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NOTE

from : Presidency
to : Council

Subject : Report by the Future Group (Justice)

The Presidency forwards to the Council herewith the report from the Future Group (Justice) contained in 11549/08 JAI 369, with the request that the Council take note and forward it to the Commission so that it can take it into account when drawing up the programme to succeed the Hague Programme for the period from 2010 to 2014.

We are also forwarding the executive summary from the Group presented by the Presidency at the informal ministerial meeting in Cannes on 8 July 2008.

The Council will find attached the contributions received from the various Member States. The Presidency requests that the Council also take note of them and forward them to the Commission so that it can take them into account as well when drawing up the programme to succeed the Hague Programme for the period from 2010 to 2014.

In forwarding the Group's report to the Council, the Presidency points out that the report refers to new possibilities for action that could be envisaged in a new legal framework. That reference is of course completely without prejudice to the outcome of the process of ratification of the Lisbon Treaty.

**Executive summary presented by the Presidency at
the informal ministerial meeting held
in Cannes on 8 July 2008**

Future Group on Justice

The European Union is preparing to set out the priorities for its action in the field of justice in the period 2010-2014. A lot of the Hague Programme (2005-2009) has already been achieved, but a lot remains to be done.

More than ever, Europe has a duty to act and to convince its citizens of the added value of building the European area of security, justice and freedom. We must maintain the orientations which we have set, give greater priority to the most important of them, and sustain the pace and intensity of our efforts. **The Future Group of Justice included the Ministers of Justice of Germany, Portugal, Slovenia, France, the Czech Republic and Sweden and the Vice-President and Commissioner for Justice, Freedom and Security.** We wish to contribute to this necessary new impetus through a pro-active and ambitious political initiative. The Group would like to thank the Chairs of the European Parliament Committees LIBE and JURI, and our Spanish, Hungarian, Irish, Finnish, British, Dutch, Estonian and Visegrád Group colleagues for their interest in the initiative and for the very useful and constructive contributions which they have presented to the Group.

The results of our discussions are contained in a report, which was started under the Portuguese Presidency and finalised under the Slovenian Presidency, and which sets out our proposals for the future. The report describes in great detail horizontal issues and specific areas of action for the future and contains a summary of the proposals. As the ratification process of the Lisbon Treaty continues to proceed the report also refers to new possibilities of action under a new legal regime. For our discussions at the JHA Informal meeting the following issues shall be in the centre of interest:

1. Horizontal Issues

- **A return to politics is required.** First of all, we would call for the Council's political role to be strengthened. The Council has to become once more a place for political discussions. Our ability

to create a fresh impetus must be revived - this can be done in a way consistent with the European Commission's right of initiative, the prerogatives of the current Presidency and the Council's operating rules; the orientations for our action must be defined by reference to clear political objectives and implemented via sets of measures corresponding to both national and Community responsibilities and making use of the full range of options, without being confined to purely legislative responses. Let us focus the discussions within the Council on the real political issues, and mandate the appropriate preparatory bodies to implement on our behalf the concrete legislative or non-legislative steps of the overall approach we have defined.

- **Quality of legislation has to be improved - clearer language.** The accumulation of new measures, the lack of follow-up to the policies adopted and inadequate communication make the EU's action less visible and less effective. Confidence in the establishment of a Europe of law and justice would be greater if citizens understood the objectives which are being pursued, the means which are being employed and the results achieved. We have to intensify our efforts of maintaining the quality and coherence of legislation. There is a real need to establish a mechanism for evaluating the policies implemented. The financial support for the programmes needs to be more flexible and more consistent with the policies defined within the current Financial Perspective. We also wish to raise awareness among the general public of EU Justice Policy.

2. Challenges

We propose strategic objectives to be pursued in five main areas, where our concerted action within the Union has the greatest added value to offer. We propose to complete actions already begun and embark on new actions.

- 2.1. Protection of citizens.** The protection of rights and freedoms of our citizens is the first of the common values of which we, as Ministers of Justice, are the guardians within the Council. In this regard, it is incumbent on us, to increase the legal safeguards for our citizens:

- **Establishing the same level of minimum rights in criminal investigations throughout the Union:** We should make a new effort to provide all citizens with a basic set of rights as minimum guarantees if citizens are subjected to criminal investigations (effective provision of information on the proceedings and on existing rights, right to an interpreter and a defence counsel). This project should be addressed, for the sake of the rule of law, and to boost mutual trust in our respective judicial systems.
- **Increasing the protection of children in the European Union.** We propose to make protecting children against crime, in particular crime of a sexual nature, an important objective, which can be met by adopting a number of concrete solutions: cross-border network systems for alerts in cases where a child has been abducted and strengthen the system of Central authorities under the Hague Convention in case of a child abduction by a parent, increase the systematic exchange of information with Eurojust to combat pedophile criminal networks effectively, in particular those that operate through the internet.
- **Improving data protection.** The biggest dangers associated with electronic media are that they enable information to be stored for an unlimited amount of time, that their content can be cross-referenced with other databases and the use of the information for other purposes than that for which they were collected. Therefore we have to improve the data protection regimes as an essential element of the fundamental right to private life, to the status of a right to which high priority is accorded. This includes a set of fundamental rights which follow the principle of proportionality, the requirement of rules for each specific area, a right of information, correction and deletion, blocking and compensation of the person concerned, an independent data protection supervisory authority and an effective protection of personal data to prevent unauthorized access by third parties.

- **Increasing the rights of victims.** We must also promote the protection of victims of crime, increasingly large numbers of whom are affected by offences which are committed or judged in a transnational context. This objective can be achieved through a reform of the European legislation, which still has gaps in this area, supplemented by a series of concrete and effective measures: exchanging best practice, providing backing for victim support organisations, etc.

2.2. Legal certainty in private and commercial relations. In both the domestic sphere and that of commercial relationships, the quality of the operation of justice plays a part in consolidating the freedom of movement of persons, goods, capital and services, which is fundamental to the European project. With the development of the internal market, more and more of our citizens are entering into contracts, working relationships or marry partners living in other Member States. What do they expect of a European judicial area? That the relevant procedures are facilitated within this area and that their rights are recognised throughout the European Union, if a conflict should occur in their day-to-day life. The EU has set out - and the task is not an easy one - to determine which law would apply to each of these types of dispute and designate the court which would have jurisdiction. It is necessary to assess in which areas further measures are necessary and insure a proper functioning of already existing instruments; ultimately, the direct enforcement of judgments, through abolishing the exequatur procedure, should be the general objective under the condition of provided sufficient legal safeguards. The instruments of the Hague Conference on Private International Law should be strengthened. Other actions can be undertaken within a short timescale: making use of central authorities as facilitators, encouraging the legal and judicial professions to act as intermediaries, developing electronic forms of access to justice, evaluating and where necessary revise existing instruments in the area of enforcement of judgments and provision al measures as well as clarifying which law shall apply when a company is incorporated in a member state other than the one where it is mainly doing business.

