



**COUNCIL OF  
THE EUROPEAN UNION**



14936/09 (Presse 306)

**PROVISIONAL VERSION**

## **PRESS RELEASE**

2969th Council meeting

### **Justice and Home Affairs**

Luxembourg, 23 October 2009

President

**Mrs Beatrice ASK**

Minister for Justice

**Mr Tobias BILLSTRÖM**

Minister for Migration and Asylum Policy

# **P R E S S**

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14936/09 (Presse 306)

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**EN**

## **Main results of the Council**

*The Council agreed on the general approach on two resolutions and a framework decision aimed at strengthening **procedural rights of suspected or accused persons in criminal proceedings**.*

*General agreement was also reached regarding a draft framework decision on **accreditation of forensic laboratory activities** and a draft decision on a **European Crime Prevention Network**.*

*On issues of **visa reciprocity**, the Council had a first exchange of view on two Commission reports:*

- the fifth report on certain third countries' maintenance of visa requirements in breach of the principle of reciprocity as stated in regulation 539/2001, and*
- the special report on the re-introduction of the visa requirement by Canada for Czech citizens.*

*Ministers then exchanged views on a framework decision on the **transfer of proceedings in criminal matters** and examined the state of play of a framework decision on **preventing and combating trafficking in human beings**.*

*Without debate, the Council adopted a decision on the conclusion of **two agreements between the European Union and the United States of America**, namely on **extradition and mutual legal assistance**. Ministers also adopted two sets of conclusions:*

- on the **financial coalitions against child pornography on the internet** and*
- on a strategy for the rights of and support to **persons who fall victim to crime**.*

*In the margin of the Council, the **Mixed Committee** (the EU plus Norway, Iceland, Liechtenstein and Switzerland), discussed the state of play concerning the development of the **Visa Information System (VIS)** and the **Schengen Information System II (SIS II)**.*

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<sup>1</sup>

- 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  
Ms Annemie TURTELBOOM

Minister for Justice  
Minister for Policy on Migration and Asylum

**Bulgaria:**

Ms Margarita POPOVA

Minister for Justice

**Czech Republic:**

Mr Martin PECINA  
Mr Tomáš BOČEK

Minister for Interior  
Deputy Minister for Justice, International Relations  
Section

**Denmark:**

Ms Birthe Rønn HORNBECH

Minister for Refugee, Immigration and Integration Affairs

**Germany:**

Mme Brigitte ZYPRIES  
Mr Peter ALTMAIER

Federal Minister for Justice  
Parliamentary State Secretary to the Federal Minister for  
the Interior

**Estonia:**

Mr Rein LANG  
Mr Marko POMERANTS

Minister for Justice  
Minister for the Interior

**Ireland:**

Mr Rory MONTGOMERY

Permanent Representative

**Greece:**

Mr Charalampos KASTANIDIS

Minister for Justice, Transparency and Human Rights

**Spain:**

Mr Francisco CAAMAÑO DOMÍNGUEZ  
Mr Alfredo PÉREZ RUBALCABA

Minister for Justice  
Minister for the Interior

**France:**

Ms Michèle ALLIOT-MARIE

Keeper of the Seals, Minister for Justice

**Italy:**

Mr Giacomo CALIENDO

State Secretary for Justice

**Latvia:**

Mr Normunds POPENS

Permanent Representative

**Lithuania:**

Mr Remigius Simasius  
Ms Agnė PUTELYTĖ

Minister for Justice  
Attaché for Home affairs

**Luxembourg:**

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Minister with responsibility for Foreign Affairs and  
Immigration

Mr François BILTGEN

Minister for Labour and Employment, Minister for  
Culture, Higher Education and Research, Minister for  
Religious Affairs

**Hungary:**

Ms Judit FAZEKAS LÉVAYNÉ

State Secretary (with special responsibility), Ministry of  
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**Malta:**

Mr Carmelo MIFSUD BONNICI

Minister for Justice and Home Affairs

**Netherlands:**

Mr Ernst HIRSCH BALLIN  
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Minister for Justice  
State Secretary for Justice

**Austria:**

Ms Claudia BANDION-ORTNER  
Ms Maria FEKTER

Federal Minister for Justice  
Federal Minister for the Interior

**Poland:**

Mr Piotr STACHAŃCZYK

State Secretary, Ministry of the Interior and  
Administration  
Deputy State Secretary, Ministry of Justice

