



**COUNCIL OF  
THE EUROPEAN UNION**



6877/09 (Presse 51)

**PROVISIONAL VERSION**

## **PRESS RELEASE**

2927th meeting of the Council

### **Justice and Home Affairs**

Brussels, 26-27 February 2009

Presidents

**Mr. Ivan Langer**

Minister of Interior of the Czech Republic

**Jiří Pospíšil**

Minister of Justice of the Czech Republic

# **P R E S S**

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6877/09 (Presse 51)

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## **Main results of the Council**

*The Council adopted conclusions on the second generation of the **Schengen Information System "SIS II"**.*

*Ministers of interior discussed a new proposal for creating a **European Asylum Support Office** and the particular situation of **illegal immigration in the Mediterranean region**. They also exchanged information on the situation of **Iraqi refugees**.*

*Over lunch, ministers held an informal exchange of views on the situation in **Guantanamo**.*

*Ministers of Justice discussed on key aspects of a draft framework decision concerning prevention and settlement of **conflicts of jurisdiction in criminal proceedings**, and took note of progress in the implementation for the setting up of a **European "e-Justice" portal**. Finally they approved a negotiating mandate for a future agreement on **mutual legal assistance with Japan**.*

*In addition, the Council adopted without debate six legislative acts contained in the **third legislative package on maritime safety**, as well as a directive on **guarantee levels for bank deposits**.*

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

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**PARTICIPANTS**

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

**Belgium:**

Mr Stefaan DE CLERCK Minister for Justice

**Bulgaria:**

Ms Miglena Ianakieva TACHEVA Minister for Justice  
Mr Kalin SLAVOV Deputy Minister for the Interior

**Czech Republic:**

Mr Jiří POSPÍŠIL Minister for Justice  
Mr Ivan LANGER Minister for the Interior

**Denmark:**

Ms Birthe RØNN HORNBECH Minister for Refugee, Immigration and Integration Affairs  
Mr Brian MIKKELSEN Minister for Justice

**Germany:**

Ms Brigitte ZYPRIES Federal Minister for Justice  
Mr Wolfgang SCHÄUBLE Federal Minister for the Interior

**Estonia:**

Mr Rein LANG Minister for Justice  
Mr Jüri PIHL Minister for the Interior

**Ireland:**

Mr Dermot AHER Minister for Justice, Equality and Law Reform

**Greece:**

Mr Nikos DENDIAS Minister for Justice

**Spain:**

Mr Alfredo PÉREZ RUBALCABA Minister for Justice

**France:**

Ms Rachida DATI Keeper of the Seals, Minister for Justice  
Mr Eric BESSON Minister for Immigration, Integration, National Identity and Development Solidarity

**Italy:**

Mr Roberto MARONI Minister for the Interior

**Cyprus:**

Mr Louas LOUCA Minister for Justice and Public Order  
Mr Neoklis SYLKIOTIS Minister for the Interior

**Latvia:**

Mr Mārtiņš LAZDOVSKIS State Secretary, Ministry of Justice  
Mr Ziedonis RUBEZIS Parliamentary Secretary, Ministry of the Interior

**Lithuania:**

Mr Raimundas PALAITIS Minister for the Interior  
Mr Paulius GRICIUNAS State Secretary, Ministry of Justice

**Luxembourg:**

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

**Hungary:**

Mr Tibor DRASKOVICS Minister for Justice and Law Enforcement  
Ms Judit FAZEKAS State Secretary (with special responsibility), Ministry of Justice and Law Enforcement

**Malta:**

Mr Carmelo MIFSUD BONNICI Minister for Justice and Home Affairs

**Netherlands:**

Ms Nebahat ALBAYRAK State Secretary, Ministry of Justice

**Austria:**

Mr Hans-Dietmar SCHWEISGUT

Permanent Representative

**Poland:**

Mr Andrzej CZUMA  
Mr Piotr STACHAŃCZYK

Minister for Justice  
State Secretary, Ministry of the Interior and  
Administration

**Portugal:**

Mr Rui PEREIRA  
Mr João TIAGO SILVEIRA

Minister for the Interior  
State Secretary, Ministry of Justice

**Romania:**

Mr Dan NICA  
Ms Alina BICA

Vice Prime Minister, Minister for the Interior  
Secretary of State, Ministry of Justice