2.3. Access to Justice. At this stage in the development of the European judicial area, the active involvement of those who are making it happen is an essential pre condition for its completion. This is the reason to exchange more information with Eurojust and to enable the European Judicial Network to facilitate the direct contacts between justice authorities of the member states. A judicial Europe is the work of judges, prosecutors, lawyers and members of all the professions which, from one State to another, play a part in its day-to-day operation. It is on their participation, their commitment and their expertise that we must rely to identify the innumerable ways of facilitating cooperation and to successfully complete the procedures for which they are responsible. A better knowledge of the European rules and the legal systems of neighbouring States, and the ability to communicate in other languages, are assets the acquisition of which we must continue to promote. Let us show our determination to make joint progress towards this European objective, by working to reinforce and further develop a European judicial training by establishing a first common training programme which can be implemented rapidly, making use of existing structures of the European Judicial Training Network. An important tool in making Justice more accessible to the citizens is E-Justice. The general ambition is to eventually create one-stop access points to both European and national law, also granting access to various registers or providing some filing forms for judicial proceedings. We should make maximum use of existing technical solutions within both individual member states and European structures in order to avoid duplication, e.g. the best practice and good knowledge of the Pilot Project Electronic Interconnection of Criminal Records should be taken over. It is necessary to facilitate citizen s' access to courts and facilitate links between legal practitioners: the roll-out of the major project for a European *E-justice* portal and the dematerialisation of procedures are developments which are particularly conducive to the operation of justice on a European scale.

2.4. **The fight against organised crime, including terrorism, within the rule of law.** The scourge of crime and especially terrorism is a danger for a democratic society. To combat serious crime, it is imperative to respond to it in a way which strengthens the consensus in support of the rule of law and the values associated with it: it is vitally important to prosecute and repress unlawful acts everywhere and unremittingly, by strictly applying the law while respecting all human rights. The European model of justice will become established by virtue of its balance, consistency and the principle of proportionality, given a considerable investment of effort in adapting legislation, procedural rules and cooperation practice in the Member States. Achieving greater convergence in procedures and methods for obtaining and utilising evidence is a key issue for the day-to-day effectiveness of e judicial cooperation in criminal matters: advances in the field of scientific and technical evidence must be shared; the area of the collection of evidence may be developed via an extension of the scope of the European Evidence Warrant and an improvement of the rules governing the admissibility of legal evidence. It is also necessary to protect witnesses and victims involved in trials and to bring forward the implementation of the European criminal record.

2.5. **The development of external policy.** In this area, we have given priority to assistance for the development and strengthening of the rule of law, in particular through support for the establishment of reliable judicial systems and for the development of fundamental rights. We must resolutely continue our action in terms of influence and support, while going as far as possible beyond this initial basis, in the direction of genuine areas of legal and judicial partnership with neighbouring countries and strategic partners. In this regard, judicial cooperation would be facilitated by using international organisations, and - on a case-by-case basis - also strengthen its direct relationships with States, by extending the scope of the agreements on judicial cooperation in criminal and civil matters. Lastly, direct and operational relationships could be promoted between the judicial authorities in partner States, for instance by creating networks of legal practitioners, especially judges.

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**Contributions received while the report by
the Future Group (Justice) was being drafted**

ESTONIA

Tallinn, 31 January 2008

THE CHALLENGES IDENTIFIED BY THE FUTURE GROUP IN JUSTICE: PRELIMINARY ESTONIAN VIEWS

1. Legislation

Before proceeding any further we deem it essential that in addition to setting priorities, increased attention should be paid to the full enforcement of the already existing instruments. Also, in the phase of preparation of new legislation, attention should be paid to analysing the existing law as well as new initiatives with the aim to consolidate, where possible, instruments with similar content.

2. Protection of personal data

We continue to consider the protection of personal data to be our priority, above all under the present conditions of globalization. In a rapidly changing world, we need to find a balance between granting fundamental rights of people and fight against crime. Therefore, we join several Member States and the Commission who have stated that they continue to keep the area of protection of personal data among their priorities.

3. Child protection

Estonia has, on the national level, put great emphasis on fighting crime committed against and by children. As the number of people taking use of the opportunities presented by free movement and information technology is steadily growing, also the trend where the problems related thereto simultaneously affect several Member States is increasing. Therefore, we would like to see more attention paid to those issues on the EU level.

In the area of developing child protection, it is very important to strengthen the cooperation between different areas (internal, judicial, social, education), and to ensure that all activity for ensuring the rights of children is integrated and systematic. We must make sure that activities are not duplicated and pool our efforts to improve the well-being of children.

4. Creating a more favourable legal environment for cross-border economic relations

At present, there are some discrepancies between the EU legislation regulating contract law which should be eliminated in our view. Hence, Estonia is interested in the creation of a common European contract law in the future. The existence of a common civil law regulating contractual relationships which the contracting partners of different EU Member States could choose to regulate their mutual relationships would significantly simplify the economic relations and lower the trade barriers. Developing a framework of common contract law would also promote, to a considerable extent, the evolution of academic research in the area of law in Europe as the European universities would have the opportunity to teach and research European contract law and the states would be able to use the judicial research materials on contractual right compiled by the top universities of Europe.

5. E-justice and cross-border authentication

An essential prerequisite for the creation of cross-border e-services is the treatment of the electronic identity (e-ID) as compatible throughout Europe. Such an approach would enable to improve the landscaping of the common European economic space, the accessibility of public services and the development of e-business.

Estonia considers it important to create and apply the principles of compatible cross-border use of the e-ID within the European Union, taking account of the experience and practices of the Member States. We feel that more attention than before should be paid, within the European Union, to the preparation of the rules, procedures and agreements related to the cross-border use of the e-ID, and to creating technical solutions for such purpose.

The creation of possibilities for secure cross-border authentication will help to simplify the administrative acts and formalities related to the administration of justice and through that, will also increase the accessibility of administration of justice.

6. Cyber crime

We should establish a clear policy on the EU level which would help to simplify cooperation in the area of cyber security. It is important to us that the policy for the prevention of cyber crime be extensive and coherent, and that such policy clearly defines the attacks against the security dimension and competitive abilities which are, from the one side, directed against the computer systems of the critical infrastructure and, from the other side, consist of crime committed through computer systems such as computer-related fraud, internet-based crime against minors and incitement of hatred. Both of the above are serious problems, but require a different approach for their prevention. We are prepared to engage in serious and constructive cooperation with the aim to find prompt solution. We have already submitted a specific proposal to the Commission which in our view will help to harmonise the legislation and practices of the Member States on the EU level. We feel that ensuring the security of computer systems and critical infrastructure should also be reflected as a priority issue in the post-Hague program as the area of cyber crime is developing rapidly.

7. Crimes against humanity

In April of 2007, the Council of the European Union reached a political agreement concerning the framework decision on combating racism and xenophobia. Upon approval of the framework decision, the Commission has promised to investigate whether there is a need for an additional instrument which would address the public approval, denial or gross trivialisation of genocide, crimes against humanity and war crimes directed against a population group defined, for example, by their social status or political beliefs, and to submit a relevant report to the Council no later than within two years after the entry into force of the framework decision.

We consider this issue to be of high importance, and continuing discussions relating to this area to be necessary.

8. Cooperation with third countries

It is in Estonia's interests that the European Union will continue to enhance its cooperation with its neighbours in civil as well as in criminal matters. The European Union should encourage its neighbours to accede to various international conventions dealing with civil and criminal law (e.g. different instruments prepared by the Council of Europe and the Hague Conference on Private International Law). It is also very important that such instruments would be put into actual use and that the use thereof would be supervised by independent international institutions.

NETHERLANDS

The contribution of the Netherlands to the Future Group, 27 March 2008

§ 1 Introduction

The JHA policy is based on trust and practical collaboration (actual implementation of existing instrument) and should be geared to concrete needs (demand-driven new actions).