Mr Igor DZIALUK

**Portugal:**

Mr Manuel LOBO ANTUNES

Permanent Representative

**Romania:**

Ms Alina BICA  
Mr Marian Grigore TUTILESCU

State Secretary, Ministry of Justice  
State Secretary, Ministry of the Interior

**Slovenia:**

Mr Aleš ZALAR  
Ms Katarina KRESAL

Minister for Justice

Minister for the Interior

**Slovakia:**

Ms Jana VNUKOVA  
Mr L'ubomir HANUS

Director, Ministry of Justice  
Counselor for Home Affairs

**Finland:**

Ms Tuija BRAX  
Mr Antti PELTTARI

Minister for Justice  
State Secretary, Ministry of the Interior

**Sweden:**

Ms Beatrice ASK  
Mr Tobias BILLSTRÖM

Minister for Justice  
Minister for Migration

**United Kingdom:**

Lord BACH

Parliamentary Under Secretary of State, Ministry of  
Justice  
Junior Minister, Home Office

Ms Meg HILLER

**Commission:**

Mr Jacques BARROT

Vice-President

**ITEMS DEBATED**

**PROCEDURAL RIGHTS IN CRIMINAL PROCEEDINGS**

The Council reached agreement on a package of three documents aimed at strengthening procedural rights of suspected or accused persons in criminal proceedings ([14552/1/09](#)).

It is the first time that justice ministers agreed on texts enhancing the rights of individuals in criminal proceedings. Previous negotiations failed in 2007. Ministers therefore expressed great satisfaction and underlined that the new texts will increase mutual confidence among member states. They also welcomed the presidency's decision to address the various procedural rights in a step-by-step approach.

Once adopted, the texts will complement the rights set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which all member states are party.

The texts that were agreed upon are:

- a roadmap identifying the main areas on which legislative or other initiatives are desirable,
- the first legislative proposal in this area, namely the framework decision on the right to interpretation and to translation, as well as
- an accompanying resolution fostering the implementation of the framework decision.

The roadmap defines a step-by-step approach. It sets out six priority areas on which legislative or other initiatives are desirable while underlining that it should be examined to take action in other fields as well. These six areas are:

- translation and interpretation,
- information on rights and information about the charges,
- legal advice and legal aid,
- communication with relatives, employers and consular authorities,
- special safeguards for suspected or accused persons who are vulnerable, and
- a green paper on pre-trial detention.

On the first group of rights, the right to interpretation and to translation, ministers reached an agreement, awaiting the opinion by the European Parliament. They also agreed on an accompanying resolution fostering its implementation through guidelines on best practices.



**ACCREDITATION OF FORENSIC LABORATORY ACTIVITIES**

Ministers reached a general agreement on a draft framework decision on accreditation of forensic laboratory activities ([11419/1/09](#)). They welcomed the progress made and asked Council preparatory bodies to continue their work with a view to adopt the law as soon as possible.

The purpose of this framework decision is to ensure that the results of forensic laboratory activities carried out in one EU member state are recognised by the authorities responsible for the prevention, detection and investigation of criminal offences within any other member states. To this aim, a national accreditation body in each member state shall accredit forensic service providers carrying out laboratory activities as complying with the relevant international ISO-standard.

The overall aim of this framework decision is confidence-building between EU member states. As the amount of data transferred across the EU increases, it will become increasingly important to ensure that the quality of the data is sufficiently high.

**EUROPEAN CRIME PREVENTION NETWORK (EUCPN)**

The Council reviewed a draft decision on the European Crime Prevention Network (EUCPN) established in 2001. In light of progress made in the preparatory bodies, ministers reached a general agreement on the text.

An external evaluation conducted in 2008-2009 identified, inter alia, the need for more engagement in the activities of the network by the national representatives and strengthening of the secretariat. To that end, decision 2001/427/JHA would be repealed and its earlier provisions will be amended in a number of points, namely: provisions dealing with contact points, the tasks of the secretariat, the structure of the board and its tasks, including the appointment of the chair.

EUCPN's main goals are to develop crime prevention measures, to exchange best practices and to strengthen the network of competent national authorities. The network mainly focuses on juvenile, urban and drug-related crime.

**VISA RECIPROCITY: 5TH COMMISSION REPORT**

After a presentation by the Commission, ministers held a first exchange of views on the fifth report on certain third countries' maintenance of visa requirements in breach of the principle of reciprocity as set out in regulation 539/2001.

