



Brussels, 23 October 2008

BACKGROUND¹

JUSTICE and HOME AFFAIRS COUNCIL

Luxembourg, 24 October 2008

The Justice and Home Affairs (JHA) Council will meet in Luxembourg on Friday 24 October 2008.

In the margins of the Council meeting, the Mixed Committee (EU + Iceland/Liechtenstein/Norway/ Switzerland) will meet at 10.00 to discuss the state of play concerning the second-generation Schengen Information System (SIS II).

The Council will devote its morning session to "Home Affairs" items. It will discuss the setting up of national alert platforms and a European alert platform for reporting offences noted on the Internet, further European cooperation on internal security and drug-trafficking in West Africa, and take stock of a proposal on the processing of Passenger Name Record (PNR) data in the EU.

During lunch, the Home Affairs Ministers will take stock of the current discussions on civil protection and examine the role of research and innovation in the JHA field.

The "Justice" items will be discussed on Friday afternoon. The Council will seek to reach a political agreement on the establishment of the European Criminal Records Information System (ECRIS), on a proposal for a Resolution on the training of the judiciary and judicial staff in the European Union and on a proposal on maintenance obligations. The Council will also consider the situation of vulnerable adults and their cross-border legal protection.

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Press conferences: "Home Affairs" items: +/- 13.00
"Justice" items: +/- 17.00

Press conferences and public events can be followed via video streaming:
<http://www.consilium.europa.eu/videostreaming>

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¹ This note has been drawn up under the sole responsibility of the Press Office.

"HOME AFFAIRS" ITEMS

Cybercrime

The Council is due to adopt conclusions on setting up national alert platforms and a European alert platform for reporting offences noted on the Internet.

At the Justice and Home Affairs Council meeting on 24 and 25 July 2008, the French Presidency presented a plan to create a European platform for issuing alerts about offences detected on the Internet. Hosted by EUROPOL, this structure would receive alerts on offences from the national platforms of the EU Member States. At the same time, Member States that did not yet have such a platform at national level were invited to create one. The Presidency's proposal was supported by the delegations.

The Permanent Representatives Committee has agreed on draft conclusions and decided to submit them to the Council for adoption.

Convergence and the structuring of internal security

The Council is due to adopt conclusions on the principle of convergence and the structuring of internal security.

Following the discussions that took place at the informal meeting in Cannes on 7 July 2008, when the "principle of convergence" was presented, conclusions seeking to define and give substance to that principle are being submitted to the Council. They are illustrated with a number of high-visibility concrete and operational projects.

These conclusions should constitute guiding principles for the post-Hague programme, which would thus focus on operational cooperation between Member States' law-enforcement services.

The conclusions are divided into two parts. The first part outlines some key points such as closer cooperation among personnel, approximation of equipment and practice, approximation through joint action and approximation of legal frameworks. The second part seeks ways of expressing this approach at the European level, and ensuring its "sustainability" by improving the common framework for analysis and action.

In this spirit, the Council will also be briefed on regional-level proceedings by the member countries of the Salzburg Forum, which brought together the Home Affairs Ministers of Austria, the Czech Republic, Hungary, Poland, Slovakia, Slovenia, Bulgaria and Romania, and by the Benelux countries.

Drug-trafficking in West Africa

The Council will hold a policy debate on this question.

West Africa has become a platform for trafficking drugs from Latin America, posing a direct and permanent threat both to the region and to the European Union.

The shared view of the United Nations Office on Drugs and Crime (UNODC), ICPO-Interpol and the Economic Community of West African States (ECOWAS) is that 10 % of the world's cocaine transits through this region. Between 2005 and 2007, seizures of cocaine from West Africa, destined for Europe, amounted to 33 tonnes. The European Commission estimates that about 250 tonnes of cocaine enter the European Union every year, at the present rate.

The Commission Communication on a Drugs Action Plan for 2009-2012 states that "cocaine use is rising in a number of Member States". It adds that "the total number of people in the EU who use drugs – or have at some time taken them ("lifetime prevalence") – is estimated at (...) at least 12 million for cocaine alone".

Through the corruption it generates, drug trafficking in West Africa also hinders economic and social development and development of the rule of law: the first to suffer from drug trafficking, or from organised crime generally, are the States of the region and the people who live there. If the trend is not brought under control, there is a risk that real "narco-states" could emerge. Finally, it is not impossible that income from drug trafficking may be used to finance terrorist activities.

The outcome of the Council's discussions will shape the EU's approach to the UNODC Ministerial Conference in Praia on 28 and 29 October 2008.

European PNR

The Council will take stock of progress on the proposal to use European passenger name record (PNR) data for law enforcement purposes.