In the field of the Justice and Home Affairs (JHA) policy several actions have already been taken, developed and commenced within the European Union (EU). A new JHA multi-annual framework after 2010 should of course follow up these actions and their results while at the same time supplement them. An important point of departure for the Netherlands is the question of what is actually needed in practice in the field of JHA collaboration within the EU. The Netherlands takes the view that practical measures are needed that highlight the added value of EU collaboration in the field of Justice and Home Affairs to citizens, politicians and enforcement authorities and, as a result, reinforce trust in such collaboration and hence in the JHA policy. New collaboration initiatives should focus on the solution of urgent problems occurring in various member states.

§ 2 Trust

Trust among authorities and services and trust of citizens and politicians is the basis for JHA collaboration. Trust requires constant upkeep. Measures should be taken to realise this. According to the Netherlands it is important that measures are taken to maintain and reinforce such trust.

Trust between the EU member states in one another's legal system and the administration of justice and in the European legal system and among EU bodies constitutes the basis for constructive and permanent collaboration in the field of JHA. Trust at all these levels is a prerequisite for proper collaboration in the field of JHA and justifies it. At the same time, trust is fed and reinforced by good results of JHA collaboration. Trust and collaboration, in other words, are communicating vessels. There should be trust at different levels:

- trust among the judicial authorities and the different police services to engage in cross-border collaboration;
- trust of citizens in secure rights wherever they are in the EU;
- trust of national politicians in the effectiveness of the JHA policy.

Given that trust is relevant at various levels, measures should also be taken at various levels.

Common standards in procedural law, processes and procedures

Aside from monitoring the rule of law in the member states, trust in the operational collaboration may also benefit from trust in processes and procedures in the member states meeting certain standards. Perhaps this requires some harmonisation of procedural law, procedures and processes, to ensure that one enforcement authority knows that the other enforcement authority has observed certain procedures in obtaining information and evidence thereby inspiring trust in the results.

For example, harmonisation of procedural law, but also of the common certification of processes and criteria for expert registers, reinforces trust in and thus the usefulness of products and results to which experts (e.g. forensic experts) contribute. In that respect common supplementary standards on the procedural rights of suspects may also contribute to mutual trust among both enforcement authorities and EU citizens.

Guaranteeing data protection by way of technologies

The increased exchange of data requires a review of data protection. Both from the point of view of the citizens whose data is shared and from the point of view of the collaboration enforcement services that have to be able to trust that the data they supply is treated correctly and in conformance with agreements. Thus trust in one another's data protection regimens contributes to the success of the optimal exchange of data serving Justice objectives. Where such trust is inadequate, both the use of information systems and handling international requests for information will lag behind. Especially in the EU where technological developments have contributed to new generations of data exchange (immediate digital access, do-it-yourself rather than send and-wait, hit/no-hit) it may be useful to explore where technological developments may enhance the monitoring of correct access and correct access to data (logging, tracing, privacy-enhanced access control or authentication/certification, reliability, robustness and abuse prevention in privacy systems).

Meeting

The Netherlands would like to emphasise the importance of meeting each other. Meetings between enforcement authorities strengthens mutual trust. Knowing one another, knowing how the other party works and discussing this with each other will reinforce trust. It is therefore important that we invest in meetings between enforcement authorities (the various services in the EU member states and the European forums, e.g. Europol, CEPOL, Eurojust and Sitcen) and in meetings between members of the judiciary, for example by organising discussions, joint training and education programmes. The Forum of practitioners as a networking opportunity as proposed by the European Commission may perhaps have a complimentary role in that regard.

Monitoring

Monitoring one another in the field of the rule of law - and not just the new member states - is an appropriate method. Periodically, the member states jointly discuss the developments in the field of the rule of law in the EU as a whole and in the individual member states. Not in order to judge individual member states, but as an instrument that works both ways and to involve member states in reinforcing the rule of law in the EU. This contributes to trust among politicians and between enforcement authorities and citizens in the EU. In addition, member states gather information and knowledge about each other's legal system and its practical implementation, which in turn has collateral benefits.

§ 3 Practical collaboration

Practical collaboration is strengthened by, on the one hand, focusing on the best possible implementation of existing instruments in practice. In addition, and on the other hand, supplementary or new measures should be taken, further to identified practical needs, to improve practical collaboration in the field of JHA.

The effective, practical and coherent implementation of the acquis should be ensured. Lessons should be drawn from the outcome of the measures and, if necessary, follow-up steps should be taken. The following tools may be useful in that regard: monitoring and evaluation and sharing knowledge and experiences.

3.1 Optimal implementation through various ways

There is a tendency to look for the solution in new legislative instruments and policy measures. The Netherlands takes the position that investments should in particular be made in optimising the implementation of existing measures in practice. Existing measures should be implemented in a timely fashion, comprehensively and structurally and maximum use should be made of them. If necessary, conditions should be created to facilitate this. More focus is needed on practical collaboration, the exchange of public officers, sharing knowledge and information and joint training and education. Such measures are required to effectively implement existing agreements, which in turn highlights the added value of EU and more specific JHA collaboration to citizens and thereby contributes to reinforcing trust.

Optimising through monitoring and evaluation

The monitoring option relating to implementation will increase in this field given that the Court's jurisdiction is extended under the Lisbon Treaty (infringement proceedings). This will better safeguard the implementation of agreed instruments. Monitoring is also important in respect of the measures taken in the field of the anti-terrorism actions. The CTC regularly (twice a year) reports on the state of affairs but such reports are too noncommittal. This procedure, however, is too noncommittal. Clearer consequences should be attached to failure to perform.

However, this does not mean that agreed instruments may not have same undesired side effects in practice or prove less effective than planned. By way of an evaluation it can be thoroughly assessed whether improvement proposals are required to better serve practical needs, e.g. by supplementary or alternative policy measures or legislative instruments. In that light it may also be reviewed whether the current evaluation method (as regards criminal law based on a mechanism adopted by joint action 1997), namely a questionnaire and a study visit, suffices. Given that no provision was made for an evaluation of all instruments it should be determined how the practical effectiveness of these instruments might be assessed, the consequences of the assessment, and which mechanism would be most appropriate to do so. Input from expert networks (European Judicial Network in Civil and Commercial Matters, Councils for the Judiciary, etc.) and the Justice Forum might play a complementary part in that regard.

Optimizing by sharing knowledge and experiences

Joint training and education programmes for enforcement authorities of EU member states may increase operational collaboration. The Lisbon Treaty creates more opportunities for training and education. Joint training and exchange of experiences may prove most useful within an EU context in the sense that the exchange of best practices may lead to improved collaboration and better results in the joint fight against crime and terrorism.

Sharing experiences relating to issues that do not (yet) dominate the JHA agenda but nevertheless occur throughout the EU may contribute to improved collaboration. For example, problems in certain areas of major European cities: run-down areas, violence against government officials, radicalisation among citizens, the emergence of no-go areas and the proliferation of organised (small) crime. Although the resolution to such problems is not often sought in collaboration within the EU, sharing experiences about national actions and methods may have great benefits.

Three examples to illustrate the value of sharing knowledge and experiences. The Netherlands has gained positive experiences in administrative action against organised crime. This innovative approach is not yet known on an European level and the Netherlands would like to share its experience with other member states. It is important in that regard to examine the existing policies in that field in the different member states focusing on integrated action. The second example regards combating radicalisation. In that regard the Netherlands favours local action focusing on prevention, signalling and intervention. The role of local authorities, (community) police officers, teachers and juvenile welfare workers is crucial in that respect and focuses on collaboration in order to recognise radicalisation tendencies at an early stage. The objective is to revert the impending threat, whereby population groups feel alienated from society, isolate themselves and then rebel against that society. Practical collaboration, such as joint training exercises, and exchanging best practices between EU member states may make a useful contribution to the European action against radicalisation. In dealing with online extremism it would also be useful to share experiences on barring or blocking such content, self-regulation options or other measures with which member states have gained experience.

