



## Statewatch

### The “Hague Programme” Timetable

**2004**

*From 1 May 2004:* The second phase of development of a common policy in the field of asylum, migration and borders started on 1 May 2004. It should be based on solidarity and the principle of burden sharing and include closer practical co-operation between Member States, including technical assistance and exchange of information, monitoring of the adequate and timely implementation and application of instruments as well as further harmonisation of legislation.

*Dec. 2004:* The European Council will endorse the new European Strategy on Drugs 2005-2012 that will be added to this programme.

*Dec. 2004:* The Commission is invited to present its proposals on enhancing the exchange of information from national records of convictions and disqualifications, in particular of sex offenders, by December 2004 with a view to adoption by the Council by the end of 2005.

*End of 2004:* The European Council urges the Member States to enable Europol in cooperation with Eurojust to play a key role in the fight against serious cross-border (organised) crime and terrorism by...ratifying and effectively implementing the necessary legal instruments by the end of 2004<sup>1</sup>...

The European Council urges the Member States to enable Eurojust to perform its tasks by...effectively implementing the Council Decision on Eurojust by the end of 2004<sup>2</sup> with special attention to the judicial powers to be conferred upon their national members...

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<sup>1</sup> Europol Protocols: the Protocol amending Article 2 and the Annex to the Europol Convention of 30 November 2000, OJ C 358 13.12.00, p. 1, the Protocol on the privileges and immunities of Europol, the members of its organs, its Deputy Directors and its members of 28 November 2002 OJ C 312 16.12.2002, p.1 and the Protocol amending the Europol Convention of 27 November 2003, OJ C 2 6.1.2004. The Convention of 29 May 2000 on mutual assistance in criminal matters between the Member States, OJ C 197, 12.7.00, p. 1 and its accompanying Protocol of 16 October 2001 OJ C 326, 21.11.01, p. 2 and Framework Decision 2002/465/JHA of 13 June 2002 on Joint Investigation Teams, OJ L 162, 20.6.02, p. 1.

<sup>2</sup> OJ L 63, 6.3.2002, pages 1-3.

**2005**

In the light of this Programme, the European Council invites the Commission to present an **Action Plan** in 2005 in which the aims and priorities of this programme will be translated into concrete actions. The plan shall contain a timetable for the adoption and implementation of all the actions.

It is vital for the Council to develop in 2005 practical methods to facilitate timely **implementation** in all policy areas....

The European Council invites the Council and the Commission to establish appropriate structures involving the **national asylum services** of the Member States with a view to facilitating practical co-operation. Thus Member States will be assisted, inter alia, in achieving a single procedure for the assessment of applications for international protection, and in jointly compiling, assessing and applying information on countries of origin, as well as in addressing particular pressures on the asylum systems and reception capacities resulting, inter alia, from their geographical location.

It invites the Commission to designate existing **Community funds** to assist Member States in the **processing of asylum applications and in the reception** of categories of third-country nationals. It invites the Council to designate these categories on the basis of a proposal to be submitted by the Commission.

the European Council...invites the Council to establish **teams of national [borders] experts** that can provide rapid technical and operational assistance to Member States requesting it, following proper risk analysis by and in the framework of the Border Management Agency, on the basis of a proposal by the Commission on the appropriate powers and funding for such teams, to be submitted in 2005;

With a view to the development of common standards, best practices and mechanisms to prevent and combat **trafficking in human beings**, the European Council invites the Council and the Commission to develop a plan in 2005.

The European Council requests the Council to examine maximising the effectiveness and **interoperability of EU information systems** in tackling illegal immigration and improving border controls as well as the management of these systems on the basis of a communication by the Commission on the interoperability between the Schengen Information System (SIS II), the Visa Information System (VIS) and EURODAC to be released in 2005, taking into account the need to strike the right balance between law enforcement purposes and safeguarding the fundamental rights of individuals.

The European Council...invites the Commission, as a first step, to propose necessary amendments to further enhance visa policies and to submit in 2005 a proposal on the establishment of **common application centres**.

