

13747/03 (Presse 308)

PROVISIONAL VERSION

2538th Council meeting

- JUSTICE AND HOME AFFAIRS -

Brussels, 6 November 2003

Presidents : **Mr Roberto CASTELLI**,
Minister for Justice

Mr Giuseppe PISANU,
Minister for the Interior,

of the Italian 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 63 19

13747/03 (Presse 308)

CONTENTS¹

PARTICIPANTS..... 4

ITEMS DEBATED

FOLLOW-UP TO BRUSSELS EUROPEAN COUNCIL: READMISSION AGREEMENTS 6

RESIDENCE PERMIT TO THIRD-COUNTRY NATIONALS VICTIMS OF
TRAFFICKING IN HUMAN BEINGS 7

"TOWARDS MORE ORDERLY AND MANAGED ENTRY IN THE EU OF PERSONS IN
NEED OF INTERNATIONAL PROTECTION" 8

MINIMUM STANDARDS ON PROCEDURES IN MEMBER STATES FOR GRANTING
AND WITHDRAWING REFUGEES STATUS 8

NORWAY/ICELAND AGREEMENT ON MUTUAL LEGAL ASSISTANCE 9

COMPENSATION TO CRIME VICTIMS 9

OTHER BUSINESS 10

– Questionnaire on custodial and non-custodial treatment..... 10

– Arrest Warrant Directive 10

MIXED COMMITTEE 11

– Follow-up to Brussels European Council 11

– Rules for refunding the costs of removals 12

– Joint flights for removals 12

– "Ne bis in idem" principle 12

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.*

ITEMS APPROVED WITHOUT DEBATE

JUSTICE AND HOME AFFAIRS

- List of authorities with direct access to the Schengen Information System I
- Multinational ad hoc teams for exchanging information on terrorists I
- EUROPOL/Romania Agreement I

REGIONAL POLICY

- Court of Auditors report on the implementation of assistance programming for the period 2000-2006 within the framework of the Structural Funds - *Council Conclusions* II

SEA TRANSPORT

- Minimum training of seafarers - *Public deliberation* II

ENVIRONMENT

- Forest Focus - *Public deliberation* III

APPOINTMENTS

- Committee of the Regions III

PARTICIPANTS

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

Belgium:

Mr Patrick DEWAELE
Ms Laurette ONKELINX

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

Denmark:

Mr Bertel HAARDER

Minister for Refugees, Immigration and Integration

Germany:

Mr Otto SCHILY
Ms Brigitte ZYPRIES

Federal Minister for the Interior
Federal Minister for Justice

Greece:

Mr Aristides AGATHOCLES

Ambassador, Permanent Representative

Spain:

Mr Jaime Ignacio GONZÁLEZ GONZÁLEZ

State Secretary, Government Representative for Alien's Affairs and Immigration

France:

Mr Pierre SELLAL

Ambassador, Permanent Representative

Ireland:

Mr Michael McDOWELL

Minister for Justice, Equality and Law Reform

Italy:

Mr Giuseppe PISANU
Mr Roberto CASTELLI

Minister for the Interior
Minister for Justice

Luxembourg:

Mr Luc FRIEDEN

Minister for Justice, Minister for the Treasury and the Budget

Netherlands:

Mr Jan Piet Hein DONNER
Ms Rita VERDONK

Minister for Justice
Minister for Aliens' Affairs and Integration

Austria:

Mr Ernst STRASSER

Federal Minister for the Interior

Portugal:

Mr António FIGUEIREDO LOPES

Minister for the Interior

Finland:

Mr Johannes KOSKINEN
Mr Kari RAJAMÄKI

Minister for Justice
Minister for the Interior

Sweden:

Ms Barbro HOLMBERG

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

Mr Thomas BODSTRÖM

United Kingdom:

Ms Caroline FLINT

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 Karel ČERMÁK
Mr Stanislav GROSS

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

Estonia :

Mr Margus LEIVO

Minister for the Interior

Cyprus :

Mr Dorus THEODOROU
Mr Andreas CHRISTOU

Minister for Justice and Public Order
Minister for the Interior

Latvia :

Mr Aivars AKSENOKS

Minister for Justice

Lithuania :

Mr Gintaras ŠVEDAS
Mr Virgilijus BULOVAS

Deputy Minister for Justice
Minister for the Interior

Hungary :