Other member states may have gained interesting experiences in other fields. Sharing and making use of these experiences, the exchange of successful action methods, the exchange of authorities and sharing information may optimise the collaboration between member states thanks to the more specific nature of the collaboration.

Optimising by joint exercises

Aside from sharing knowledge and experiences it is also of vital importance to intensify joint exercises among the EU member states. This is of particular relevance to the field of disaster relief and emergencies measures. The greatest challenge in the future is the development of a coherent international cooperation between all parties involved in the international safety and security community. After all the common threats don't stop at our borders. The practical components of such collaboration are essential, including testing agreements by organising more (cross-border) exercises. This is a good opportunity to strengthen any weak links. The planned peer evaluations regarding preparedness and response of attacks may provide a good basis for this. This is not confined to emergencies measures after terrorist attacks, but also to managing an emergency after a natural disaster. A sound future mechanism of civil protection for all member states is not only a challenge in the near future, it is also a necessity. In case of emergencies it is important that the crisis is handled on a local level. If the crisis is too big to handle at this level European solidarity is of utmost importance. Member States can support each other by making use of self supporting operational modules. Transparency concerning finance of mutual assistance and a improvement of the EU Monitoring and Information Centre (MIC) can increase the efficiency of the emergency assistance as well. These principles of this renewed European crisis management system were stated by The Netherlands in a joint non paper together with Germany, Sweden, Finland, Austria and the UK recently.

National responsibility vs. EU responsibility

Special attention should be drawn to the balance between national responsibility in the field of civil protection and the principle of solidarity within the EU. In order to sustain solidarity, the member states must first and foremost accept their own responsibility in the field, if necessary, with the assistance of other member assistance. Once the individual member states have taken all the necessary measures and preventive measures to avoid a disaster, the EU may subsequently show its solidarity where necessary.

3.2 New measures based on a demand-driven approach

In each phase -prevention, investigation, prosecution and enforcement - it should be reviewed whether the operational collaboration is open to improvement. For example, by screening the results of collaborative instruments and agreements. In each phase, the practical needs should be examined, for example, the need for other kinds of collaboration or a more technical exchange.

3.2.1 Prevention

In the post-Hague Programme more emphasis should be place on prevention of the types of crime and terrorism to which the JHA Council has given priority. After all preventing terrorist attacks and preventing certain problems from escalating is the starting point. Recommendations in this field have already been made in section 3 (prevention of terrorism and administrative action) and 4 (human trafficking).

Prosecution and investigation

According to the Netherlands further detailing the principle of availability (availability+) and seeing to one single sound follow-up trajectory is needed, whereby one single efficient evidence obtaining regimen in the EU is important. In addition, providing more direction of the different instruments, in particular in the fight against human trafficking, is important.

Demand-driven further detailing of the principle of availability

The current basic principle in the EU is formulated in the Hague Programme: throughout the EU a law enforcement authority in one member state may obtain information required in the performance of its duties from another member state and that the law enforcement authority in the other member state makes such information available with due regard to the interest of the pending investigations in that member state. In addition, it is essential that the conditions subject to which information is shared be sound. The performance of the law enforcement authorities must be reliable, their systems must be reliable, and the administration of justice must be in order.

Various systems have meanwhile been developed in the EU to realise this, e.g. Prüm (digital hit/no-hit questions) and the Swedish framework decision (classical question answer method but subject to a mandatory time-limit). And prior to the Hague Programme, various systems were selected to facilitate the exchange of data and access to such data, such as Eurodac and SIS. In addition, many kinds of information are still exchanged in the traditional way, i.e. on the basis of the question-answer system.

According to the Netherlands practical needs should act as the guiding principle for any plans for the future. It should examine what types of information are needed in practice and how expeditious its provision should be. After all not all information is urgent. Based on that, it might be reviewed by using the identified systems, which exchange systems are most suitable to the different types of information taking account of the specific nature of the type of information, opportunities, effectiveness and necessity.

By improving the exchange of information within the EU emphasis should not be on concluding new treaties or developing new instruments, but rather on the optimal implementation of existing instruments and treaties. In addition, available information of one domain might also be used for another domain (for example Eurodac on behalf of enforcement).

The exchange of information is not confined to information of police and judicial authorities, given that, especially in the field of human trafficking, other kinds of information may also contribute to completing the criminal file (for example public information of the Chamber of Commerce, disclosure of the names of managers of legal entities, information regarding social security, health and safety inspectorate). The exchange of such information has not yet been clearly embedded in the EU even though it may be relevant to completing criminal files.

Providing one effective evidence obtaining regimen

The combination of the European evidence warrant ("EEW") and classical legal assistance is impractical. There should be a single regimen for obtaining evidence. An example: by means of the EEW existing documented evidence may be obtained through mutual recognition. However, other evidence such as evidence that still has to be gathered by means of coercion, for example by means of a telephone tap, still has to be arranged by following the traditional request for mutual assistance.

A rather laborious procedure for the operational legal practice. The Netherlands believe that obtaining all evidence should be regulated through mutual recognition as agreed in the Action Plan of the Hague Programme (Action Plan, page 18, item 4.2 (0)).

More direction

Investigation and prosecution are inextricably linked with one another. Same areas have been prioritised. They involve the use of criminal law to protect our European shared norms and values. In our common awareness that we must continue the fight against any violation of such norms, steps have to be taken. A new incentive in further outlining an Intelligence agenda in the EU is needed. Thanks to our common Organized Crime Threat Assessment of Europol the risks are known enabling us to prioritise. The JHA Council sets these priorities. This is how we prioritised human trafficking. The implementation is however open to improvement. Concrete collaboration geared to these priorities between the EU member states involved may give a new incentive to international operational collaboration and bring to light any bottlenecks. There is no logical follow-up during better agreements on the actual action against prioritised cross border serious crime are concluded, in the sense of investigation and prosecution, focusing on the question which member states are prepared to actually initiate investigations further to EU prioritising. This requires more direction. There lies a stronger role both for Europol and Eurojust, working together. In that regard joint investigation teams must be used more often. Furthermore, the enforcement of the fight against human trafficking should be combined more with activities in the policy areas immigration and development assistance (section 4 external relations).

3.2.3 Implementation

Within the scope of the Hague Programme attention was drawn to the implementation of policy measures and legislative instruments. Thus in the next phase emphasis has to be put on the optimal implementation of those policy measures and legislative instruments.

§ 4 External relations

The world does not end at EU borders. Collaboration with other countries is necessary to combat serious forms of crime. As such we depend on each other. However, in that regard we also have to deal with countries in which human rights violations pose obstacles to collaboration in criminal investigations. Collaboration with such countries should therefore, aside from focusing on collaboration in the field of security, also draw attention to the protection of human rights.

Human trafficking, a priority

Human trafficking is rightly often referred to as a modern form of slavery and a serious violation of fundamental rights of the individual. Strong action against human trafficking and smuggling is imperative. Human rights aspects should be observed in all stages of the projected actions. Action should revolve around the protection of victims. Efforts in the EU external policy in the field of human trafficking, smuggling and illegal migration may be further intensified.