**Slovenia:**

Ms Katarina KRESAL  
Mr Aleš ZALAR

Minister for the Interior  
Minister for Justice

**Slovakia:**

Ms Anna VITTEKOVA

State Secretary, Ministry of Justice

**Finland:**

Ms Tuija BRAX  
Ms Anne HOLMLUND  
Ms Astrid THORS

Minister for Justice  
Minister for the Interior  
Minister for European Affairs and Migration

**Sweden:**

Ms Beatrice ASK  
Mr Tobias BILLSTRÖM

Minister for Justice  
Minister for Migration

**United Kingdom:**

Ms Jacqui SMITH  
Lord BACH

Minister for the Interior  
Parliamentary Under Secretary of State, Ministry of  
Justice  
Solicitor General, Scottish Government

Mr Frank MULHOLLAND

**Commission:**

Mr Jacques BARROT

Vice-President

**ITEMS DEBATED**

**EUROPEAN ASYLUM SUPPORT OFFICE**

The Council held, in public session, a first exchange of views on a new proposal for establishing a European asylum support office, in the context of the development of a common European asylum system ([6700/09](#)).

The Council welcomed the proposal and asked the relevant Council bodies to take forward work on the proposal as quickly as possible.

The debate focused on key aspects of the proposal and provided guidance in order to continue examination under the Council-Parliament codecision procedure.

This proposal, tabled by the Commission on 18 February, was discussed together with a supplementary draft decision aimed at transferring funding from the European Refugee Fund to the asylum support office ([6702/09](#)).

The main tasks of European asylum support office would be the following:

- facilitate, coordinate and improve cooperation on asylum matters between the EU countries, improving therefore the international protection to asylum seekers;
- assist EU governments in comparing good practices and organising training at EU level in order to develop a more consistent and transparent asylum policy in the EU ;
- coordinate teams of national experts who can be deployed at the request of any EU country facing a heavy influx of refugees;
- provide scientific and technical assistance in cooperation with national authorities and the UN High Commission for Refugees;
- increase practical cooperation on asylum matters between EU and third countries.

Last October the European Council, when adopting the European Pact on immigration and asylum ([13440/08](#)), requested to "establish in 2009 a European asylum support office with the task of facilitating the exchange of information, analysis and experience between Member States and developing practical cooperation between the administrations in charge of examining asylum applications.



**ILLEGAL IMMIGRATION IN THE MEDITERRANEAN**

The Council had an exchange of views on combating illegal immigration in the Mediterranean, following the presentation of a paper put forward by Cyprus, Greece, Italy and Malta.

The purpose of this paper is to raise awareness and suggest action at EU level on the challenges posed by illegal migration and asylum in the Mediterranean region. It takes inspiration from the Pact on immigration and asylum adopted by the European Council in October 2008 . It sets out how the fundamental principles set out in the Pact could be reflected in a series of measures that will be implemented at both EU and national levels.

The Council welcomed the initiative as a valuable input for the preparation of the upcoming Stockholm programme<sup>1</sup>.

The common initiative is aimed at reinforcing practical cooperation measures and coordinated synergies in order to enhance the capacity of the member states to protect the lives of illegal migrants and to regulate migratory flows entering from sea or land borders. These practical measures include intensifying efforts through the strengthening of Frontex (the agency for the management of operational cooperation at the EU's external borders) and the continuation of joint operations in the Mediterranean region.

The four Mediterranean countries also call for complementary actions with a view to assisting neighbouring countries in the areas of management of mixed migration flows, border control and the fight against illegal migration.

The attention on migration from the Mediterranean was previously reflected in the Council conclusions of 27-28 November 2008 concerning the global approach to migration ([16041/08](#)). The global approach offers a common policy framework which enables to improve the integration of migration issues into the EU's external relations, on the basis of an effective and balanced partnership with third countries.

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<sup>1</sup> The Stockholm programme is the future five-year action plan for EU cooperation on judicial matters and home affairs that will replace the Hague programme 2005-2009 currently in force

**FREE MOVEMENT OF EU CITIZENS WITHIN THE COMMUNITY**

The Council took note of a report concerning the application of directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the member states ([5553/09](#)).

The report, elaborated by the Commission, presents an overview on how directive 2004/38/EC<sup>1</sup> is transposed into national law and how it is applied in everyday life. It also encourages member states to launch awareness-raising campaigns to inform EU citizens of their rights under the directive.

The Council welcomed in particular the Commission's intention to offer, as soon as possible, information and assistance to member states by issuing guidelines on a number of issues, such as expulsions and fight against abuse, in order to facilitate an effective application of the directive.