Mr Zoltán TÓTH
Ms Judit FAZEKAS

State Secretary for Home Affairs
Deputy State Secretary for Justice

Malta:

Mr Tonio BORG

Minister of Justice and Home Affairs

Poland :

Mr Sylwester KROLAK
Mr Piotr DAKOWSKI

Deputy Minister for Justice
Deputy Minister for the Interior

Slovakia :

Mr Vladimír PALKO
Ms Lucia ZITNANSKA

Minister for the Interior
State Secretary for Justice

Slovenia :

Mr Peter TEGLIC
Mr Botan BUGARIC

State Undersecretary for Justice
State Secretary for the Interior

ITEMS DEBATED

FOLLOW-UP TO BRUSSELS EUROPEAN COUNCIL: READMISSION AGREEMENTS

Following a presentation by the Commission on the current state of play of the negotiations of the readmission agreements, the Council underlined the importance of concluding these agreements as soon as possible and to that end, to make every effort in finding the way to facilitate their successful negotiation. Member States expressed their willingness to provide assistance to the Commission.

It should be noted that readmission is a key element of relations with third countries aiming at controlling migratory flows. The Seville, Thessaloniki and Brussels European Councils stressed the necessity of speeding up the negotiations of the readmission agreements with the third countries for which the Commission has received a mandate from the Council, with a view to concluding them promptly.

From September 2000 to November 2002, the Council authorised the Commission to negotiate Community readmission agreements with 11 third countries/entities.

To date, negotiations have been completed with Hong Kong (November 2001), Macao (October 2002), Sri Lanka (May 2002) and Albania (November 2003). The agreements with Hong Kong and Macao were formally signed in November 2002 and October 2003 respectively.

The Commission is currently negotiating agreements with Morocco, Russia, Pakistan, Ukraine, Algeria, China and Turkey.

RESIDENCE PERMIT TO THIRD-COUNTRY NATIONALS VICTIMS OF TRAFFICKING IN HUMAN BEINGS

The Council reached agreement on the above mentioned Directive.

The aim of the Directive is to strengthen the European Union's legislative framework for combating illegal immigration by granting a residence permit of limited duration for the victims of action to facilitate illegal immigration and of trafficking in human beings. The granting of the residence permit to which a certain number of benefits is attached is subject to conditions designed to encourage these people to cooperate with the competent authorities against those suspected of committing the crimes in question.

This is a very important legal instrument in the fight against trafficking in human beings and illegal immigration, which will be beneficial both to the victims and to the Member States' competent authorities. As regards the victims, and in case they decide to co-operate with the competent authorities, they will receive an appropriate assistance and be issued a residence permit allowing them to stay legally on the territory of the Member State concerned during the relevant proceedings.

The formal adoption of this Directive will take place after the lifting of the two still pending Parliamentary reservations.

"TOWARDS MORE ORDERLY AND MANAGED ENTRY IN THE EU OF PERSONS IN NEED OF INTERNATIONAL PROTECTION"

The Council took note of the presentation made by its President concerning the outcome of the Seminar: "Towards more orderly and managed entry in the EU of persons in need of international protection" (Rome, 13-14 October 2003).

MINIMUM STANDARDS ON PROCEDURES IN MEMBER STATES FOR GRANTING AND WITHDRAWING REFUGEES STATUS

The Council, on the basis of a note submitted by the Presidency, examined two outstanding questions of the above mentioned proposal: the designation of safe third countries and the cases of border procedures.

As regards the "safe third countries", the Council discussed whether the designation of safe third countries should be done by means of a common list or through a mechanism allowing Member States to proceed to national designation of safe third countries in accordance with the criteria set out in the Directive.

The draft Directive provides for the possibility for Member States to introduce or maintain in their national legislations the principle of safe third countries. Such countries are not those of the applicant's nationality but third countries where the applicants have stayed or travelled through before arriving in the Member State and where they could have asked for protection.

Regarding the question of border procedures, the Council examined the possibility for a Member State to remove, from their borders or territories, asylum applicants who have entered irregularly into its territory or arrived at its borders, coming from a neighbouring safe third country.

In the light of the discussion, the Council decided to instruct the Permanent Representatives Committee to further continue the work on the Directive, with a view to reaching an agreement within the deadline set by the Seville European Council (end of 2003).