Ministers welcomed the report and asked the Commission to continue its efforts towards full visa reciprocity with all countries on the regulation's positive list.

Regulation 539/2001 establishes, among other things, two lists: one concerning third countries whose citizens are required to have a visa when travelling to the EU and Schengen associated countries (negative list) and one concerning third countries whose citizens are exempted from the visa requirement (positive list). Under the regulation, the Commission is required to regularly report on matters regarding situations of non-visa reciprocity with third countries.

The latest report was adopted on 19 October 2009. The key conclusions are:

Full visa reciprocity has now been accomplished with Japan, Panama and Singapore. Concerning Australia, the introduction of the eVisitors system has brought about equal treatment of the citizens of all EU member states and Schengen associated countries. Nevertheless, the Commission sees the need to carefully monitor the exact implementation of the Australian system.

On the visa relations with the United States of America, the Commission concludes that further progress has been achieved. In particular, seven additional member states have joined the US Visa Waiver Program (VWP). At the same time, there are still five EU member states which are not yet included (Bulgaria, Cyprus, Greece, Poland and Romania). Another issue is the US Electronic System for Travel Authorization (ESTA). The possible introduction of a fee in connection with ESTA remains a matter of concern.

The report also welcomes the agreement reached with Brazil on the draft text of the short-stay visa waiver agreement for holders of ordinary passports. Negotiations for an agreement on holders of diplomatic and service passports are ongoing. Concerning Canada, the Commission has prepared a separate ad-hoc report (see next item).

**VISA REQUIREMENTS IMPOSED BY CANADA ON CZECH NATIONALS**

The Council discussed the Commission ad-hoc report on the state-of-play regarding the reintroduction by Canada of a visa requirement for Czech nationals.

Ministers welcomed the report and encouraged the Commission to continue, in consultation with the Czech authorities, to pursue the matter with the Canadian authorities. The goal should be to restore visa-free travel for Czech nationals as soon as possible.

Canada unilaterally re-introduced a visa requirement for Czech nationals on 14 July 2009. On the same day, the Czech authorities notified the Commission and the Council thereof, and the notification was published in the Official Journal of the EU on 6 August. As a consequence, the Commission was required to present a report on the matter to the Council.

Canada is among the third countries whose nationals are not subject to a visa requirement under regulation 539/2001. This regulation, however, as amended by regulation 851/2005 also foresees the possibility of reciprocity measures in the case that a country enjoying visa-free travel to the EU introduces visa requirements for citizens of one or several EU member states.

Canada also continues to maintain a visa requirement for Bulgarian and Romanian citizens.

**TRANSFER OF PROCEEDINGS IN CRIMINAL MATTERS**

Ministers reviewed the progress made on a draft framework decision on transfer of proceedings in criminal matters ([13504/09](#)). Some of the issues tabled for discussion by ministers were:

- the procedure for requesting transfer of proceedings,
- the decision of the receiving authority,
- consultations between the requesting and receiving authorities, and
- cooperation with Eurojust and the European Judicial Network.

This framework decision aims 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 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 AND VICTIMS SUPPORT**

The Council discussed the state of play regarding a draft framework decision aimed at strengthening the fight against trafficking in human beings ([8151/09](#)).

Ministers paid particular attention to the proposed penalties' system and possible situations of parallel criminal proceedings. They ordered the Council preparatory bodies to continue work with the aim to prepare a political agreement by the next Justice and Home Affairs Council meeting on 30 November / 1 December.

The new framework decision, tabled by the Commission in March 2009, is intended to replace framework decision 2002/629/JHA. It aims at improving the existing instruments to combat trafficking in human beings and to protect victims and includes:

- 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.

Once adopted, the framework decision will contribute to the approximation of national legislations in this field as well as to the improvement of international law enforcement and judicial cooperation.

**MIXED COMMITTEE: VIS AND SIS II**

In the margins of the Council, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) discussed the state of play concerning the development of the Visa Information System (VIS) and of the Schengen Information System II (SIS II).

Ministers expressed concern at the delays being experienced and invited the Commission and the Council working parties to continue their work and to report back to the Council at its next meeting on 30 November / 1 December.