In November 2008, the Council adopted conclusions on abuses and misuses of the right to free movement of persons. In the conclusions, the Council left open the possibility of a more extensive examination of the issue after the Commission submitted a report on the operation of the directive.

Moreover, these conclusions underlined the importance which EU member states attach to protecting the right to free movement from the abuses created *inter alia* by illegal immigration (*see press release [16325/1/08](#), page 27*).

Article 39 of directive 2004/38/EC requires the Commission to monitor the application of the provisions of the directive and to report to the European Parliament and to the Council.

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<sup>1</sup> Published in the Official Journal of the EU L 158, 30.4.2004, p. 77.

**SITUATION OF IRAQI REFUGEES IN EUROPE**

The Commission briefed Ministers on the progress being made regarding reception of Iraqi refugees following the adoption of Council conclusions on the subject in November 2008. The Council agreed to keep developments under review. The Council also took note of information provided by the Netherlands on the establishment of a "Temporary desk on Iraq". The Desk's remit will be to determine how immigration services can improve their practical cooperation on protection, particular pressures, resettlement and return.

Last November, the Council adopted a set of conclusions based on a Commission report on a mission in Syria and Jordan to examine the possibilities for the resettlement of Iraqi refugees in member states willing to receive them ([16325/1/08](#), page 23).

At that occasion the Council emphasized that the main objective is to create the conditions in which displaced persons inside Iraq and refugees in neighbouring countries can return safely to their homes, while ensuring that the human rights of all Iraqis are protected and defended. It also requested the Commission to report at the beginning of 2009 on the information gathered from member states.

On 1 and 2 December 2008, the Netherlands convened a high-level meeting in The Hague aimed at contributing to a coordinated response by the EU to migratory flows from or to Iraq.

## **CONFLICTS OF JURISDICTION IN CRIMINAL PROCEEDINGS**

The Council held an orientation debate on key elements of a draft framework decision on prevention and settlement of conflicts of jurisdiction in criminal proceedings, with a view to providing with political guidance to carry out further work ([5208/09](#)).

EU delegations acknowledged the merit of this joint initiative put forward by the Czech Republic, Poland, Slovenia, Slovakia and Sweden last January.

The debate focused, in particular, on the objectives and scope of the future instrument, the nature of the competent authorities which would be able to act under the framework decision, and the communication procedures.

A large consensus has appeared on the opportunity to restrict the scope of the instrument to situations where the same person(s) is (are) subject to parallel criminal proceedings in different member states, which might lead to the double final disposal of the same proceedings facts (the "ne bis in idem" legal principle).

In a common area of freedom, security and justice it is necessary to ensure that national authorities are made aware, at an early stage, of facts of a case which fall within the jurisdiction of two or more member states and that agreement is reached to concentrate, as far as possible, criminal proceedings for such facts in a single jurisdiction.

In order to achieve these principles, the following measures are proposed:

- avoiding, as early in the proceedings as possible, situations where the same person is subject to parallel criminal proceedings in different member states;
- ensuring that there is sufficient exchange of information between member states, from an early stage, about ongoing proceedings which are significantly linked to another jurisdiction;

- putting in place transparent rules and common criteria which will be applied when member states are seeking the agreement on the best placed jurisdiction;
- making it possible for the national authorities concerned to enter into direct consultations with each other in order to reach quickly an agreement.

The framework decision is aimed at improving judicial cooperation in the EU, as well as contributing to a better application of the principle of mutual recognition, both in the pre-trial and post-trial stage. It is also aimed at allowing a more thorough consideration of the rights and interests of individuals in relation to the place of the trial, including the victims protection. To avoid undue bureaucracy, in situations where more flexible instruments or arrangements are in place between member states, those should prevail.

**EU/JAPAN NEGOTIATIONS ON MUTUAL LEGAL ASSISTANCE**

After examination of the framework conditions for a negotiating mandate, the Council authorised the EU presidency to enter into negotiations with Japan with a view to concluding a future agreement on mutual legal assistance with this country. The European Commission will be fully involved in the negotiating process.

Such an agreement could contribute to strengthening and facilitating mutual legal assistance between Japan and the 27 EU member states, while safeguarding fundamental rights and guaranteeing respect for member states' common values. It would constitute a further element within the framework of the strategic partnership between the EU and Japan.