NORWAY/ICELAND AGREEMENT ON MUTUAL LEGAL ASSISTANCE

The Council welcomed the swift negotiations on a draft Agreement between the EU and Iceland/Norway on the application of certain provisions of the 2000 Convention on Mutual Assistance in Criminal Matters and the 2001 Protocol thereto. The Council also agreed that the authorisation for the signature of the Agreement should be made during the Italian Presidency.

COMPENSATION TO CRIME VICTIMS

The Council held a debate on the proposal for a Directive on compensation to crime victims.

The debate focused on the following four questions: the scope of the Directive, the recipients of compensation, the injury giving rise to compensation (the question of non-pecuniary losses) and the amount of compensation.

The Council took note of the wish to pursue work on this proposal, having in mind the budgetary consequences to the Member States and the technical aspects relating to the legal basis.

It should be noted that the Tampere European Council on 15 and 16 October 1999 considered that "minimum standards should be drawn up on the protection of the victims of crime, in particular on crime victims' access to justice and on their rights to compensation for damages, including legal costs. In addition, national programmes should be set up to finance measures, public and non-governmental, for assistance to and protection of victims".

Bearing those guidelines in mind, on 17 October 2002 the Commission submitted to the Council a proposal for a Directive on compensation to crime victims (*13349/03*).

The aim of the proposal is two-fold: to establish minimum standards for compensating crime victims for the losses they have suffered and to introduce a scheme ensuring that victims have access to compensation in cross-border situations. The proposal forms a whole designed to meet the Tampere European Council's call for adequate protection for victims of crime.

ANY OTHER BUSINESS

– *Questionnaire on custodial and non-custodial treatment*

The Presidency invited the Member States to reply the questionnaire concerning custodial and non-custodial treatment of prisoners and persons serving alternative sentences (to imprisonment) (14014/03).

– *Arrest Warrant Directive*

The Commission reminded the Council that the deadline for Member States to transpose the Arrest warrant Directive into National law was 31 December 2003. It also informed that, at this stage, only three Member States had done so.

*
* *

Over lunch, the Council was informed by the Presidency about the recent meeting held in Rome concerning the interreligious dialogue and, at the request of the Swedish delegation, about the United Nation's Committee on migration.

The Council also had an exchange of views on the meeting held by some EU Ministers for Justice and/or Interior in October 2003 in La Baule (France).

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 under the chairmanship of Mr Björn BJARNASON, Minister for Justice and Ecclesiastical Affairs of Iceland.

– ***Follow-up to Brussels European Council***

Examining the follow-up to be given to the Brussels European Council conclusions on managing the Unions' common borders and controlling migratory flows, the Mixed Committee at Ministerial level:

- invited the Commission to urgently submit its proposal relating to the creation of a Border Management Agency, so that a political agreement could be reached by the end of the year on its main elements;
- following the information given on the Italian Presidency's work programme to combat illegal immigration across the maritime borders of the European Union, invited the competent Council bodies to continue the discussion of this programme in order that it could be adopted by the end of 2003;
- took note of the progress achieved so far on the two Commission proposals aiming at including biometric identifiers in the uniform format for visas and for residence permits for third-country nationals, and invited the competent Council bodies to finalise their work in due time in order to be able to reach a political agreement by the end of 2003;
- took note of the information given by the Commission on its proposal concerning stamping of passports.

– ***Rules for refunding the costs of removals***

The Mixed Committee agreed on the Decision setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Council Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals.

The formal adoption of this Directive will take place after the lifting of the still pending Parliamentary reservations.

– ***Joint flights for removals***

The Mixed Committee agreed on a Decision concerning the organisation of joint flights for removals, from the territory of two or more Member States, of third-country nationals who are the subjects of individual removal orders

The Council will adopt this Decision at a later stage, once the European Parliament has delivered its opinion and the scrutiny parliamentary reservations entered by some Member States have been lifted.

– ***"Ne bis in idem" principle***

Discussion focused on the scope of the possible exceptions to the application of the "ne bis in idem" principle, in particular the territorial and security exceptions and a time limitation.

The aim of this Framework Decision is to provide the Member States with common legal rules relating to the "ne bis in idem" principle or the prohibition of double jeopardy, (i.e. that no-one should be prosecuted or tried twice for the same criminal behaviour) in order to ensure uniformity in both the interpretation of those rules and their practical implementation.

