technical platform with SIS II, without delaying the development of SIS II,
4. will give the necessary political orientation by December 2003 at the latest on the basic elements of the Visa Information System (VIS), including the architecture, the functionalities, taking into account the financial component, the choice of biometric identifier(s) and the approach for the implementation of the system, thus allowing to integrate VIS as a possible option in the call for tender for SIS II. "

FUNCTIONS OF THE SIS AND THE SIS II ARCHITECTURE – Council Conclusions

"I. Introduction and summary

With a view to ensuring that the second generation of the SIS is operational by 2006, to allow for additional Member States to participate to the SIS as well as to enhance the use, functionalities and the technical capacities of this system, the call for tenders for developing SIS II needs to be started in autumn 2003.

The current timetable according to the Commission and the results of the feasibility study is the following

- June 2003 – Definite list of functionalities and decision on the architecture,
- August 2003 - Launch of the call for tender of SIS II,
- June 2004 – Signature of the contract for the detailed design and the development of SIS II and subsequent draft of the detailed design,
- January 2005 – Start of SIS II development,
- Spring 2005 – Start of Schengen States/Member States national system adaptation,
- Autumn 2006 – Start migrating current Contracting Parties,
- End 2006 – Ready for integration of new Contracting Parties (the issue of whether acceding countries could integrate in parallel with present Parties is still under discussion).

This timetable will be permanently updated according to the evolution of the project, with a view to respect the deadline of end 2006. A special meeting of the SIS II Committee on 21 May 2003 has discussed and checked the feasibility of this timetable.

It is therefore necessary that the Council discusses and adopts the conclusions set out in chapter II and III concerning the functional requirements and the architecture: as they will determine the technical conditions for the SIS II, they need to be included in the technical specifications of the call for tender.

II. Functional requirements

It has been clear from the earliest conception of SIS II that this system should be a flexible tool, that will be able to adapt to changed circumstances and fulfil, within a reasonable time and without major additional costs and efforts, user requests made during its lifecycle.

The conclusions set out in point II.1 concern the technical implications of the functional requirements and will be included in the call for tender for SIS II. However, this does not affect the need for political and legislative decisions in order to implement these new requirements.

II.1: General functional requirements for SIS II:

Following up on its conclusions of 20 June 2002¹, the Council concludes the following:

- (a) The SIS is a hit/no hit system allowing for information exchange with a view to policing the free movement of persons as well as maintaining public security, and in particular assisting national authorities in the fight against trans-national crime, in the context of the EU objective to maintain and develop the Union as an area of freedom, security and justice.

- (b) In order for the SIS to maintain and enhance its efficiency, SIS II must allow, in addition to the functionalities set out in existing provisions, for:
 - the addition of new categories of alerts, both on persons and on objects (including where necessary the possibility that certain alerts be automatically deleted after a certain event/date);
 - the inter-linking of any alerts, ensuring that this does not change the existing access rights to the different categories of alerts²;
 - the addition of new fields in the alerts and the modification of existing fields (including changing the optional character of a field to mandatory or vice versa);
 - the modification of the duration of the alerts;
 - new authorities to get access to the SIS (including where necessary the possibility to give partial access or access with a purpose different from the original one set in the alerts);
 - the storage, transfer and possible querying of biometric data, especially photographs and fingerprints.

¹ See doc. 9773/02 SIS 43 CATS 34 COMIX 390.

² As agreed by the Council on 20 June 2002 (cf. doc. 9773/02 SIS 43 CATS 34 COMIX 390).

II.2: Detailed requirements

(a) In view of the fact that full to wide-ranging agreement exists on the following requirements, the Council requests the relevant working groups to establish in a timely manner so that they are implemented in the first release of SIS II, where necessary in the form of legislative texts,

- the list of what links can exist between which types of alerts;
- which fields will be included and/or modified in alerts on issued documents;
- which additional information and/or fields, if any, will be included in (certain) alerts;
- the (practical) conditions for storing photographs and fingerprints on wanted persons;

(b) The Council takes note of the fact that at the moment a certain interest exists on the following proposals, but also the need for more study on their feasibility, usefulness and practical implementation. The Council therefore invites the relevant working groups to discuss these requirements and, where and when they find sufficient support, to submit them to the Council.