The launch of preliminary talks on cooperation in the area of mutual legal assistance in criminal matters was welcomed at the 16th EU-Japan summit in June 2007. The two sides held three informal meetings in 2007 and 2008 to assess the feasibility of concluding an agreement in this field.

Currently, none of the EU member states has a bilateral agreement of this kind with Japan.

**E-JUSTICE ACTION PLAN**

The Council took note of the state of play regarding the implementation of the European e-Justice action plan ([15315/08](#)) adopted in November 2008 and which provides in particular for the setting up of a European "e-Justice" portal.

The Council endorsed the work done so far to develop and launch the portal by December 2009 and noted the ongoing work on videoconferencing.

Videoconferencing is an important aspect of the European e-Justice system, as confirmed at the informal Council meeting in January 2009 in Prague. In order to promote and facilitate the use of videoconferencing in cross-border proceedings, work has already been done on an information booklet and a draft manual is being prepared. Further work will examine issues such as a booking system for arranging videoconferences and interpretation via videoconferencing.

The Council also noted the Commission intention to submit an inventory of available resources in the EU budget to finance projects in the area of e-Justice at the next Justice ministerial meeting in April

The European e-Justice system is a step on the way to the completion of a European judicial area. It aims at simplifying procedures in cross-border proceedings and facilitating access to justice.

The system is intended to serve as a tool not only for legal practitioners, judicial authorities and businesses, but also for citizens in general, informing them of their rights and of the ways to make use of these rights. Its purpose is to fulfil three basic functions:

- giving broad access to information in the field of justice, especially via the portal;
- enabling the use of electronic communications in cross-border judicial and extra-judicial proceedings between a court and the parties to the proceedings;
- improving communication between judicial authorities, for example by means of videoconferencing.

The creation of the European e-Justice portal, videoconferencing and technical security issues were also topics discussed at an international conference on "e-Justice without barriers", held in Prague on 17/18 February 2009 (see [www.justice2009.cz/en](http://www.justice2009.cz/en)).

\* \* \*

Over lunch, ministers of justice discussed the procedure concerning conclusion of treaties between the European Community and third states if the treaties contain coercive measures or criminal provisions.



**MIXED COMMITTEE**

The EU/Norway, Iceland, Liechtenstein and Switzerland Mixed Committee met on 26 February in the margins of the Council meeting to debate a set of conclusions on the second generation of the **Schengen Information System (SIS II)**. The conclusions have been subsequently adopted by the Council (*reproduced on page 20*).

They took note on the progress of the **Visa Information System** which is due to be launched by the end of 2009.

Following a complementary evaluation mission at the Swiss air borders in the framework of the Schengen evaluation, the Mixed Committee took note that the final report will be discussed on 17 March by a group of experts, which will establish whether all conditions allowing lifting of internal border controls at the Swiss air borders as of 29 March 2009 have been fulfilled. Controls at the land borders between Switzerland and its EU neighbours were lifted as of 12 December 2008 ([15698/08](#)).

**ANY OTHER BUSINESS**

**Guantanamo**

Ministers of Interior had a first exchange of views on the issue of the closure of the US detention facility at Guantanamo. Ministers agreed on the necessity to obtain more information and study all aspects of the issue. In accordance with the results of the previous discussion in the General Affairs and External Relations Council, the ministers agreed that further discussion with the United States in this matter is desirable.

**Anti-drug policy**

The Council took note of the priorities of the Presidency in the field of anti-drug policy, which will include the following issues:

- support to the development and introduction of indicators of the effectiveness of interventions in the field of supply reduction;
- abuse of drugs in the context of the free movement of people and goods within the EU, with a particular focus on Eastern European countries neighbouring EU;
- coordination of EU positions in international fora negotiations, particularly within the United Nations General Assembly Special Session on Drugs (UNGASS) review process.

**Terrorist Finance Tracking Programme - “SWIFT” network**

The Council took note of information from the Commission on the review of the procedures governing the handling, use and dissemination of financial transaction records from the EU which are carried over the SWIFT network and obtained by the United States Treasury Department in support of the US terrorist finance tracking programme (TFTP). The Commission confirmed that the US Treasury Department has been vigilant from the outset in respecting the safeguards in the handling of personal data included in the TFTP and the strict counter terrorism purpose limitation. The Commission designated the judge Jean-Louis Bruguière as the “eminent European person” in charge of delivering a first report for the purpose of verifying the protection of EU-originating personal data.

