



Brussels, 27 November 2009

**BACKGROUND<sup>1</sup>**  
**JUSTICE AND HOME AFFAIRS COUNCIL**  
**Brussels, 30 November and 1 December 2009**

*In accordance with the provisions of the Treaty of Lisbon, which will enter into force on 1 December, all Council deliberations on legislative acts will be taken in public session.*

*The Justice and Home Affairs Council (JHA) will hold a two-day meeting on Monday, 30 November and Tuesday, 1 December 2009 (under the chair of **Beatrice ASK, Minister for Justice** and of **Tobias BILLSTRÖM, Minister for Migration and Asylum Policy**) in the Justus Lipsius building in Brussels.*

*On Monday, the Council session will be preceded by a meeting of the **Mixed Committee** (the EU plus Norway, Iceland, Liechtenstein and Switzerland), starting at 10.00 h. It will examine the state of play concerning the development of the **Visa Information System (VIS)** and the **Schengen Information System II (SIS II)**. Ministers will also hold an orientation debate on the possibility of setting up an **agency for large-scale IT systems** in the area of freedom, security and justice.*

*Also the rest of Monday will be dedicated to **home affairs matters**, and the Council is expected to adopt two legislative acts:*

- an agreement between the **EU and Japan on mutual legal assistance** in criminal matters,*
- amendments to regulation No 539/2001 granting **visa free travel** to and throughout the Schengen area for citizens of the former **Yugoslav Republic of Macedonia, Montenegro and Serbia**.*

*Ministers will also discuss a draft **EU-US agreement on financial messaging data** for counter-terrorism investigations.*

*In public deliberation, the Council will examine the state-of-play of the **Common European Asylum System**. Ministers are expected to endorse the agreement reached between Council and Parliament on the establishment of the **European Asylum Support Office (EASO)** and on the related changes to the **European Refugee Fund (ERF)**. In the same context, they will have a first exchange of views on two recent Commission proposals on **asylum procedures** and on **qualification and status of refugees**.*

*Ministers are also due to approve Council conclusions on an **Information Management Strategy for EU internal security**. They will debate a report by the **EU counter-terrorism coordinator** and discuss, under external relations, the three **ministerial meetings** between the EU and the **US, Russia and the Western Balkans**.*

*Still in public debate, and in their respective sessions on both days, home affairs and justice ministers will discuss the multi-annual strategic work programme in the area of freedom, security and justice, the **Stockholm Programme**.*

---

<sup>1</sup> This note has been drawn up under the responsibility of the press office.

*On Tuesday, the Council will meet for the first time under the rules of the Treaty of Lisbon. **Justice affairs** ministers will hold orientation debates concerning two legislative proposals aimed at:*

- common rules facilitating the **transfer of criminal proceedings**, and*
- strengthening the fight against **trafficking in human beings** and the protection of victims. In this area, it is also expected to adopt an action oriented paper focusing on the EU's external actions.*

*Ministers will also be informed about the state of play concerning **eJustice** and a legislative proposal to improve the fight against sexual abuse, **sexual exploitation of children** and child pornography.*

\* \* \*

*The presidency intends to organise a **press conference** at the end of the morning on the first day (+/- 12.30 h) and at the end of the afternoon sessions on both days (tbc).*

***Press conferences and public deliberations can be followed by video streaming:***  
<http://video.consilium.europa.eu/>

\* \* \*

## **JUSTICE AND HOME AFFAIRS (both days)**

### **The Stockholm Programme (2010-14)**

In public debate and in their respective sessions on both days, home affairs and justice ministers will discuss the multi-annual strategic work programme in the area of freedom, security and justice, the so-called Stockholm Programme.

The Stockholm Programme will set out the priorities for EU action in the area of freedom, security and justice for the next five years (2010-14). It will put the citizen at the heart of EU action and deal, among other things, with questions of citizenship, justice and security as well as asylum, migration and the external dimension of justice and home affairs.