- how, in view of the conclusions of Tampere and of the EU action plan to combat terrorism , should the purpose of the system be changed or extended, and notably
 - which authorities should acquire (an extended) access to the SIS and what purpose they can use this access for: the study should include the possibility for some authorities to use the SIS data for purposes other than those for which they were originally introduced in the SIS
 - the legislative implications this might have, most importantly concerning data protection
 - the technical impact this might have (including that at the national level)
 - the need for ensuring that the efficiency of the current system is maintained and improved;
- which new categories of persons should be introduced in the SIS, and notably:
 - minors precluded from leaving the Schengen area
 - violent troublemakers;
- which new categories of objects should be introduced in the SIS under Articles 99 and/or 100, and notably
 - other vehicles
 - works of art
 - animals
 - luxury items
 - any easily identifiable objects;

- which, if any, of the SIRENE forms must be included in the SIS database;
- what other biometric data can be stored in the SIS and what use, if any, can be made of the biometric data stored in the SIS;
- what intelligence use, if any, can be made of the records made according to Article 103;
- what modifications, if any, are necessary regarding the period an alert can be kept in the SIS;
- what data should be recorded under Article 103.

It is understood and follows from the conclusions under point II.1 that the SIS II should have, from the beginning, the technical capacity to implement the requirements set out in this chapter.

III. Architecture

Based on the recommendations of the SIS II feasibility study, the opinion of the SIS II Committee thereon, as well as the opinion of the relevant Council Working Groups after having examined the different possible architectures,

the Council concludes that:

- the call for tender for SIS II shall consist of a core system and a uniform national interface in each Member State;
- the national interfaces will be delivered as a Ready-made Turnkey Solution (RTS) and will not contain the SIS data¹;
- it shall be possible for the Member States which do not wish to maintain a national copy of the SIS database, to query in an automated manner the SIS database kept in the core system. The national copy of the SIS database is maintained by the countries for their own account and at their own risk;
- the core system shall ensure the availability, integrity and continuous update of the SIS data, both for updating the national copies of the SIS database and for the purposes of allowing queries on the database
 - a contingency system shall therefore be set up at a different location
 - the communication infrastructure shall therefore have the necessary availability guarantees;

¹ The contractor may, however, suggest that SIS data will be included in the national interfaces, if it considers that this solution provides greater flexibility, availability and performance.

- the core system shall contain the alerts introduced pursuant to Articles 95 to 100 of the Schengen Convention, as adapted where applicable, and in accordance with the provisions of Article 94,
- automated queries on the SIS database shall be done, where necessary, on the national copies of the SIS database or on the core system via the national interfaces;
- SIS data shall be inserted in the core system via the national interfaces;
- the core system and the national interface will have a sufficiently high standard of security applying where possible an internationally recognized standard of security;
- the technical specifications of the call for tender for SIS II shall respect the above conclusions.

The Council requests that in due time, the necessary legislative provisions reflecting the principles underlying the current conclusions be prepared for adoption.

IV. Location / management / financing

The respective Council working groups must:

- * prepare Council conclusions on the location, management and financing of the SIS II as soon as possible and in due time for adoption by the Council at the latest by May 2004;
- * study the organisational implications of the chosen architecture within the national systems of the Member States, together with the financial impact of that architecture."

SIGNATURE OF AN EU-US AGREEMENT ON EXTRADITION AND MUTUAL LEGAL ASSISTANCE

The Council agreed the text of the EU–US Agreements on extradition and mutual assistance, and thus mandated the Presidency to designate the person to sign the text of the draft agreements in the context of the EU-US Summit scheduled for 25 June 2003.

The Agreements will supplement bilateral agreements between the US and Member States of the EU, and will add value to such bilateral agreements. The draft Agreements provide for the necessary guarantees for the protection of human rights and fundamental freedoms and respect the constitutional principles of the Member States.

It is recalled that, according to Article 24 of the Treaty of the European Union, once the Agreements will be signed, 13 Member States have declared that they will have to comply with the requirements of their constitutional procedures before the Agreement can be concluded.

The texts of the draft Agreements are available on the public register of the Council (*doc. 9153/03*).

Some of the subjects where the draft agreements bring added value, are the following.

As far as extradition is concerned:

- In case of sensitive information, the draft agreements allow to ask for consultations to determine the extent to which information, in a request, can be protected by the requested State.
- As far as competing requests are concerned, the agreements deal with the issue of a concurrence between an extradition request from the USA and one from another State, or when this other State is a Member State, a European Arrest Warrant. The question of how to deal with concurrent requests for surrender from the International Criminal Court and extradition requests from the United States of America is therefore one which falls squarely within the exclusive competence of the Member States.