**Plane crash in Amsterdam**

The Dutch delegation received expressions of sympathy by the rest of delegations regarding the recent airplane crash occurred near Amsterdam.

**Ship-source pollution**

The Council took note on the developments for amending directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements, with a view to reaching a first reading agreement with the European Parliament under the codecision legislative procedure.

**International Tribunal for Law of the Sea, Hamburg**

The Council took note of information provided by the German delegation on this issue.

**Transparency policy**

The Swedish delegation drew out attention on the importance of the transparency policy in all areas of the EU institutional activities, and in particular within the area of Justice and Home Affairs, as a tool for strengthening the citizens' trust in the EU institutions.

**World Summit of Prosecutors General in Bucharest**

The Romanian delegation announced the World Summit of Prosecutors General, Attorneys General and Chief Prosecutors to be held on 23/25 March 2009 in Bucharest. <http://www.summitgp2009.ro/>

**OTHER ITEMS APPROVED**

**JUSTICE AND HOME AFFAIRS**

**Schengen Information System "SIS II" - Council conclusions**

The Council adopted the following conclusions:

"Following the exchange of views at the informal JHA ministers meeting held on 15 January 2009 in Prague, and referring to the Note of the Presidency as set out in document [6067/09](#), the Council,

*Reaffirming* that the rapid entry into operation of SIS II remains the absolute priority,

*Taking* note of the status of the current SIS II project in which a number of problems persist and of the Commission's view that all outstanding issues can be resolved without a major re-design of the SIS II application,

1. *Endorses* the implementation of a SIS II analysis and repair plan allowing the identification of all issues and their immediate solution, as well as the evaluation of the technical architecture, so as to ensure a stable and flawless SIS II system;
2. *Welcomes* the implementation of a global SIS II programme management approach involving Member States within the framework of the SIS II Task Force established in accordance with the Council conclusions of 5 October 2006, working together with the Commission in compliance with their respective legally defined competencies and thus ensuring enhanced management and coordination of the SIS II project and related activities as a whole (including the contingency plan), as well as consistency between the central and national systems' developments;
3. *Welcomes* the review of the SIS II testing approach, guaranteeing an increased involvement of Member States in test definition and management and facilitating an efficient use of financial and human resources;

4. *Regrets* the fact that, given the time required to resolve outstanding issues, the date for migration from SIS 1+ to SIS II, set for September 2009, is no longer realistic;
5. *Welcomes* the completion of a feasibility study serving as a basis for creating a workable alternative technical scenario for developing SIS II based on SIS 1+ evolution as part of a contingency plan;
6. *Requests* that as soon as possible, but at the latest by May 2009, a report containing an in-depth assessment and comparison of both scenarios, in the light of the criteria set out in the Annex, be submitted to the Council by the Presidency and the Commission, in close cooperation with the SIS II Task Force and in consultation with the appropriate instances. As regards the alternative scenario, this report should be based on detailed input timely provided by the relevant Council preparatory bodies;
7. *Resolves*, as soon as possible, but at the latest at its meeting on 4-5 June 2009, on the basis of the report referred to in paragraph (6) and the analysis criteria as retained in the Annex to the present Council Conclusions, inter alia,
  - the calendar for entry into operation of SIS II,
  - the calendar for integrating Ireland, the United Kingdom, Cyprus, Bulgaria, Romania and Liechtenstein into the SIS, assuming that all requirements are fulfilled,
  - budgetary impacts and technical soundness,
  - possible legal implications,
  - to assess the progress made on SIS II development,
  - to examine in case of the alternative scenario, the ability to realise the objectives of SIS II set out in the legal framework governing the establishment, operation and use of SIS II, on the technical basis of SIS 1 + evolution,
  - to set out a technical solution which would allow the participation in the SIS of additional countries in accordance with their declared calendar and to decide on the further direction of this project;

8. *Urges* the Commission and Member States to cooperate fully in order to achieve these common goals;
9. *Invites* the Commission to fully inform the European Parliament and the Council on a regular basis about the expenditure figures related to the central SIS II project and the measures taken to ensure the complete financial transparency;
10. *Invites* the Presidency and the Commission to fully inform the European Parliament about the problems related to SIS II and the way forward.