It is ten years since the EU set itself the target of creating an area of freedom, justice and security. The Stockholm Programme will build on the progress made during the implementation of the Tampere Programme (2000-2004) and the Hague Programme (2005-2009).

On 10 June 2009, the Commission adopted two communications: an evaluation of the Hague Programme and a blueprint for the Stockholm Programme. It is the aim of the Swedish EU presidency to adopt the Stockholm Programme at the European Council on 10-11 December 2009.

## **HOME AFFAIRS (Monday, 30 November)**

### **Mixed Committee: VIS, SIS II and IT Agency**

In the margins of the Council, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) will discuss the state of play on the development of the Visa Information System (VIS) and of the Schengen Information System II (SIS II). The committee will also hold an orientation debate on the possibility of setting up an agency for large-scale IT systems in the area of freedom, security and justice ([11722/09](#) and [11726/09](#)).

Once operational, VIS will support the implementation of the common visa policy and facilitate effective border control by enabling Schengen member states to enter, update and consult visa data, including biometric data, electronically.

SIS II will replace the existing Schengen Information System (SIS). It will facilitate the exchange of information on persons and objects between national authorities responsible, inter alia, for border controls and other customs and police checks.

An agency for large-scale IT systems would be responsible for the operational management of VIS, SIS II and EURODAC, the IT system for comparing the fingerprints of asylum seekers and illegal immigrants, in order to facilitate the application of the Dublin II Regulation, which makes it possible to determine the Member State responsible for examining an asylum application. The new agency would also be charged with the operational aspects of any other large-scale IT system developed in the future in the area of freedom, security and justice.

### **EU-Japan agreement on mutual legal assistance**

The Council is expected to adopt a decision on an agreement between the EU and Japan on mutual legal assistance in criminal matters.

It will be the first such agreement between the two parties, providing a solid basis for mutual legal assistance while at the same time ensuring respect for the fundamental values of the EU.

### **Visa liberalisation for the countries of the Western Balkans**

The Council is expected to adopt amendments to regulation No 539/2001 granting visa free travel to and throughout the Schengen area for citizens of the former Yugoslav Republic of Macedonia, Montenegro and Serbia. Citizens of Albania and Bosnia and Herzegovina will not yet be granted the same rights as both countries are not yet considered to have met all the benchmarks agreed under the visa liberalisation dialogue with the countries of the Western Balkans.

The amended regulation also makes a reference to Kosovo under UNSCR 1244/99 with the result that persons residing in Kosovo require a visa when travelling to the EU.

The visa liberalisation dialogue with the countries of the Western Balkans was launched in early 2008. The Commission presented a proposal to amend regulation 539/2001 in July 2009, and the European Parliament gave its non-binding opinion on 12 November. The main areas where

benchmarks were set under the visa liberalisation dialogue are border controls, passport security, fight against organised crime and corruption as well as external relations and fundamental rights.

### **EU-US agreement on financial messaging data for counter-terrorism investigations**

The Council will discuss an EU-US agreement on the processing and transfer of financial messaging data for purposes of the US Terrorist Finance Tracking Programme (TFTP).

The negotiations on the agreement started in July 2009 and responded to a decision by the Society for Worldwide Interbank Financial Telecommunication (SWIFT) to store its European financial messaging data no longer in a database located in the US, but only in Europe. The agreement aims to continue to allow the US Department of the Treasury to receive European financial messaging data for counter-terrorism investigations, while ensuring an adequate level of data protection .

Under the Terrorist Finance Tracking Programme (TFTP), the US Department of the Treasury seeks to identify, track and pursue suspected terrorists and their providers of finance. It was set up shortly after the terrorist attacks of 11 September 2001.

Relevant results of the US analysis have been and will, under the draft agreement, continue to be shared with EU member states. A report by the former French investigating judge Jean-Luis Brugière, commissioned by the Commission, concluded in December 2008 that the TFTP had generated considerable intelligence value also to the EU member states.

SWIFT is a Belgium-based company which operates a worldwide messaging system used to transmit, inter alia, bank transaction information. It has been estimated that SWIFT handles 80% of the worldwide traffic for electronic value transfers.