Within the scope of the EU, joint attention and collaboration should focus on three aspects: preventive measures (including the development of capacity), effective enforcement and adequate protection of victims. Within the scope of prevention of human trafficking it may be reviewed where the use of so-called 'quick action teams' or a variety on such teams might be deployed more broadly in a joint EU context. The Netherlands started a pilot of these teams geared to combining expertise in the field document fraud and risk profiles and to respond quickly and flexibly to signals regarding striking changes in the flow of migrants and activities of human traffickers in the countries of origin of human trafficking. The EU lends its assistance to (development) countries with a shortage of capacity in the field of police and judicial authorities and/or in the field of victim care and the reintegration of victims of human trafficking in the countries of origin. However, more assistance is required in setting up effective law enforcement structures in countries that are a source of human trafficking. This is combination with improved exchange of information and collaboration between police and judicial authorities in those countries and that of the EU countries. In addition, in the field of human trafficking it is imperative to focus on the protection of victims and, where appropriate, one should strive for the victims' safe return to and reintegration in the countries of origin. In particular, in countries outside the EU, in which the human rights are not always properly observed, we as EU member states may work together more emphatically. For example, by preparing risk assessments focusing on the return to such countries, exchanging experiences, but perhaps also by collaborating in the field of the logistics of their return.

We may in fact apply all these elements (technical assistance, capacity building, exchange of information and collaboration) to the entire field of illegal migration, human smuggling and human trafficking. The dividing lines between these three areas are not clear: illegal migration and human smuggling may after all result in the kind of exploitation that is key to human trafficking.

§5 Asylum/migration/borders

The proposed line regarding the asylum, migration and border policy is that the Hague Programme will be implemented and progress will be made. Existing policies must be implemented and evaluated and possible follow-up trajectories should be initiated. The French idea of a European immigration and asylum pact is in fact, aside from a few points, a further specification and clarification of the Hague Programme.

§ 6 Implications of the Treaty of Lisbon

The Treaty of Lisbon provides that parliamentary involvement shifts to the European Parliament; broad political attention is also desired in contacts between Ministers and the fractions of the European Parliament. Furthermore, we should consider redefining the work areas of the councils.

FINLAND

Helsinki, 10 January 2008

PREPARATION OF THE NEXT MULTI-ANNUAL PROGRAMME FOR THE AREA OF FREEDOM, SECURITY AND JUSTICE – PRELIMINARY FINNISH VIEWS

The Tampere Programme and the Hague Programme form a continuum which has, for a decade, provided a comprehensive framework for the area of freedom, security and justice within the EU. A balanced and coherent multi-annual programme is also needed after 2009. The new programme should ensure the monitoring and continuous assessment of the extensive work carried out during the past decade. Respect for human rights and support for democratic institutions must remain the fundamental values characterising the entire scope of the programme.

The new programme must be based on the full execution of the Hague Programme, effective implementation of the decisions already agreed on and extensive assessment of the existing regulatory framework.

When reviewing the Hague Programme in autumn 2006, the Justice and Home Affairs Council stressed the importance of the principles of subsidiarity and proportionality. In view of the different legal and administrative systems of the Member States, the Council also underlined the importance of impact assessment. Thus, one of our main aims must be the development of a comprehensive evaluation mechanism for the area of freedom, security and justice. The effectiveness of EU level action can only be improved by taking practical level experiences into account in future decision making. Improving the existing evaluation mechanisms will also support the objectives of better regulation and transparency. It is also important to maintain and further develop the current Schengen evaluation mechanism which draws on Member States' expertise.

The preparation of the new programme must be kept as open as possible. This will, later on, facilitate the actual implementation of the programme. It is important that all Member States can contribute to the preparations carried out by Presidency teams and the European Commission and that all Member States are regularly informed of progress made.

The Treaty of Lisbon introduces new possibilities for the forthcoming programme. The decision making will be more effective, the role of the EU institutions will be strengthened and legislative instruments will be the same as those applicable to the current Community policies (the first pillar). It is also necessary to take into account the declaration attached to the Treaty according to which institutions will work towards replacing, during the next five years following the entry into force of the new Treaty, as many as possible of the legislative instruments adopted under the third pillar with new instruments.

The entry into force of the Treaty of Lisbon will reinforce the Union's fundamental rights dimension. The provisions of the Charter of Fundamental rights will become legally binding. The competence of the EU Fundamental Rights Agency should be extended to include police cooperation and judicial cooperation in criminal matters. The Union must accede to the European Convention on Human Rights.

Border control, asylum and immigration policy

The need to create and implement an active, comprehensive and coherent immigration policy

The EU must continue the effective development and implementation of a comprehensive immigration policy in line with decisions adopted at the European Councils (Tampere, the Hague, Brussels 12/2006). A cross-cutting objective must be to attach greater attention to issues concerning human and fundamental rights and international protection.

The EU should also work determinedly and concretely towards promoting understanding of the links between migration and development and towards improving the coherence of policies within the EU and at global level. The EU's internal coordination in these matters should also be improved.

Within the EU, it is necessary to work actively towards the realisation of a common EU asylum system and remedy the shortcomings of the current one by, for example, improving the functioning of the Dublin system. The creation of a European asylum system should aim at far-reaching legislative harmonisation and its uniform application.

The EU's common standards on return should be further developed. The objective should be to establish a common set of effective, humane and fair return practices. Practical cooperation with third countries must be further intensified.

Finland participates actively in the development of integration policies within the EU with particular attention to the issues around the points of contact between integration policy and the promotion of work-related immigration. It is necessary to stress the central importance of measures aimed at the promotion of equality and prevention of racism and discrimination within the whole framework of EU immigration policy.

To improve the management of migration flows and to create a common immigration policy, the EU should also initiate discussion on objectives with regard to the treatment of such third-country nationals who enter Member States illegally and who are not in need of international protection, but to whom Member States, for whatever reason, decide to grant the right of residence.

Ensuring the functioning of Schengen cooperation

The introduction and smooth functioning of the new Schengen Information System (SIS II) will continue to be one of the most important objectives in the near future.

The Schengen evaluation system has up to now drawn on the expertise of Member States' authorities, and it is important to maintain this system and develop it still further to allow, for example, the carrying out of unannounced inspections.

All new members of the Schengen area must implement the Schengen rules in full. This can be guaranteed by safeguarding the operations of groups evaluating the implementation of the Schengen rules.

Border security to be improved

The development of an integrated border management system must be continued.

Particular attention must be given to strengthening the control of external borders and enabling traffic to run smoothly across our borders. The utilisation of new technologies will play an important role in these matters. The Union's cooperation will intensify at all levels of the EU four-tier border security model. The operations of Frontex will be further developed although the main responsibility for external border control will remain in the hands of Member States.

In efforts to develop external border control, particular consideration must be given to the special characteristics of border control and the concomitant requirements for specialised professional skills. In Finland's opinion, the integrated EU border management system must recognise the primacy of Member States' national responsibility for border control and, subject to this, Member States' joint responsibility which is primarily exercised through joint operations coordinated by Frontex.

The need to create a common visa policy

The European Union must ensure the establishment of a common visa policy. The common visa policy is one of the essential factors contributing to the management of migration flows which offers means to facilitate legal immigration and cross-border travel and prevent illegal immigration.

The ongoing extensive reforms, with regard to legislation and the information system, require that in the near future emphasis be placed on their proper and wide implementation.

Identification and protection of victims key issues in trafficking in human beings

In the future, too, it is necessary to pay particular attention to the broad implementation and regular assessment of the EU Action Plan for preventing trafficking in human beings.

The Action Plan must be regularly updated and extended on the basis of the Commission's proposals.