## **ANNEX**

### **Analysis Criteria For Decision Making On Alternative SIS II Scenarios**

#### **1. POLITICAL AND LEGAL CRITERIA:**

- (a) Time factor
  - Schedule for bringing a system into operation, all functionalities at least as legally required
  - - Short term (2009), medium term (mid 2010) and long term (up to 2012) perspectives
- (b) Integration schedule for Member States which do not participate in SIS 1+ (UK, IE, BG, RO, CY, FL) – dates per Member States to be specified
- (c) Project credibility
  - Proper functioning of the Schengen information exchange
  - Added value to the internal security of the area of freedom, security and justice
- (d) Compatibility with the SIS II regulatory framework (including governance and responsibilities)

**2. FINANCIAL CRITERIA:**

- (a) Expenditures for the EU budget and for Member States (individually and jointly)
- (b) Investment protection - "reusability" of investments already dedicated to the development of SIS II and preparation for its operation
- (c) Total cost of ownership
- (d) Contractual implications for the Commission and for Member States

**3. TECHNICAL CRITERIA:**

- (a) Technical feasibility and corresponding risks (including migration)
- (b) Capacity to integrate all functionalities required for SIS II (new types of alerts, logging, security, ...) and biometric search functions
- (c) Robustness, adequacy and reliability of each solution (network and system stability and system architecture)
- (d) Absence of negative impact on bringing VIS into operation
- (e) Impact on continuity of operations
- (f) Project management
- (g) Compatibility with already developed SIS II national systems
- (h) Compliance with security requirements".

### **Convention on Choice-of-Court Agreements - Private international law**

The Council adopted a decision approving the signing of the Convention on Choice-of-Court Agreements ([16248/08](#)).

The Convention on Choice-of-Court Agreements concluded in June 2005 under The Hague Conference on private international law is aimed at promoting party autonomy in international commercial transactions and increasing the predictability of judicial solutions in such transactions.

The Convention affects Community secondary legislation on jurisdiction based on choice by the parties and the recognition and enforcement of the resulting judgments; in particular regulation 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

The Community is working towards the establishment of a common judicial area based on the principle of mutual recognition of judicial decisions.

### **Council of Europe - Convention on financing of crime and terrorism**

The Council adopted a decision authorising the signature, on behalf of the European Community, of the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism.

The new Convention No 198 on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism was opened for signing in May 2005.

### **Council of Europe's legislative work in the area of criminal justice - *Council conclusions***

The Council adopted the following conclusions:

"MINDFUL of the important achievements that have been brought about by the Council of Europe in creating a treaty framework for legal co-operation in criminal matters between the Members of the Council of Europe;



STRESSING that many of the Conventions of the Council of Europe form part and parcel of the bedrock of co-operation in criminal matters between the Member states of the European Union;

TAKING INTO ACCOUNT that duplication of work should, as far as possible, be avoided to the extent that the objectives pursued can also be achieved through ratification and implementation of Council of Europe Conventions in all EU Member States;

RECALLING the crucial role that the Council of Europe has played in the approximation of criminal legislation in Europe regarding fundamental issues;

STRESSING in particular the fact that the Council of Europe Conventions have often laid the indispensable foundations for further approximation of the legislation of the Member States of the European Union;

REFERRING to the need for Member States to sign and/or ratify in particular the Criminal Law Convention No 173 on Corruption, Convention No 196 on the Prevention of Terrorism Convention No 197 on Action against Trafficking in Human Beings; the Council of Europe Convention No 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism and Convention No 201 on the Protection of Children against Sexual Exploitation and Sexual Abuse;

ACKNOWLEDGING that in some cases it may be necessary to provide for more specific and detailed rules between the Member States of the European Union. Such deeper integration does not detract from the important nature of the Conventions of the Council of Europe;

STRESSING that the Council of Europe Conventions play an essential role in the co-operation between EU Member States and third states;

1. Reiterates its respect for the legislative activities of the Council of Europe in the area of criminal justice;
2. Reaffirms its intention to continue the close co-operation between the European Union and the Council of Europe in this area;
3. Calls upon Member States to sign, ratify and implement the Conventions of the Council of Europe in the area of international co-operation in criminal matters and on approximation of criminal legislation when appropriate, in particular when the provisions of these conventions are integrated in the *acquis* of the EU. "

## **Criminal records - Exchange of information between member states**

The Council adopted a framework decision on the exchange of information extracted from criminal records between EU member states ([13017/08](#)).