As far as mutual legal assistance is concerned, the agreement improves co-operation in the area of investigations into financial elements_of serious crime, including organised crime, terrorism and financial crime.

- Those Member States that at present do not have a mutual legal assistance treaty with the USA, may refer to their ordre public (security, sovereignty, or other essential interests of the requested State) in order to refuse to communicate information in certain cases.
- The agreement contains extensive provisions in relation to data protection and the provision of evidence and information.
- The draft Agreements contain provisions enabling the use of joint investigative teams and the possibilities of videoconferencing between Member States and the United States. These provisions enable the Member States to use these possibilities, but do not oblige to use them.
- The draft Agreement allows for the use of modern telecommunications means (fax, e-mail), with formal confirmation to follow for the exchange of mutual legal assistance requests and replies.
- Mutual legal assistance will also be afforded, to the extent that this not yet the case under bilateral treaties, to US federal administrative authorities and to Member States' national administrative authorities investigating conduct with a view to criminal prosecution of the conduct or with a view to referral of such conduct to criminal investigation or prosecution authorities.

Statement from Portugal:

"According to its constitutional law, Portugal will not use the faculty provided for in Article 13 of the Extradition Agreement, and will not grant extradition where the offence is punishable with death penalty. Portugal, may, however, subject the extradition to the condition that, according with the law of the requesting State, binding to its courts and the authorities competent to enforce the penalties, it will not be legally possible to consider to apply death penalty to the case, or it will not be legally possible to enforce that penalty, where it has already been imposed prior to the extradition request."

JURISDICTION, RECOGNITION AND ENFORCEMENT OF JUDGEMENTS IN MATRIMONIAL MATTERS AND IN MATTERS OF PARENTAL RESPONSIBILITY

The Council reached political agreement on the draft Regulation concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and in matters of parental responsibility, without prejudice to finalisation of certain technical and editorial points.

The Council instructed the Permanent Representatives Committee and the Committee on Civil Law Matters (Parental Responsibility) to finalise the technical aspects to enable the Council to adopt the proposal formally at its October meeting with due regard for the other political decisions taken by the Council at its meeting on 29 November 2002 and in such a way that the regulation will enter into effect the 1st of July 2004, if possible.

The draft Regulation aims at the recognition and enforcement within the Community of judgements in matrimonial matters and in matters of parental responsibility based on common rules on jurisdiction.

The draft Regulation extends the scope of Council Regulation (EC) No 1347/2000 to cover all civil proceedings relating to parental responsibility by severing the link with the matrimonial proceedings.

It is recalled that the JHA Council of November 2002 reached a political agreement on matters relating to the return of the child, a key point of the Regulation. At that meeting, the Council also decided that the formal adoption of the Regulation could only take place when the Council would also adopt the Decision authorising the Member States to ratify the 1996 Hague Convention, in the interest of the Community.

In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on the European Union and to the Treaty establishing the European Community, Ireland and the United Kingdom have given notice of their wish to take part in the adoption and application of the proposal.

In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on the European Union and to the Treaty establishing the European Community, Denmark does not participate in the adoption of the Regulation, and is therefore not bound by it or subject to its application.

EUROPEAN ENFORCEMENT ORDER FOR UNCONTESTED CLAIMS

The Council had an orientation debate on the draft Council Regulation creating a European enforcement order (EEO) for uncontested claims.

The debate focused on the following key issues:

- the definition of an uncontested claim,
- the minimum standards on the service of documents,
- the possibility of appealing against the decision certifying a judgement as a EEO,
- the enforceability of the judgement in the Member State of origin as a sufficient requirement for certification as a EEO,
- the possibility of a refusal of enforcement in the Member State of enforcement, including on the basis of the "public policy" criteria, and
- the inclusion or not of consumer cases in the scope of application of the Regulation.

In the light of the discussion, the Council agreed on general guidelines for future work and consequently instructed the preparatory instances of the Council to further examine the draft Regulation.

Following the Conclusions of Tampere, the draft Regulation aims at creating a European Enforcement Order for uncontested pecuniary claims which would eliminate checks on judgements handed down in one Member State as a prerequisite for enforcement in another Member State.