Regarding **family and succession law**, the Commission is invited to submit the following proposals: a draft regulation on the recognition and enforcement of decisions on maintenance, including precautionary measures and provisional enforcement in 2005; a Green Paper on the conflict of laws in matters of succession, including the question of jurisdiction, mutual recognition and enforcement of decisions in this area, a European certificate of inheritance and a mechanism allowing precise knowledge of the existence of last wills and

testaments of residents of European Union in 2005... a green paper on the conflict of laws in matters relating to divorce (Rome III) in 2005

*Early in 2005:* The European Council considers it essential that the Council start discussions in early 2005 on minimum standards for return procedures including minimum standards to support effective national removal efforts. The proposal should also take into account special concerns as regards safeguarding public order and security. A coherent approach between return policy and all other aspects of the external relations of the Community with third countries is necessary as is special emphasis on the issue of lack of travel and identification documents.

*1 January 2005:* With effect from 1 January 2005, SitCen will provide the Council with strategic analysis of the terrorist threat based on intelligence from Member States' intelligence and security services and, where appropriate, on information provided by Europol.

*Spring 2005:* It invites the Commission to complete the integration of migration into the Country and Regional Strategy Papers for all relevant third countries.

*Spring 2005:* Policies which link migration, development co-operation and humanitarian assistance should be coherent and be developed in partnership and dialogue with countries and regions of origin. The European Council welcomes the progress already made, invites the Council to develop these policies, with particular emphasis on root causes, push factors and poverty alleviation, and urges the Commission to present concrete and carefully worked out proposals by the spring of 2005.

*March 2005:* [Proposals on exchange of information on convictions and disqualifications] should be followed in March 2005 by a further proposal on a computerised system of exchange of information.

*1 April 2005:* The European Council, taking into account the assessment by the Commission and the strong views expressed by the European Parliament in their Recommendation, asks the Council to adopt a decision based on Article 67(2) TEC immediately after formal consultation of the European Parliament and no later than 1 April 2005 to apply the [co-decision] procedure provided for in Article 251 TEC to all Title IV measures to strengthen freedom, subject to the Nice Treaty, except for legal migration.

*1 May 2005:* The European Council welcomes the establishment of the European Agency for the Management of Operational Co-operation at the External Borders, on 1 May 2005.

*1 July 2005:* The evaluations undertaken as from 1 July 2005 must be systematic, objective, impartial and efficient, while avoiding too heavy an administrative burden on national authorities. Their goal should be to address the functioning of the measure and to suggest solutions for problems encountered in its implementation and/or application.

*End of 2005:* The European Council invites the Commission to present a policy plan on legal migration, including admission procedures capable of responding promptly to fluctuating demands for migrant labour in the labour market.

*End of 2005:* [EU-Regional Protection Programmes] will build on experience gained in pilot protection programmes to be launched before the end of 2005.

These programmes will incorporate a variety of relevant instruments, primarily focused on capacity building, and include a joint resettlement programme for Member States willing to participate in such a programme.

*End of 2005:* The European Neighbourhood Policy provides the strategic framework for intensifying co-operation and dialogue on asylum and migration with neighbouring countries, and for initiating new measures. The European Council requests a report on progress and achievements before the end of 2005.

*End of 2005:* Without prejudice to work in progress<sup>3</sup> the Commission is invited to submit proposals by the end of 2005 at the latest for the implementation of the principle of availability [of law-enforcement information]....

*End of 2005:* The Council and the Member States should develop by the end of 2005 in cooperation with CEPOL standards and modules for training courses for national police officers with regard to practical aspects of EU law enforcement cooperation.

*End of 2005:* The Commission is invited to develop by the end of 2005 systematic exchange programmes for police authorities aimed at a better understanding of the working of Member States' legal systems and organisations.

*End of 2005:* ...the draft Framework Decision on certain procedural rights in criminal proceedings throughout the European Union should be adopted by the end of 2005.