Finland considers it important that in the process of updating the Action Plan attention is given to the human trafficking phenomenon as a whole. Any new measures must provide concrete and practical ways for action. Particular attention must be given to measures which will help to better identify the trail of victims from their countries of origin to the countries of destination and promote the protection of victims and related support measures.

The possibilities brought about by the Treaty of Lisbon, and especially the new legal basis, for developing EU action against human trafficking must be fully utilised.

Judicial cooperation in the field of civil and criminal law

Mutual recognition to remain the cornerstone of judicial cooperation

Mutual recognition is to remain the cornerstone of judicial cooperation. Increasing mutual trust among Member States must be one of the key cooperation objectives in the future, too. Confidence should be increased, especially through common provisions guaranteeing a minimum protection of fundamental rights.

Currently, the instruments of mutual recognition, both in the field of criminal and civil law, constitute a complicated set of instruments which should be re-assessed as a whole. The aim should be to simplify regulation by harmonising procedures included in the existing provisions and by streamlining fragmented and sometimes inconsistent legislation. Cooperation among competent authorities must focus on accelerating procedures and on legislation which creates real added value for the resolving of cross-border crime.

By aiming at a simpler, more general and more flexible regulation, negotiations at EU level would lead to concrete results more easily than today. More coherent European regulation would also make it easier for judicial authorities to genuinely apply national legislation issued on the basis of EU instruments.

The new forms of cross-border crime, often with links to new technology and cyber crime, underline the need for ever closer cooperation among Member States and at global level.

The underlying objectives of judicial cooperation in criminal matters must be, first, to increase the risk of being caught and, secondly, to prevent crime effectively. Special attention is to be paid to the protection of children.

Mutual recognition should only in very exceptional cases, mainly in matters concerning serious crime with cross-border dimensions, require the harmonisation of national criminal law systems. In Finland's opinion, the harmonisation of substantive criminal law should primarily concern cross-border and organised crime. Defining and scaling of sanctions should respect the internal coherence of Member States' sanction systems. Within the Council, the Justice and Home Affairs Council must also be responsible for defining criminal acts and penalties as regards provisions on criminal law included in instruments pertinent to other fields.

Minimum requirements for criminal law procedures to be developed

The creation of minimum requirements for fair legal proceedings would increase Member States' mutual trust and strengthen the position of the individual particularly in cross border cases. When developing legal safeguards, particular attention should be paid to the position of the crime victim and to the fulfilment of the claimants' rights.

Finland regrets that these issues, which are essential for legal protection and mutual confidence, remain unresolved within the EU. Work must be continued within the framework of the new programme at the latest.

Cooperation in the field of civil law to focus on the international dimension

The need for regulation as regards cooperation in civil law is often global in nature. The EU and its Member States must work actively towards the development of worldwide regulation and its smooth functioning particularly within the framework of the Hague Conference on Private International Law. The objective should be that the jointly negotiated instruments of international law can be rapidly implemented throughout the Union.

Community legislation overlapping with international arrangements should be avoided. Community legislation concerning cooperation in civil law is justified mainly when it produces added value in relation to wider arrangements. For example, when at Community level it is possible to go further than at international level or when there is no international consensus. The objective must be that the various Community provisions create a coherent whole both among themselves and in relation to wider international arrangements.

In family law, it is necessary to take into consideration differences in Member States' legal systems and legal cultures.

Promoting police cooperation and strengthening security

Operational cooperation and the principle of availability to be enhanced

Member States must implement effectively operational cooperation, as laid down in the Treaty of Prüm, both nationally and as part of the Union's legal system. The benefits of multilateral cooperation among authorities must be taken into account.

Cooperation among EU Member States' law enforcement authorities must be improved by implementing, as extensively as possible and in line with the principles of the rule of law, the principle of availability of information as laid down in the Hague Programme. The primary means of achieving this is to increase and improve the joint use of information systems and to implement the agreed instruments in full (e.g., the Swedish initiative).

The principles behind the information systems must be functioning. Special attention is to be paid to the compatibility of the systems. In the first place, Finland supports the development of centralised information systems instead of decentralised systems and the implanting of new functions into the existing information systems. Both Union level and national provisions on data protection must be taken into account. Data protection must be ensured through regular assessments at practical level. The operational capabilities of Europol must be guaranteed. It is necessary to find means to ensure that Member States provide Europol with extensive information on matters falling within its responsibility.

Eurojust must be developed on the basis of the gained practical experience. First, the objective should be that the national members of Eurojust enjoy a common minimum standard of competence. Cooperation among Eurojust, the European judicial network and Europol should be facilitated and intensified. In Finland's opinion, the primary task of Eurojust is to support Member States' national authorities in the coordination of crime investigation and prosecution and to promote cooperation and exchange of information among authorities to prevent cross-border crime.

It is necessary to ensure that Member States provide Eurojust with relevant information on matters falling within its responsibility. By contrast, Finland is not in favour of developing Eurojust into a supranational prosecution authority.

Fight against terrorism to be further intensified

The fight against terrorism must be approached from a broad angle and prepared for, in addition to police and criminal instruments, by developing other means (e.g., civil protection), too.

Consideration must also be given to the new forms of terrorism.

Member States must implement the already agreed instruments and strategies and their effective enforcement must be ensured through assessments.

In combating terrorism, it is important to continuously update the existing criminal law instruments and thus ensure cooperation among competent authorities. A common commitment to respect for human rights is a key premise on which to base the development of anti-terrorist legislation.

As a main rule, the CCA mechanism, which is activated in response to terrorist attacks, must be further developed to ensure effective exchange and coordination of information among Member States and EU institutions in a crisis situation.

Enhancing civil protection cooperation

In the future, civil protection cooperation must be still developed on the basis that each Member State has primary responsibility for the provision of civil protection. EU action in this field must only be complementary in nature.

Preparedness for cooperation in major emergencies should be developed not only within the EU but also within the framework of action coordinated by other key international players. Attention must be given to the interoperability of cooperation arrangements between neighbouring countries.

In the future, it is necessary to improve the effectiveness of rescue operations coordinated through the Community civil protection mechanism. The importance of coordinating EU and UN rescue operations must be continuously underlined to avoid overlapping action.

Funding for JHA activities to be secured

The Commission has just started the mid-term review of the financial perspective for 2007-2013 in line with the conclusions of the December European Council 2005. In this connection, it is also necessary to safeguard the financing of the key sector, the Justice and Home Affairs sector, in the building of an area of freedom, security and justice.

The area of freedom, security and justice plays key role in the Union's external Relations

The area of freedom, security and justice occupies an increasingly prominent role in the Union's external relations. Cooperation with countries of origin and transit is important in relation to immigration and asylum issues. Such cooperation is supported by a common visa policy and agreements on visa exemption, visa flexibility and readmission.

The role of JHA issues has increased in importance, in particular, as regards the European Neighbourhood Policy and the EU-Africa and EU-Russia relations. The measures initiated and envisaged on the basis of the roadmap of the EU/Russia Common Space on Freedom, Security and Justice and the action oriented paper that was agreed upon during the Finnish EU Presidency should be carried out.

The smooth functioning of bilateral and regional cooperation among Member States' authorities responsible for home affairs and the corresponding Russian authorities must be kept at the forefront in the future, too.

It is important that the civil and criminal law dimension of the Union's external relations is taken into consideration more consistently than before. In relation to the EU's competence to conclude or adhere to international agreements, preference should be given to multilateral arrangements that always have more extensive influence than the EU's internal arrangements. To this end, the EU must adopt an active role in international organisations for civil law cooperation. In bilateral negotiations with third countries, particularly with Russia, the EU must work towards their accession to those international agreements which are of key importance to the creation of an area of freedom, security and justice.