It will take note of the initial results of the ongoing thematic discussions to identify the essential features of a future European PNR system.

Guidelines have already emerged from those detailed discussions and the Presidency wishes to determine whether they are a sound basis for the relevant Council preparatory bodies to continue their work.

The Presidency would also like to draw the Council's attention to the ongoing discussion regarding reference in the future instrument to intra-Community flights.

An overall result will be submitted to the JHA Council for endorsement at its next meeting on 27 and 28 November 2008.

PNR data are related to travel movements, usually flights, and include passport data, name, address, telephone numbers, travel agent, credit card number, history of changes in the flight schedule, seat preferences and other information. As a rule, not all PNR fields are filled in, only those that are actually provided by the passenger at the time of the reservation and information received upon check-in and boarding. It must be noted that air carriers already capture the PNR data of passengers for their own commercial purposes, but that non-air carriers do not capture such data. The collection and analysis of PNR data allows the law enforcement authorities to identify high-risk persons and to take appropriate measures.

"JUSTICE" ITEMS

European Criminal Records Information System (ECRIS)

The Council should reach a general approach on the proposal for the establishment of a European Criminal Records Information System (ECRIS).

This proposal is a follow-up to the draft Framework Decision on the exchange of information extracted from criminal records between Member States of the European Union. The purpose of the Framework Decision is to ensure that a Member State is able to provide the judicial authorities of any other Member State of the EU with information on the criminal records of its nationals.

The ECRIS Decision aims in particular to ensure that information can be transmitted by electronic means and it lays down the conditions and format for data exchange. Member States will therefore be fully responsible for the management of their own criminal records, but transfers of information will be facilitated by means of a common data exchange format.

A pilot project has been launched to interconnect the criminal records of Spain, Belgium, Germany and France (and, in January 2008, those of the Czech Republic and Luxembourg as well).

Maintenance obligations

The Council is expected to reach agreement on the rules on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

The proposal for a Regulation was referred to the Council twice, in April 2007 and in June 2008, to identify the guidelines to be followed and to reach agreement on certain aspects. Since then, negotiations have progressed well on the basis of those guidelines.

The aim of the proposal is to eliminate all obstacles which still prevent the recovery of maintenance within the European Union, in particular the requirement for an exequatur procedure. When this procedure is abolished, all decisions on maintenance obligations will be allowed to circulate freely between the Member States without any form of control on the substance in the Member State of enforcement and this would significantly speed up the recovery of maintenance owed. The Regulation provides for free legal aid for all procedures involving parental maintenance obligations towards a child under 21. It updates the rules on jurisdiction while protecting children and creates harmonised conflict-of-law rules. Lastly, a system of administrative cooperation between Member States' central authorities will enable the persons concerned to receive practical assistance, in particular through information sharing (locating the debtor). These improvements will make for a legal environment in line with the legitimate expectations of maintenance creditors. The latter should be able to obtain easily, quickly and, generally, free of charge, an enforcement order capable of circulation without obstacles in the European area of justice and enabling regular payment of the amounts due.

Legal protection for vulnerable adults

The Council is due to adopt conclusions on the situation of vulnerable adults and their cross-border legal protection.

The French Presidency has identified the issue of international protection for vulnerable adults as a major subject of concern for European justice.

Protected adults should be able to move freely, like any other citizens, without the exercise of this right undermining the level of protection they receive. The ageing of the European population makes this a highly topical debate.

To this end, the draft conclusions call on Member States to sign and ratify the Hague Convention on the International Protection of Adults of 13 January 2000. This Convention has been signed by nine other Member States (Germany, Finland, France, Greece, Ireland, Luxembourg, the Netherlands, Poland and the United Kingdom). France deposited its instruments of ratification on 18 September, after Germany and the United Kingdom, which will enable this international instrument to enter into force on 1 January 2009.

At Community level, no initiative has been adopted yet as regards the legal protection of vulnerable adults. The draft conclusions highlight the need to observe how this Convention operates, and then launch a debate on the relevance and the means of closer Community cooperation on this matter which seems likely to take on greater importance in future.

Training of judges, prosecutors and judicial staff

The Council is due to adopt a resolution on the training of judges, prosecutors and judicial staff in the European Union. The aim is to improve their knowledge of European legislation, foreign legal systems and foreign languages to improve the application of Community law and secure closer judicial cooperation between Member States. It is also designed to boost the European Judicial Training Network.

That Resolution follows the informal meeting of Justice and Home Affairs Ministers in Cannes on 7 and 8 July 2008, at which the issue of the training of judges was discussed in detail.

The Permanent Representatives Committee has already reached agreement on the draft Resolution and has decided to submit it to the Council for adoption.