In particular, the draft Regulation contains minimum standards with regard to the service of documents covering the admissible methods of service. Only the compliance with the minimum standards provided for in the Regulation can justify the abolition of a control in the Member States where the judgement is to be enforced.

In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on the European Union and to the Treaty establishing the European Community, Ireland and the United Kingdom have given notice of their wish to take part in the adoption and application of the proposal.

In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on the European Union and to the Treaty establishing the European Community, Denmark does not participate in the adoption of the Regulation, and is therefore not bound by it or subject to its application.

EXECUTION IN THE EUROPEAN UNION OF CONFISCATION ORDERS

The Council had an orientation debate on two questions of the draft Framework Decision on the execution in the European Union of confiscation orders: the definition of "property" and the list of offences for which the principle of double criminality would not apply to refuse confiscation orders covered by the Framework Decision.

In the light of the progress made on these questions, the Council instructed its preparatory instances to further examine the draft Framework Decision.

The purpose of this Draft Framework Decision is to establish the rules under which a Member State shall recognise and execute in its territory a confiscation order issued by a court of another Member State.

The definition of "property" would determine which types of confiscation powers the instrument covers. Article 5 (1) of the draft Framework Decision provides that the principle of double criminality may not be applied by the executing State in relation to confiscation orders based on one or more of the offences listed in that paragraph.

APPLICATION OF THE PRINCIPLE "NE BIS IN IDEM"

The Council took note of the state of play of the draft Framework Decision on the application of the principle "ne bis in idem" and instructed its preparatory instances to further examine the text of the draft Framework Decision.

The aim of this Draft Framework Decision, based on a Greek initiative, is to provide the Member States with common legal rules relating to the "ne bis in idem" principle in order to ensure uniformity in both the interpretation of those rules and their practical implementation.

The principle of "ne bis in idem" (or prohibition of double jeopardy, i.e. that no-one should be prosecuted or tried twice for the same acts and for the same criminal behaviour), assumes a special significance at a time when transborder crime is on the increase and problems of jurisdiction in connection with criminal prosecutions are becoming more complicated. The importance of this principle is furthermore apparent in the areas of asylum, immigration and extradition and within the framework of an already enlarged EU and in agreements between the EU or certain Member States and third countries. Apart from the relevant provision of other international instruments [UN International Covenant on Civil and Political Rights of 19-12-1966, 7th Protocol to the European Convention on Human Rights, Convention implementing the Schengen Agreement, the European Communities Convention on Double Jeopardy of 25-5-1997 etc.] the Framework-Decision introduces the principle of "lis pendens", while a wide consensus about that not being a Schengen related issue, seems to have been reached.

The application of the "ne bis in idem" principle has thus far raised many serious questions as to the interpretation or acceptance of certain substantive provisions or more general rules because of the different provisions governing this principle in the various international legal instruments and the difference in practices in national law.

NEGOTIATIONS WITH SWITZERLAND ON THE SCHENGEN ACQUIS

The Council held an exchange of views on the issue of the judicial cooperation with Switzerland on fiscal offences, in the context of the ongoing negotiations on the participation of this country in the Schengen acquis.

The Council instructed the Permanent Representatives Committee to pursue its work on this question with a view to reaching an agreement with Switzerland on the Schengen acquis.

COMMISSION PRESENTATION OF THE JHA SCOREBOARD

The Council took note of the biannual update of the scoreboard to review progress on the creation of an area of "freedom, security and justice" in the European Union. (*Doc. 9817/03*)

It is recalled that the Scoreboard is established by the Commission at regular intervals to monitor progress in the adoption and implementation of the set of measures needed to attain the objectives set by the Amsterdam Treaty and the Tampere European Council of 15 and 16 October 1999.

OTHER BUSINESS

– *European Return fund*

Over lunch, Ministers discussed the question of a European Return Fund.

– *Protection of personal data*

The Council took note of a Greek note concerning common rules for the protection of personal data within the framework of the third pillar.

*

*

*

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 Philippos PETSALNIKOS, Minister for Justice of Greece, covered the following points:

– *Implementation of programmes, ad hoc centres, pilot projects and joint operations*

The Mixed Committee took note of a Report on the implementation of programmes, ad hoc centres, pilot projects and joint operations (see page 10).

– ***Sea-border control***

The Mixed Committee was informed about the current state of play of the Commission's feasibility study on improving sea border control.

– ***Visa Information System (VIS)***

The Mixed Committee agreed on the conclusions on the development of the VIS (see page 15).