### **Common European Asylum System (CEAS) and European Asylum Support Office (EASO)**

In public deliberation, the Council will examine the state-of-play of the Common European Asylum System (CEAS). Ministers are expected to endorse the political agreement reached with the European Parliament on:

- the regulation establishing the European Asylum Support Office (EASO) ([6700/09](#)), and
- the related decision on the European Refugee Fund (ERF) ([6702/09](#)).

In the same context, they will have a first exchange of views on two recent Commission proposals:

- a directive on minimum standards on procedures in member states for granting and withdrawing international protection ([14959/09](#)); and
- a directive on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted ([14863/1/09](#)).

The support office is aimed at improving the implementation of the Common European Asylum System, strengthening practical cooperation among member states on asylum as well as providing and coordinating operational support to member states facing specific and disproportionate pressures on their national asylum systems. The ERF needs to be amended as the office will take over responsibility for certain operations that have until now been financed by the refugee fund.

The two proposals for amending the directives tabled by the Commission in October 2009 aim to offer a higher degree of protection to those at risk of persecutions and to improve the coherence

between EU asylum instruments. They are also meant to simplify and consolidate procedural standards, thus preventing fraud and improving efficiency of the asylum process.

The CEAS was launched in The Hague Programme (2005-09). In October 2008, the European Council adopted the European Pact on Immigration and Asylum and confirmed its commitment to complete the CEAS at the latest in 2012. Besides the EASO/ERF and the two most recent directive proposals mentioned above, the following legislative initiatives form part of the CEAS:

- the reception conditions directive ([16913/08](#)),
- the so-called Dublin II regulation ([16929/08](#)), determining the member state responsible for examining an asylum application,
- the EURODAC regulation (13263/08), establishing a system of comparing fingerprints in order to effectively implement the Dublin system,
- an amendment to the ERF ([12985/09](#)) related to the establishment of a joint EU resettlement programme ([12986/09](#)).

### **External relations: USA, the Western Balkans and Russia**

Under external relations, the Council will take note of the results of the ministerial meetings with the USA (27-28 October 2009) and the Western Balkans (16-17 November 2009). Ministers will also discuss their expectations towards the meeting with Russia (2 December 2009).

At the meeting with the USA, the Washington statement was adopted, which describes the objectives for the five years ahead. Issues identified include an international agreement on data protection of personal data exchanged for law enforcement purposes, an EU-US declaration on common principles that guide the fight against terrorism and an expansion of the dialogue on migration and refugee issues.

The meeting with the Western Balkans showed that clear, but uneven, progress is made towards meeting the acquis and European standards. In particular, the visa liberalisation dialogue has proven to be a strong incentive for reform.

Concerning the Russian Federation, subjects for discussion include the possibility for Europol to conclude an operational agreement with Russia, visa issues and a strengthened migration dialogue.

### **EU strategy and action plan to combat terrorism: Implementation report**

The EU Counter-Terrorism Coordinator, Gilles de Kerchove, will present to the Council his latest implementation report on the EU Strategy and Action Plan to Combat Terrorism. In response to the European Council's request, he submits such a report every six months.

The report summarises progress made since June 2009 and reflects on key challenges in the area.

The strategic commitment of the EU is to combat terrorism globally while respecting human rights, and to make Europe safer, allowing its citizens to live in an area of freedom, security and justice.

The EU Counter-Terrorism Strategy ([14469/4/05](#)) which was adopted in December 2005 and provides the framework for EU activity in this field groups all actions under four objectives:

- to *prevent* people from turning to terrorism,
- to *protect* citizens and infrastructure and reduce our vulnerability to attack, *inter alia* through

- improved security of borders, transport and critical infrastructure,
- to *pursue* and investigate terrorists across our borders as well as globally,
- to *prepare* ourselves, in a spirit of solidarity, to manage and minimize the consequences of a terrorist attack.