UNITED KINGDOM

UK Paper - January 2008

I. AN AREA OF FREEDOM, SECURITY AND JUSTICE - THE WAY FORWARD

The UK wishes to thank the Slovene Presidency for their paper, which successfully opens the discussion on the challenges for the future. The UK very much welcomes this opportunity to contribute towards work aimed at identifying a new work programme in the area of justice, following the completion of the Hague mandate.

This paper represents first thoughts from the UK at a general level on the specific work of the Justice Future Group and how it is managed. We hope that this paper will contribute to the discussion on the most appropriate method to tackle future challenges.

II. MANAGEMENT OF THE WORK

If the work of the group is to be authoritative it is clearly essential that its work be efficient and transparent and that there is a proper opportunity for all Member States to contribute. The present exercise represents a good start.

However, in order to enable the group to work effectively it would be extremely helpful to establish a clear timetable of work, or "road map", in the same way as the Interior Future Group. This timetable should also make clear when it is hoped to reach conclusions.

It is not always easy to distinguish JHA business between interior and justice. Therefore it is important that where issues overlap there is appropriate communication between the Interior and Justice Future Group. The UK sees arguments for and against moving to one single group however, given that the existing groups are at different stages of their work it may be premature to pursue that option at this stage. Other options might include holding a joint meeting, or arranging for debate at the JHA Council on the future of the work.

III. MAIN CHALLENGES

The UK has the following comments on the points raised under this heading in the Presidency's paper:

The UK would like to highlight the following points:

Legislation

The UK agrees that full effect should be given to measures agreed in the Council. In principle we support the idea of a review of the legislations, and we strongly agree with the Presidency that the Union should avoid over-legislating, and should identify those areas where there is a clear practical need for legislation at Union level. We have consistently argued that there should always be an appropriate impact assessment, and an evidence base satisfactorily demonstrated, before legislation is proposed.

Access to justice

The UK agrees that mutual trust is an essential prerequisite of mutual recognition. Access to justice is certainly an important contributor towards such trust.

Criminal records

We welcome the progress already made to improve the exchange of criminal records and the steps being taken to interconnect criminal records registers.

This work must remain a priority and is essential for effective judicial cooperation and prevention of crime. We support the development of a register of convictions of third country nationals, which would close a potentially dangerous loophole; there is only limited value in having access to the records of EU nationals if the records of non-nationals are not available in order for this to be an effective security tool, and to ensure that individuals' rights are protected, it is essential that biometric data, such as fingerprints, are available to confirm the identity of an individual.

We would like to see progress in relation to use of criminal records information for purposes other than criminal proceedings, in order to prevent further crimes being committed. In particular, we encourage greater use of information on convictions for the purpose of vetting potential employees working with vulnerable members of society and progress on recognising disqualifications arising from criminal convictions.

e-Justice

We agree that there is, potentially, very wide scope for information technology to enhance access to justice. Numerous practical illustrations of this exist in various Member States: the German order for payment system (*Mahnverfahren*) is an excellent example. In the UK we have enjoyed considerable success with the "money claims on line" system. Electronic access to legal information via the e-Justice portal could also prove extremely useful and practical, and we are also interested in making information concerning criminal records available by similar means.

We do see scope in implementing the European payment order through electronic means. Our own experience suggests that small claims cases, too, could in due course be implemented in this way. We see that as an exciting longer-term ambition. However, care should be taken to weigh up the likely costs of setting up such a system - which are likely to be high - against the benefits, including the likely number of users.

The European small claims order is an interesting longer-term ambition but we must not overlook the undoubted challenges there will be in developing the software. Although we support this proposal, it is vital that a proper cost-benefit analysis is undertaken.

Proposals such as an on-line mediation scheme are indeed practical. In fact the UK already has some in place and is currently considering whether such systems could be used further afield.

Judicial cooperation

The UK agrees with the Presidency about the importance of strengthening of judicial cooperation through practical measures, including by making full use of Eurojust and the civil and criminal judicial networks.

So far as measures in the field of family law are concerned, the UK would support a move towards virtually automatic recognition of judgments and emphasises the need to trust the courts of other countries. We recognise, however, that family law measures are sensitive and need to be treated with discretion.

Child protection

While the UK welcomes the acknowledgement that the EU needs to tackle the challenge of managing habitual sex offenders, exchange of information and experience must only be a starting point. We urge Member States to consider the development of a mechanism for ensuring that offenders can be monitored wherever they travel within the EU, since we believe that appropriate monitoring greatly contributes towards the protection of the public, in particular preventing re-offending against children.

The UK agrees on the need to have effective, practical mechanisms in place to deal with issues such as child kidnapping and proposed the creation of a European Child Abduction Taskforce to provide coordination and access to relevant knowledge, skills and expertise. This would allow an investigation team to work across EU borders and deliver an integrated, rapid response with support from other member states for the investigation, irrespective of the jurisdiction in which it sits. We hope that this could be taken forward, to build on the progress made under the Portuguese Presidency on the Child Alert. Regarding the protection of children, the UK welcomes more work in this area, for example, the exchange of information to allow for the monitoring of sex offenders. The exchange of best practice and experiences is not sufficient to protect children in Europe.

Citizens' procedural rights

We support steps to strengthen citizens' procedural rights and agree with the comment in the Presidency paper that this can be achieved without harmonisation of national criminal procedure. That view very much reflects our own vision, which is based on respect for each other's national systems, with basic standards secured by the ECHR, and higher standards achieved mainly through targeted funding and practical measures of the kind described in the next paragraph. Union legislation certainly has a part to play, as for example in the Presidency's current initiative on Trials in Absence, where it is needed to clarify standards for cross-border cases. However, the UK questions the practicability of and need for a detailed, binding jurisdiction accommodating the national rules of 27 member states.

As regards practical measures in the field of judicial cooperation, the UK considers that there is much more that could and should be done now to enhance standards where it matters, for example promoting good practice and EU funding in areas such as recording police suspect interviews, letters of rights and the use of technology -for example video conferencing in cross border cases for obtaining evidence or interpretation. Further, given the linguistic challenges all national criminal justice systems face in consequence of expansion and free movement, consideration could be given, for example, to an EU telephone number anyone caught up in criminal proceedings could ring if they needed Immediate interpretation help. Logistical support for interpretation and translation is one of Eurojust's most citizen-focused functions, and we might encourage them to make more of this part of their remit.

VYSEGRÁD GROUP

Common position/priorities of the Visegrád Group countries to the preparation of the Post-Hague Programme in the area of freedom, security and justice in the perspective of the Lisbon Treaty

The Ministers of Justice of the Visegrád Group countries - Czech Republic, Hungary, Poland and Slovakia, on the meeting held in Tatranská Lomnica in the High Tatras (Slovakia) on 10th to 12th April 2008, discussed and accepted the following conclusions concerning the preparation of the Post - Hague Program in the area of freedom, security and justice in the perspective of the Lisbon Treaty :

Legislation

The coherence and consolidation of the *acquis* in the Area of Freedom, Security and Justice is desirable both at conceptual and legal level. Such a process should take place before further legislation is proposed and be based on the practical experience of Member States' competent authorities in the application or implementation of the legislation. These considerations and the identified inconsistencies need to be taken into account in future debates on replacing the legislative instruments adopted under the III pillar.