– ***Functions of the SIS and SIS II Architecture***

The Mixed Committee agreed on the conclusions on the functions of the SIS and on the SIS II architecture (see page 16)

– ***Assistance in cases of transit for the purposes of removal by air***

The Mixed Committee reached a general approach on an Initiative of Germany for a Council Directive on assistance in cases of transit for the purposes of removal by air.

– ***Visas for members of the Olympic Family***

The Mixed Committee reached a general approach to the draft Regulation relating to measures envisaged to facilitate the procedures for applying for and issuing visas for members of the Olympic family taking part in the 2004 Olympic and/or Paralympic Games in Athens.

– *Schengen evaluation on Spain*

The Mixed Committee agreed on conclusions on the Schengen evaluation of Spain.

– *Schengen evaluation on France*

The Mixed Committee took note of the follow-up of the Schengen evaluation of France.

– *Schengen evaluation mechanism*

The Mixed Committee agreed on guidelines to increasing the efficiency of the Schengen Evaluation mechanism.

ITEMS APPROVED WITHOUT DEBATE

ESDP

Joint Action on the European Union military operation in the Democratic Republic of Congo (DRC)

(Doc. 9955/1/03 REV 1)

The Council adopted a Joint Action on the European Union military operation in the Democratic Republic of Congo (DRC).

This EU-led military operation, codenamed "Artemis", will be conducted in accordance with the mandate set out in United Nations Security Council Resolution 1484 of 30 May 2003.

Resolution 1484 authorizes the deployment until 1 September 2003 of an interim emergency multinational force in Bunia (DRC) to contribute to the stabilization of the security conditions and the improvement of the humanitarian situation in Bunia.

For further information please consult Press release No **9957/03 (Presse 156)**, 5 June 2003.

JUSTICE AND HOME AFFAIRS

Fight against terrorism - update of the list

The Council updated the EU list of terrorist organisations and persons linked to terrorist activities, which was first adopted on 27 December 2001 in the wake of the events of 11 September 2001, and which is reviewed at regular intervals.

It did so through the adoption of a Common Position updating Common Position 2001/931/CFSP¹ on the application of specific measures to combat terrorism and repealing Common Position 2002/976/CFSP².

The new Common Position, including the updated list annexed to it, will be published in the Official Journal L 139 of 6 June 2003 (<http://europa.eu.int/eur-lex/>).

¹ OJ L 344 of 28.12.2001.

² OJ L 337 of 13.12.2002.

Terrorism

The Council endorsed a strategic document on terrorism which includes two texts on uniform coding of high risk informants and Conclusions of the DIAGORAS Seminar on the fight against terrorism in relation to major sporting events (Athens, 10/11 April).

Europol

The Council endorsed the Europol Annual Report 2002, adopted its budget for 2004, its Work Programme for 2004, its amending budget for 2003.

Furthermore, the Council adopted an Act amending the Council Act of 3 November 1998 adopting Rules on the confidentiality of Europol information. (*Doc. 8939/03*)

Finally, the Council adopted three bilateral agreements on the exchange of strategic and operational information and regular contacts at all appropriate levels with Cyprus, Bulgaria and the Slovak Republic respectively.

First Annual Report of Eurojust (calendar year 2002)

(*Doc. 9771/03*)

The Council adopted Conclusions on the first Annual Report of Eurojust for the 2002 calendar year.

Mutual Evaluations "Law Enforcement and its Role in the Fight Against Drug Trafficking"

The Council took note of the third report on the Second Round of Mutual Evaluations concerning the United Kingdom, Finland, the Netherlands, France and Portugal, conducted under Joint Action 97/827/JHA.

European Crime Prevention Network

(*Doc. 9755/03*)

The Council adopted Conclusions on the European Crime Prevention Network (EUCPN) Annual Report 2002.

Special Security Characteristics of Uniform Entry and Exit Stamps

(Doc. 9390/03)

The Council adopted Conclusions regarding special security characteristics of uniform entry and exit stamps.

Best Practices on the acquisition of travel documents and the removal of third-country nationals from Member States' territory

The Council approved a Manual of Best Practices on the acquisition of travel documents and the removal of third-country nationals from Member States' territory.