### **Information management strategy for EU internal security**

Ministers are due to approve Council conclusions on an Information Management Strategy for EU internal security.

The basis of this strategy should be the assumption that effective and secure cross border exchange of information is a precondition to achieve the goals of internal security in the EU. It should allow the national law enforcement authorities to implement in an efficient and effective manner the future developments in information exchange policy.

The strategy's aim is, therefore, not to define what kind of information should be stored and/or exchanged. This will rather be the goal for an EU internal strategy proper. The envisioned information management strategy should ensure how cross-border information exchange should be organised in a coherent, professional, efficient and cost-effective way, accountable and comprehensible to the citizens and the professional users.

## **JUSTICE AFFAIRS (Tuesday, 1 December)**

### **Sexual exploitation of children**

The Council will be informed about the state of play concerning a Council framework decision aimed at improving the fight against sexual abuse, sexual exploitation of children and child pornography ([8150/09](#)).

The framework decision was tabled by the Commission in March 2009. With the entry into force of the Treaty of Lisbon on 1 December 2009, a new legislative proposal will be necessary, and the progress made to date will serve as a basis.

Once a follow-up proposal will be adopted, the new rules will replace framework decision 2004/68/JHA. The goal is to further approximate national legislation and to improve international law enforcement and judicial cooperation.

### **Transfer of criminal proceedings**

The Council will hold an orientation debate on a Council framework decision on the transfer of proceedings in criminal matters ([13504/09](#)).

The framework decision was presented in June 2009 jointly by 16 member states. With the entry into force of the Treaty of Lisbon on 1 December 2009, a new legislative proposal will be necessary, and progress made to date will serve as a basis.

Once a follow-up proposal will be adopted, the new rules aim to increase efficiency in criminal proceedings and to improve the proper administration of justice in line with the EU's aim of creating a common European area of freedom, security and justice. To this end, it strives for common rules facilitating the transfer of criminal proceedings between competent authorities of EU member states with, in particular, increased transparency and greater objectivity in the way in which the place for the trial is chosen.

Currently, there are several legal instruments on the transfer and coordination of proceedings applicable in relations between the member states. There is, however, no common legal framework at EU level.

### **Trafficking in human beings**

The Council will hold an orientation debate concerning a Council framework decision aimed at strengthening the fight against trafficking in human beings and the protection of victims ([8151/09](#)). It is also expected to adopt an action oriented paper focusing on the EU external dimension regarding action against trafficking in human beings.

The framework decision was tabled by the Commission in March 2009. With the entry into force of the Treaty of Lisbon on 1 December 2009, a new legislative proposal will be necessary, and the text at hand will serve as a basis.



Once a follow-up proposal will be adopted, the new rules will replace framework decision 2002/629/JHA. The goal is to further approximate national legislation and to improve international law enforcement and judicial cooperation. The aspects member states already reached agreements on include:

- a definition of the crime, aggravating circumstances and higher punishment;
- extraterritorial jurisdiction allowing to prosecute EU nationals for crimes committed abroad and to use investigative tools such as phone listening and access to financial data;
- special treatment of the victims in criminal proceedings including non-punishment of the victims who bear the consequences of the criminal activities;
- higher standard of protection and assistance to the victims, and in particular special protective measures for children;
- preventive measures aimed at discouraging the demand side of the phenomenon.

### **e-Justice action plan**

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

The portal will promote the use of information and communication technologies in the field of justice. The use of the new technologies is intended to rationalise and simplify judicial procedures and to reduce operating costs, for the benefit of citizens, undertakings, legal practitioners and the administration of justice.

One of the portal's main purposes will be to promote and facilitate cross-border videoconferencing in civil, commercial, administrative and criminal matters. It will include updated information on all courts with videoconferencing equipment in the EU member states. A manual for practitioners will cover legal, technical and practical aspects. A user-friendly booklet will illustrate the possibilities of videoconferencing and give good practice examples from member states.

Further developments of the e-Justice portal will include a database of interpreters and translators specialised in legal matters as well as a European insolvency register.

---