The framework decision on the organisation and content of the exchange of information extracted from criminal records is aimed at improving the exchange of information on criminal convictions handed down against nationals of the members states. It lays the ground rules for the transmission of information on convictions to the country of the person's nationality as well as for the storage of such information by that country and for the retransmission, upon request, to other member states. The framework decision also addresses the issue of information exchange arising from convictions for sexual offences committed against children.

## **Trials in absentia**

The Council adopted a framework decision on enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition in respect of decisions rendered in the absence of the person at the trial (trials *in absentia*) ([11638/08](#)).

Differences in approach across the EU have been creating a degree of uncertainty and delay in cases where the defendants were convicted in their absence. The procedural guarantees established in this framework decision, in particular the right to a retrial or appeal if the defendant was not properly informed about the original trial and had not appointed a lawyer to represent him or her, will allow member states to enforce each others' judgments with even greater confidence that the persons' rights of defence are fully respected.

The existing instruments on mutual recognition (framework decisions on the European arrest warrant, on financial penalties, on confiscation orders, on transfer of sentenced persons, and on the supervision of probation measures and alternative sanctions) will have to be modified to take into account the provisions of this framework decision.

### **Customs Information System - Progress report**

The Council took note of a report on the application of the Customs Information System (CIS) during the period from January to October 2008.

The CIS was created to store information in order to assist in preventing, investigating and prosecuting actions which are in breach of customs and agricultural legislation or serious contraventions of national laws. It is running since 2003.

### **EUROPOL - Budget discharge for 2007**

The Council took note of an audit report and gave discharge to the director of Europol in respect of the budget implementation for the year 2007 ([17160/08](#) + ADDI).

### **EUROPOL - India**

The Council adopted a decision with a view to adding India to the list of countries with which the director of Europol is authorised to start negotiations on cooperation agreements ([5439/09](#)).

## **ECONOMIC AND FINANCIAL AFFAIRS**

### **Depositor protection measures**

The Council adopted a directive raising guarantee levels and reducing payout delays in the event that deposits of a bank would become unavailable ([3743/08](#)).

The new directive includes provisions:

- raising the coverage level to a minimum of EUR 50 000 as from 30 June 2009, rather than the present EUR 20 000;

- setting the coverage level at EUR 100 000 as from 31 December 2010;
- reducing the payout delay to 25 working days (a period of five working days to establish that a credit institution has failed to repay deposits which are due and payable, and of 20 working days, subject to extension by 10 working days, to make the repayment). The corresponding periods are at present 21 working days and three months, subject to the possibility of two three-month extensions.

The purpose of the adopted directive is to help restoring confidence in the banking sector by strengthening depositor protection through: drastically reducing the payout delays, eliminating co-insurance, increasing the coverage level to EUR 50 000 as early as possible and further setting it at the level of EUR 100 000 by the end of 2010, and enhancing cross-border cooperation between the home Member State, where the bank is authorised, and the host Member State, where the foreign branch is located.

The directive will enter into force following its publication in the Official Journal of the European Union.

### **EU Solidarity Fund - Romania**

The Council adopted a decision mobilising the EU Solidarity Fund for an amount of EUR 11 785 377, in order to help compensate for the damage caused in Romania by severe floods and landslides which affected a part of the country in July 2008 ([5778/09](#)).

The documents related to the amending budget for the mobilisation of the Fund will be forwarded to the European Parliament.

**EXTERNAL RELATIONS**

**EU NAVFOR - Atalanta military operation - Cooperation with Kenya**

The Council adopted a decision approving the Exchange of Letters between the EU and the Government of Kenya on the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and detained by EU NAVFOR, and seized property in the possession of EU NAVFOR, from EU NAVFOR to Kenya and for their treatment after such transfer (5234/09).

In November 2008 the Council adopted a joint action 2008/851/CFSP on a EU military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (operation Atalanta) (*OJL 301, 12.11.2008, p. 33.*). The operation was launched on 8 December 2008.

For more information on EU NAVFOR : [www.consilium.europa.eu/eunavfor-somalia](http://www.consilium.europa.eu/eunavfor-somalia).

**International Criminal Tribunal for the former Yugoslavia - Restrictive measures**

The Council adopted a common position extending for 12 months, until 16 March 2010, common position 2004/293/CFSP on measures in support of the effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY) ([6334/09](#)).

The measures are intended to prevent entry into the EU of persons who are engaged in activities that help persons at large continue to evade justice for crimes for which ICTY has indicted them, or are otherwise acting in a manner which could obstruct ICTY's effective implementation of its mandate. The list of persons, which was first drawn up in April 2003, now includes 34 persons subject to a travel ban.