European Judicial Training Network

(Doc. 9702/03)

The Council adopted Conclusions, as set out below, on the European Judicial Training Network:

1. "Full and unreserved cooperation among judicial authorities of the Member States is based on mutual understanding and trust. This therefore requires the practitioners concerned to have a better knowledge of the judicial systems of the Member States and the legal instruments on which judicial cooperation within the European Union is based.

Training for members of the judiciary in the Member States is a *sine qua non* for the success of the establishment of an Area of Freedom, Security and Justice. It makes the use of existing legal instruments more effective and facilitates the practical implementation of new cooperation instruments. In particular, the impending entry into force of the European Arrest Warrant and the new cooperation possibilities offered by this instrument and by other instruments on mutual recognition would necessitate increased training of judges in European law and in the functioning of these new instruments of cooperation.

The national bodies responsible for training the judiciary in the Member States have already acquired a certain amount of experience in training exchanges and in jointly-run training activities, but these exchanges and activities should have greater coherence and offer a degree of continuity.

2. A "Charter" was signed in Bordeaux, in October 2000, between representatives of authorities and institutions responsible for the training of judges and prosecutors in all Member States, in order to establish an operational training network, pending the setting up of a network through a Decision of the Council. The Charter was amended in Copenhagen during the Danish Presidency.

In November 2000 France presented an initiative, based on Articles 31 and 34 (2) c) TEU, with a view to adopting a Council decision which would provide the European Judicial Training Network with a more formal structure offering coherence and continuity.

The Laeken European Council on December 2001 called for a European network to encourage the training of magistrates to be set up swiftly.

The European Parliament called for the strengthening of the EJTN in a Resolution, adopted in March 2003, and indicated that it intended to launch a pilot project to promote the training and exchange of judges in Europe, on the basis of the Erasmus model (Resolution A5-0039/2003)

3. In order to implement the conclusions of the Laeken European Council, the Council takes the view that the adoption of one or more binding acts of the Council is not, for the time being, necessary in order to establish an efficient training network. The creation of a network through an act of the Council raises a number of institutional issues and questions of competence and, as a follow-up to the decision of the European Council is necessary, it would at present not be appropriate to pursue the discussions on the initiative of France. The Council notes in this context the impending incorporation of an association under Belgian law which may offer possibilities of financing the training of judges under the Bordeaux and Copenhagen Charter and which gives the Network legal personality.

However, the Council believes that it is still necessary to strengthen the structure, the role and the functioning of the existing network, based on the “Charter of Bordeaux and Copenhagen”. In particular, it appears that the network needs further to reinforce its autonomy and independence and increase its capacity to finance its activities.

4. In the light of these elements, the Council :
 - a) Invites the Member States to further strengthen the European Judicial Training Network which has now been given legal personality, constituted in accordance with the law of Belgium and to examine the possibility of providing the network with appropriate human and financial resources;
 - b) Welcomes the establishment of the network made up of national schools and institutions of all the Member States responsible specifically for the training of professional judges and prosecutors who are members of the judiciary;
 - c) Considers that the activities of the network should cover judicial cooperation in both civil and criminal matters, and that its purpose should be to foster the consistency and efficiency of its members' training activities;

- d) Urges the establishment of close links between the network and the institutions of the European Union;
- e) Invites the Commission to examine how it may at present assist the network in receiving appropriate funding, in particular through the framework programmes for judicial cooperation in civil and criminal matters;
- f) Welcomes the Resolution of the European Parliament seeking to establish a pilot project in the field of training and exchange of judges in Europe and invites the Commission, in so far as possible and within the limits of its resources, and the European Parliament to give full attention to this pilot project;
- g) Invites the Commission, after having consulted with the EJTN, to make a report to the Council on the establishment and functioning of the network before the end of 2004;
- h) Agrees to examine, on the basis of this report, whether it would be necessary to reconsider examination of the initiative of France with a view to establishing a more permanent structure for judicial training at European level."

Action Plan on drugs between the EU and Countries of Western Balkans and Candidate Countries

(Doc. 9600/03)

The Council endorsed the Action Plan on drugs between the EU and Countries of Western Balkans and Candidate Countries (Bulgaria, Romania and Turkey).

BUDGET

Implementation for the Financial Year 2002 of the budget of the Fund set up for the financing of the Convention on the Future of the EU

(Doc. 9736/03)

The Council gave its assent regarding the discharge to be given to the Secretary-General of the Convention in respect of the implementation for the financial year 2002 of the budget of the Fund set up for the financing of the Convention.