Access to justice

Further strengthening the mutual trust is essential and should be primarily focused on improving knowledge and understanding of the judicial systems of other Member States through the promotion of networking among judicial authorities and legal practitioners. Common training programmes should also be envisaged.

Encouraging the wider use of Information Technology by the judiciary is a good example on how to implement best practices and make use of well functioning systems with the aim to make justice easily accessible, user friendly and more cost effective.

Judicial cooperation

We agree that the principle of mutual recognition strengthened by mutual trust between judicial authorities should remain the cornerstone of cooperation. A good example of the realization of this principle may be the reinforcement of Eurojust and European Judicial Network, At the same time, we should not restrict the cooperation to its repressive role. The challenges resulting from the Schengen area call for a new approach with regard to the proper administration of justice, Hence, a special attention should be given to those instruments which could allow to tackle more adequately problems relating to the free movement of persons, The formal adoption of the framework decision on probation as well as the proper reflection on the concept of the European Supervision Order will help to explain better to our citizens the directions of development of judicial cooperation in criminal matters.

Civil justice

The follow-up to the Hague Programme must take into account also further analysis of the fundamental issue for the common judicial area in civil matters, that is to say the abolition of *exequatur*.

Currently the state of play is as follows Virtually ail civil law regulations, either of the first generation (Brussels I regulation or insolvency regulation) or the recent ones (establishing the European Enforcement Order, the European Payment Order or Small Claims Procedure) provide for different solutions in this regard. Differences involve in particular the scope of their application, reasons justifying refusal of recognition of foreign decisions or references between these regulations.

For this reason it is important to explore whether practitioners experience any difficulties in application of this schemes. It should also be stressed, which of the solution is the most suitable and could stand as a landmark for future works. This analytical task should involve ail interested parties The results will be very useful for upgrading the quality of adopted legislation and answering the fundamental question whether the uniform mechanism of abolition of *exequatur* is possible and on which conditions.

A great number of community instruments has been adopted under the Hague Programme. During the Post-Hague period training of practitioners and information campaigns for the public should be a priority, as well as consolidation in the field of civil Justice to eliminate contradictions and parallelisms in legislation.

Child protection

We agree that child protection should be one of the main priorities of the cooperation between Member States. Child protection requires a multi-disciplinary approach that includes the need for exchange of information to make cooperation in this particular field more effective.

External relations

After the entry into force of the Lisbon Treaty a more coherent and more policy targeted external relations policy will be needed. Common approach will be inevitable to tackle the problems linked to terrorism, trafficking in human beings, weapons and drugs. Therefore, to maintain the high level of cooperation with third states and international organisations involved should be a priority.

More intensive cooperation should be developed within the framework of the European Neighbourhood Policy, especially with Ukraine, as well as with our most important strategic partners: the USA and Russia. There is also need to intensify judicial cooperation in various fields with most important partners like China and Japan.

Citizens rights

The entry into force of the Lisbon Treaty and making the provisions of the Charter of Fundamental rights legally binding will provide new impetus for the EU and will enable its accession to the European Convention on Human Rights.

The Lisbon Treaty will provide for the possibility to set minimum common rules on procedural guarantees. A new opportunity should also be used to have a closer look on the alternative forms of protection of procedural guarantees. An examination of those alternatives could be undertaken having in mind the special significance of procedural guarantees in the area of freedom, security and justice. The result of such reflection, based on practical experience, might be a good basis to elaborate adequate measures responding to the present needs in this field.

Evaluation of application

The extension of the scope of the monitoring mechanism under Article 226 of the EC Treaty will enable the Commission to seize the European Court of Justice if a Member State does not fulfill its obligations. Nonetheless, the mechanism established by the Joint Action 97/827/JHA has proven to be successful in the practice of evaluation some of third pillar instruments. The "peer evaluation" aspect could be also considered to complement the future monitoring mechanism. It would be useful to identify the legal instruments, or issues, respectively. In the process of evaluation of implementation, especially in the field of Judicial cooperation in criminal matters, an attention should be given to the elimination of existing differences in Interpretations of certain provisions in some Member States which gave rise to difficulties in practice.

Such difficulties, undermining the mutual trust of European citizens towards the area of freedom, security and justice should be avoided.

Tatranská Lomnica, 11th April 2008

(signature)

Jiří Pospíšil

Minister of Justice of the Czech Republic

(signature)

Štefan Harabin

Deputy Prime Minister and Minister of Justice
Slovak Republic

(signature)

Tibor Draskovics

Minister of Justice and Law Enforcement

Republic of Hungary

(signature)

Lukasz Rędziniak

State secretary

Ministry of Justice
Republic of Poland

**Contributions received following
the informal ministerial meeting held
in Cannes on 8 July 2008**

DENMARK

JUSTITS MINISTERIET
Ministry of Justice, Denmark
Civil and Police Department
Date: 16 JULI 2008
Office: International Division
Contact: Jens-Christian Bûlow
Our ref.: 2007-305-0596
Doc.: JCB40158

The French EU Presidency
Att. Daniel Lecrubier

The Danish Government welcomes the reports from the two Future Groups and expresses its gratitude to the involved Member States and the Commission for all the work they have put into the two reports. Denmark is convinced that the Commission will find the two reports to be a serious and qualified inspiration when drafting the communication that will formally open the debate in the Council on a new multi-annual work programme for Justice and Home Affairs in the European Union.

The Danish position on a new work programme in the area of Justice and Home Affairs will be laid down on the basis of the communication from the Commission expected in 2009. The following comments should be read in this light.

The Danish Government generally supports many of the thoughts on future initiatives outlined in the two reports, on the horizontal issues as well as on the policy areas identified.

Denmark thus fully endorses the view that special attention should be paid to the full and effective implementation of existing instruments. Also, we support the focus on practical cooperation rather than new legislative initiatives, particularly in regard to the common asylum policy.

When it comes to the policy areas identified as challenges for the future, we generally find them well chosen. Especially the fight against illegal immigration, the protection of children and the fight against terrorism must remain very high on the agenda of the European Union.

It is of course inevitable that Denmark, not having participated in the two Future Groups, is hesitant in respect of parts of the two reports, and as mentioned the Danish position on a new work programme in the area of Justice and Home Affairs will not be laid down until the communication from the Commission has been presented.

Nevertheless, Denmark would like to take this early opportunity to express its concern in respect of certain elements in the report from the Ministers for Home Affairs and Immigration which pending further clarification and refinement could give ground to constitutional considerations.

In the report some of the ideas on police cooperation appear to be based on the premise that officials, such as police officers, from one Member State should be allowed to act in an official capacity on the territory of another Member State. According to Danish constitutional law, however, there is very limited scope for allowing e.g. police officers from another country to act in an official capacity on Danish territory. If future initiatives are based on the premise mentioned, a solution, e.g. making the scheme optional, must therefore be found in order for Denmark to participate in the adoption of the initiative.

Yours sincerely,

(signature)

Jens-Christian Bülow

LATVIA and LITHUANIA

Taking into consideration overall agreement on a Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law, reached by the Justice and Home Affairs Council on April 19, 2007, in particular statement by the Council and in line with the conclusions of the European Council agreed by the European Council at its meeting on 19 and 20 June 2008, where it acknowledges the need to continue the process regarding the crimes committed by totalitarian regimes, process of evaluation at EU level of crimes committed by totalitarian regimes should be continued and taken political commitment should be implemented into the future freedom, security and justice program. In consultation with the European Commission and other Member States we should continue the discussion started at EU level in order to gain common EU comprehension of the crimes committed by totalitarian regimes.