*End of 2005:* The Council should adopt by the end of 2005 the Framework Decision on the European Evidence Warrant<sup>4</sup>.

*End of 2005:* The Commission is invited to present its proposals on enhancing the exchange of information from national records of convictions and disqualifications, in particular of sex offenders, by December 2004 with a view to adoption by the Council by the end of 2005.

*End of 2005:* In addition to the aspects already addressed in the previous chapters, the European Council calls on the Commission and the Secretary-General / High Representative to present, by the end of 2005, a strategy covering all external aspects of the Union policy on freedom, security and justice, based on the measures developed in this programme to the Council. The strategy should reflect the Union's special relations with third countries, groups of countries and regions, and focus on the specific needs for JHA cooperation with them.

## 2006

It is important to protect public organisations and private companies from organised crime through administrative and other measures. Particular attention should be given to systematic investigations of property holdings as a tool in the

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<sup>3</sup> The Draft framework decision on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union, in particular as regards serious offences including terrorist acts.

<sup>4</sup> COM(2003) 688.

fight against organised crime. Private/public partnership is an essential tool. The Commission is invited to present proposals to this effect in 2006.

Regarding family and succession law, the Commission is invited to submit the following proposals:....a Green Paper on the conflict of laws in matters concerning matrimonial property regimes, including the question of jurisdiction and mutual recognition in 2006.

*1 January 2006:* The Council with the assistance of the EU Counter-Terrorism Coordinator should, by 1 January 2006, together with the Commission and experts of the Member States, develop a long term strategy to address the factors which contribute to radicalisation and recruitment for terrorist activities.

*1 January 2006:* With effect from 1 January 2006, Europol must have replaced its "crime situation reports" by yearly "threat assessments" on serious forms of organised crime, based on information provided by the Member States and input from Eurojust and the Chiefs Police Task Force. The Council should use these analyses to establish yearly strategic priorities, which will serve as guidelines for further action. This should be the next step towards the goal of setting up and implementing a methodology for intelligence-led law enforcement at EU level.

*early 2006:* The European Council invites the Commission...to review the Common Consular Instructions and table the appropriate proposal by early 2006 at the latest

*1 July 2006:* ...the European Council calls for the Council and the Commission to set up within the existing structures an integrated EU crisis management arrangement for cross border crises within the EU addressing this coordination, to be implemented at the latest by 1 July 2006. This arrangement should at least address the following issues: further assessment of member states' capabilities, stockpiling, training and joint exercises.

*1 November 2006:* Since the [Hague] programme will run for a period during which the Constitutional Treaty will enter into force, a review of its implementation is considered to be useful. To that end, the Commission is invited to report by the entry into force of the Constitutional treaty (1 November 2006) to the European Council on the progress made and to propose the necessary additions to the programme, taking into account the changing legal basis as a consequence of its entry into force.

*End of 2006:* The European Council....invites the Council and the Commission to establish a Community border management fund by the end of 2006 at the latest;

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*End of 2006:* The European Council...stresses the importance of the swift implementation of the VIS starting with the incorporation of among others alphanumeric data and photographs by the end of 2006 and biometrics by the end of 2007 at the latest.

*After Constitutional Treaty in force (scheduled for 1 Nov. 2006):* The European Commission is invited to prepare proposals to be tabled as soon as the Constitutional Treaty has entered into force about the role of the European Parliament and the national parliaments in the evaluation of Eurojust's activities and the scrutiny of Europol's activities.

*After Constitutional Treaty in force (scheduled for 1 Nov. 2006):...the Council is invited to prepare for the setting up of the committee on internal security, envisaged in Article III-261 of the Constitutional Treaty, in particular by determining its field of activity, tasks, competences and composition, with a view to its establishment as soon as possible after the Constitutional Treaty has entered into force.*

## 2007

The Commission is invited to conclude the evaluation of first-phase legal instruments [of the Common European Asylum System] in 2007.

The European Council calls for:...the establishment of a European Return Fund by 2007...