ITEMS APPROVED WITHOUT DEBATE

JUSTICE AND HOME AFFAIRS

List of authorities with direct access to the Schengen Information System

(6265/1/03 rev1)

The Council took note of a list of competent authorities which are authorised to search the data contained in the Schengen Information System (SIS).

Multinational ad hoc teams for exchanging information on terrorists

(10913/6/03)

The Council approved an Operational project entitled “Multinational ad hoc teams for exchanging Information on terrorists – start of activities”.

These teams will consist of specialists from the authorities responsible for fighting terrorism and be entrusted with the specific task of carrying out investigations into alleged members of terrorist groups and support networks. They will also be able to use the full range of investigative techniques, subject to national law, for preventive and pre-judicial purposes, with a view to gathering and exchanging information.

EUROPOL/Romania Agreement

(12622/1/03)

The Council authorised the Director of Europol to conclude a draft Agreement between Europol and Romania.

REGIONAL POLICY

Court of Auditors report on the implementation of assistance programming for the period 2000-2006 within the framework of the Structural Funds - *Council Conclusions*

The Council adopted the following Conclusions:

- "- The Council takes good note of the report by the Court of Auditors and welcomes the references made to the positive action taken by the Commission in promoting increasingly effective use of the Structural Funds and to the significant progress made by the Member States in their use over the 2000-2006 period in comparison with 1994-1999.
- The Council, on the base of the Court's report, estimates that the new regulations for the period 2000-2006, represent a step forward towards more sound and effective management of the Structural Funds.
- The Council takes note of the suggestions and points made by the Court of Auditors with a view to contributing to an improvement in the implementation of the Structural Funds and calls on the Commission to take account of them, as far as possible, in the forthcoming stages.
- While noting that further progress has been made in the use of the Structural Funds, the Council acknowledges the need for further improvement taking into account the changes required by the new regulations. To this end, the Council would encourage the Commission to continue its action in supporting the Member States, which are primarily responsible for the implementation of the Structural Funds.
- The Council would point out that, in spite of the progress made up to now, simplification of procedures and rules remains an objective yet to be fully achieved. In order to achieve high quality of the structural actions, the Council therefore recommends that the Commission and the Member States continue their efforts to make the current simplification more effective in terms of sound financial management and to ensure the effectiveness and best possible take-up of structural funding."

SEA TRANSPORT

Minimum training of seafarers - *Public deliberation*

(3658/03)

The Council adopted the Directive on the minimum level of training of seafarers. This Directive aims at simplifying the recognition of certificates by introducing a centralised and harmonised procedure for a Community-wide recognition of third countries complying with the STCW Convention and establishing a specific procedure for the withdrawal of the recognition, as well as for the monitoring on a regular basis of third countries' compliance with the STCW Convention.

ENVIRONMENT

Forest Focus - Public deliberation

(13463/1/03 - 14126/03)

The Council approved the amendments adopted by the European Parliament at second reading on the proposal for a Regulation concerning monitoring of forest and environmental interactions in the Community. Consequently, and since the EP's amendments correspond to a compromise agreement reached by the Council, the Regulation is adopted in the form of the Council's Common Position thus amended. The Swedish delegation voted against.

The Regulation provides a multi-annual framework covering initially a 6 year period from 2003 to 2008. It aims at adapting the scope of the existing Council regulations (EEC) N° 3528 /86 and (EEC) N° 2158/92 to provide a flexible monitoring scheme to assess forest ecosystem conditions in a broader context. It also simplifies existing activities by regrouping elements of both regulations under a single framework regulation covering the protection and monitoring of forests.

APPOINTMENTS

Committee of the Regions

(13953/03)

The Council has decided to appoint:

(a) the following person a member of the Committee of the Regions:

Ms Mona-Lisa NORRMAN in place of Mr Rune HJÄLM

(b) the following persons alternate members of the Committee of the Regions:

Ms Ulla NORGREN in place of Mr Bengt-Anders JOHANSSON

Ms Ewa-May KARLSSON in place of Mr Hans KLINTBOM

Mr Kent PERSSON in place of Ms Mona-Lisa NORRMAN

for the remainder of their term of office, which runs until 25 January 2006.