**EU/Albania - Stabilisation and Association agreement**

The Council adopted a decision approving the conclusion of the Stabilisation and Association agreement with Albania ([8161/06](#)). The Council adopted also a decision approving an additional protocol to this agreement, to take account of the accession of Bulgaria and Romania to the European Union ([7999/08](#)).

**COMMERCIAL AFFAIRS**

**Common rules for imports**

The Council adopted a regulation on the common rules for imports ([9533/08](#)). The text is a codified version of directive 3285/94.

**Community trade mark**

The Council adopted a regulation on the Community trade mark ([17435/08](#)). The text is a codified version of regulation 40/94.

**Liner shipping companies**

The Council adopted a regulation on the application of article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies ([17436/08](#)). The text is a codified version of regulation 479/92.

**Rules of competition to transport by rail, road and inland waterway**

The Council adopted a codified version of a regulation applying rules of competition to transport by rail, road and inland waterway ([5059/09](#)). The new regulation supersedes the various acts incorporated in regulation 1017/68 whilst fully preserving its content.

**ENVIRONMENT**

**Waste statistics - Regulatory procedure with scrutiny**

The Council adopted a regulation bringing into line regulation 2150/2002 on waste statistics with the new comitology rules ([3694/08](#)), following a first reading agreement with the Parliament.

## **EMPLOYMENT**

### **Recognition of professional qualifications**

The Council decided not to oppose the adoption by the Commission of a regulation concerning the recognition of professional qualifications and amending annex II to directive 2005/36.

## **FISHERIES**

### **Statistics**

The Council adopted regulations recasting current legislation on the submission of catch and activity statistics by member states fishing in the Northwest and North East Atlantic (3633/08 and 3648/08), as well as catch statistics in certain areas other than those of the North Atlantic (3620/08).

## **TRANSPORT**

### **Third package on maritime safety\***

The Council adopted six legislative acts that are part of the third package on maritime safety, in accordance with joint texts on which agreement was reached with the European Parliament under the Parliament-Council conciliation procedure.

The six legislative acts adopted belong to a series of measures, consisting of a total of seven legislative proposals<sup>1</sup>, aiming to strengthen the security of maritime transport in Europe by improving accident prevention and investigations into accidents and by strengthening vessel quality control.

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<sup>1</sup> The seven original Commission's proposals are the following:

- a proposal for a directive on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations (recast) ([5912/06](#));
- a proposal for a directive amending directive 2002/59/EC establishing a Community vessel traffic monitoring and information system ([5171/06](#));
- a proposal for a directive establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending directives 1999/35/EC and 2002/59/EC ([6436/06](#));
- a proposal relative on port State control ([5632/06](#));
- a proposal for a regulation on the liability of carriers of passengers by sea and inland waterways in the event of accidents ([6827/06](#));
- a proposal for a directive on compliance with flag state requirements ([6843/06](#));
- a proposal for a directive on the civil liability and financial guarantees of ship-owners ([5907/06](#)).

Texts adopted by the Council can be found in the following documents:

- directive on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations [3719/08](#);
- regulation on common rules and standards for ship inspection and survey organizations [3720/08](#);
- directive of the European Parliament and of the Council of on port State control [3721/08](#);
- directive amending directive 2002/59/EC establishing a Community vessel traffic monitoring and information system [3722/1/08](#), [6536/09](#) ADD1;
- directive establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending directives 1999/35/EC and 2002/59/EC [3723/08](#);
- regulation on the liability of carriers of passengers by sea and inland waterways in the event of accidents [3724/08](#), [6538/09](#) ADD1.

*For more information see press release [16939/08](#).*

### **TRANSPARENCY - PUBLIC ACCESS TO DOCUMENTS**

The Council adopted:

- the reply to confirmatory application 01/c/01/09 made by Ms Eva MORAGA GUERRERO, the Finnish and the Swedish delegations voting against (*doc. [5475/09](#)*);
  - the reply to confirmatory application 02/c/01/09 (*doc. [5955/09](#)*);
  - the reply to confirmatory application 03/c/01/09, the Estonian, the Finnish and the Swedish delegations voting against (*doc. [5990/09](#)*); and
  - the reply to confirmatory application 04/c/01/09 made by Mr Matthew CAMPBELL, the Danish and the Swedish delegations voting against (*doc. [6038/09](#)*).
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