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The European Council urges the Council, the Commission and Member States to take all necessary measures to allow the abolition of controls at internal borders as soon as possible after the Schengen Information System (SIS II) has become operational in 2007, provided all requirements to apply the Schengen acquis have been fulfilled.

The European Council....invites the Commission as soon as the abolition of controls at internal borders has been completed, to submit a proposal to supplement the Schengen evaluation mechanism with a supervisory mechanism, ensuring a role for Member States experts, including unannounced inspections.

*End 2007:* It requests the Commission to submit an evaluation of the [European Borders] Agency to the Council before the end of 2007. The evaluation should contain a review of the tasks of the Agency and an assessment of whether the Agency should concern itself with other aspects of border management, including an enhanced co-operation with customs services and other competent authorities for goods-related security matters.

....The review of the tasks of the Agency envisaged above and in particular the evaluation of the functioning of the teams of national experts should include the feasibility of the creation of a European system of border guards.

*End 2007:* The European Council...stresses the importance of the swift implementation of the VIS starting with the incorporation of among others alphanumeric data and photographs by the end of 2006 and biometrics by the end of 2007 at the latest.

## 2008

The Commission is asked to submit in 2008 a report to the Council and the European Parliament, accompanied by proposals if appropriate for allowing EU citizens to move within the European Union on similar terms to nationals of a Member State moving around or changing their place of residence in their own country, in conformity with established principles of Community law.

*1 January 2008:* With effect from 1 January 2008 the exchange of such [law-enforcement] information should be governed by the principle of availability,

which means that, throughout the Union, a law enforcement officer in one Member State who needs information in order to perform his duties can obtain this from another Member State and that the law enforcement agency in the other Member State which holds this information will make it available for the stated purpose, taking into account the requirement of ongoing investigations in that State.

*1 January 2008:* The Council should adopt the European law on **Europol**, provided for in Article III-276 of the Constitutional Treaty, as soon as possible after the entry into force of the Constitutional Treaty and no later than 1 January 2008, taking account of all tasks referred to Europol.

*1 January 2008:* The Council should adopt on the basis of a proposal of the Commission the European law on **Eurojust**, provided for in Article III-273 of the Constitutional Treaty, after the entry into force of the Constitutional Treaty but no later than 1 January 2008, taking account of all tasks referred to Eurojust.

## **2010**

*end 2010:* The second-phase instruments and measures [of the **Common European Asylum System**] should be submitted to the Council and the European Parliament with a view to their adoption before the end of 2010. In this framework, the European Council invites the Commission to present a study on the appropriateness, the possibilities and the difficulties, as well as the legal and practical implications of joint processing of asylum applications within the Union. Furthermore a separate study, to be conducted in close consultation with the UNHCR, should look into the merits, appropriateness and feasibility of the joint processing of asylum applications outside EU territory, in complementarity with the Common European Asylum System and in compliance with the relevant international standards.

*End 2010:* When a common asylum procedure has been established by the end of 2010, these structures [involving the national asylum services] should be transformed, on the basis of an evaluation, into a European [asylum] office to assist all forms of co-operation between Member States relating to the Common European Asylum System.

## 2011

Continued implementation of the programme of measures on mutual recognition [in civil law]<sup>5</sup> must therefore be a main priority in the coming years to ensure its completion by 2011.

Instruments in these [family law] areas [regulation on the recognition and enforcement of decisions on maintenance, including precautionary measures and provisional enforcement; conflict of laws in matters of succession, including the question of jurisdiction, mutual recognition and enforcement of decisions in this area, a European certificate of inheritance and a mechanism allowing precise knowledge of the existence of last wills and testaments of residents of European Union; conflict of laws in matters concerning matrimonial property regimes, including the question of jurisdiction and mutual recognition; the conflict of laws in matters relating to divorce] should be completed by 2011.

## Every six months

To gain practical experience with coordination in the meantime [until the EU Internal Security Committee is set up], the Council is invited to organise a joint meeting every six months between the chairpersons of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) and the Article 36 Committee (CATS) and representatives of the Commission, Europol, Eurojust, the EBA, the Police Chiefs' Task Force, the SitCEN .

## Yearly

The Commission is invited to present to the Council a yearly report on the implementation of the Hague programme ("scoreboard").

The Commission should prepare a yearly evaluation report of measures adopted to inform the Council, the European Parliament and the national parliaments.

Until that time [1 Jan. 2008], Europol must improve its functioning by making full use of the cooperation agreement with Eurojust. Europol and Eurojust should report annually to the Council on their common experiences and about specific results.

## No date given

The European Council... invites the Commission to submit without delay the necessary proposal in order to respect the agreed time frame for implementation of the VIS...

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<sup>5</sup> OJ C 12, 15.1.2001, page 1-9.

... with the Constitutional Treaty in prospect, thought should be given to setting up a more formal solution to handle requests for preliminary rulings concerning the area of freedom, security and justice, where appropriate, by amending the Statutes of the Court [of Justice]. The Commission is invited to bring forward - after consultation of the Court of Justice - a proposal to that effect.

In order to facilitate full implementation of the principle of mutual recognition, a system providing for objective and impartial evaluation of the implementation of EU policies in the field of justice, whilst fully respecting the independence of the judiciary and consistent with all the existing European mechanisms, shall be established.

Strengthening mutual confidence requires an explicit effort to improve mutual understanding among judicial authorities and different legal systems. In this regard, networks of judicial organisations and institutions, such as the network of the Councils for the Judiciary, the European Network of Supreme Courts and the European Judicial Training Network, should be supported by the Union.

Exchange programmes for judicial authorities will facilitate cooperation and help develop mutual trust. An EU component should be systematically included in the training of judicial authorities. The Commission is invited to prepare as soon as possible a proposal aimed at creating an effective European training network for judicial authorities for both civil and criminal matters, as envisaged by Articles III-269 and III-270 of the Constitutional Treaty.

The comprehensive programme of measures to implement the principle of mutual recognition of judicial decisions in criminal matters, which encompasses judicial decisions in all phases of criminal procedures or otherwise relevant to such procedures, such as the gathering and admissibility of evidence, conflicts of jurisdiction and the ne bis in idem principle and the execution of final sentences to imprisonment or other (alternative) sanctions<sup>6</sup>, should be completed and further attention should be given to additional proposals in that context.

The European Council recalls that the establishment of minimum rules concerning aspects of procedural law is envisaged by the existing and future treaties in order to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross border dimension. The approximation of substantive criminal law serves the same purposes and concerns areas of particular serious crime with cross border dimensions. Priority should be given to areas of crime that are specifically mentioned in those treaties.

To ensure more effective implementation within national systems, JHA ministers should be responsible within the Council for defining criminal offences and determining penalties in general.

The European Council invites the Council to consider the further development of Eurojust, on the basis of a proposal from the Commission.

Continued implementation of the programme of measures on mutual recognition [in civil law]<sup>7</sup> must therefore be a main priority in the coming years to

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<sup>6</sup> OJ C 12, 15.1.2001, pages 10-22.

<sup>7</sup> OJ C 12, 15.1.2001, page 1-9.

ensure its completion by 2011. Work concerning the following projects should be actively pursued: the conflict of laws regarding non-contractual obligations ("Rome II") and contractual obligations ("Rome I"), a European Payment Order and instruments concerning alternative dispute resolution and concerning small claims. In timing the completion of these projects, due regard should be given to current work in related areas.

In matters of contract law, the quality of existing and future Community law should be improved by measures of consolidation, codification and rationalisation of legal instruments in force and by developing a common frame of reference. A forum should be created for drawing up and facilitating the use of EU-wide standard terms and conditions of contract law which could be used by companies and trade associations in the Union.

Measures should be taken to enable the Council to effect a more systematic scrutiny of the quality and coherence of all Community law instruments relating to cooperation on civil law matters.

Accession of the Community to the Hague Conference should be concluded as soon as possible.