**OTHER BUSINESS**

**Information by Slovenia on a ministerial conference in Brdo**

The Slovenian minister presented the conclusions of the 9th Regional Ministerial Conference on illegal migration, organised crime, corruption and terrorism held in Brdo in September. At the conference, particular attention was given to the topic of visa liberalisation in the Western Balkans.

**Successions with a cross-border dimension**

The Council took note of a recent Commission proposal for a regulation on successions with an international dimension and for the creation of a European Certificate of Succession.

The Commission proposal was adopted on 14 October 2009. Its main objectives are to create greater predictability for individuals in cases of cross-border succession and to simplify the administration of such cases.

The proposal contains provisions on jurisdiction, applicable law, recognition and enforcement of decisions in matters of succession. It foresees that, by default, the competent authority and the law applicable are determined by the place of habitual residence of a deceased person. At the same time, it allows citizens to opt to have their succession governed by the law of their country of nationality.

The proposal also introduces a European Certificate on Succession - a document recognised throughout the EU which shows who inherits from a deceased person or has the right to administer this person's estate.



**OTHER ITEMS APPROVED**

**JUSTICE AND HOME AFFAIRS**

**Financial coalitions against child pornography on the internet - *Council conclusions***

The Council adopted conclusions on the European financial coalition and national financial coalitions against child pornography on the internet ([11456/2/09](#)).

**Support to persons who fall victim to crime in the European Union - *Council conclusions***

The Council adopted the conclusions set out in document [12944/09](#).

**EU-US agreements on extradition and on mutual legal assistance**

The Council adopted a decision approving the conclusion of two agreements with the United States of America: one on extradition and the other on mutual legal assistance ([7746/09](#)).

Both agreements were negotiated in the aftermath of the terrorist attacks of 11 September 2001 as a means to improve the co-operation in criminal matters between the EU member states and the United States of America. The agreements supplement the bilateral agreements that exist in these fields between the US and EU member states.

The agreement on extradition ([Official Journal](#)) clarifies, among other things, the kind of offences that are extraditable, the exchange of information and transmission of documents as well as transit rules. It also significantly improves the protection against the death penalty. Extradition to the US will henceforth only be possible under the condition that the death penalty will not be imposed or, if for procedural reasons such condition cannot be complied with, that the death penalty will not be carried out. Unlike what is currently the prevailing practice, the non-execution of the death penalty will no longer depend on case-by-case guarantees from the US.

The agreement on mutual legal assistance ([Official Journal](#)) specifies, among other things, conditions and rules regarding the identification of bank information, procedures to enable the set up of joint investigative teams as well as the use of video conferencing for taking witness or expert testimony in a proceeding. The agreement also includes guarantees for the protection of personal data.

After their signature in June 2003, both agreements were published in the Official Journal of the EU L181 of 19.7.2003, p.27 and p. 34 respectively. Now that the Presidency has been authorised to conclude the agreements, it is expected that it will exchange the instruments of ratification with the US at the EU-US Justice and Home Affairs Ministerial meeting in Washington DC on 28 October 2009. The agreements will then enter into force on 1 February 2010.

### **Civil and commercial matters: Recognition and enforcement of judgments in the EU**

The Council took note of a report on the application of regulation 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the "Brussels I" regulation).

Mutual recognition of judgments is considered the cornerstone of judicial cooperation between EU member states.

### **United Nations convention against corruption**

The Council agreed on a common position in preparation for the Third Conference of the United Nations convention against corruption that will take place in Doha, Qatar, from 9 to 13 November 2009.

### **Europol work programme for 2010**

The Council endorsed the Europol work programme for 2010, which focuses on priorities identified by the EU member states, and builds on Europol's core capabilities in the areas of information exchange, strategic and operational analysis, support to operations and sharing knowledge ([13788/09](#)).

The work programme takes into account the change of legal status, since Europol becomes a EU agency as from 1 January 2010.

### **Judicial supervision of pre-trial procedures**

The Council adopted a framework decision on the European supervision order in pre-trial procedures between EU member states ([17506/08](#)).

The framework decision lays down rules according to which one member state recognises a decision on supervision measures issued in another member state as an alternative to provisional detention. It also includes provisions on how member states are supposed to monitor the supervision measures imposed on a natural person and how they should surrender the person concerned to the issuing state in case of breach of those measures.

Its objectives are:

- (a) to ensure the due course of justice and, in particular, that the person concerned will be available to stand trial;
- (b) to promote, where appropriate, the use, in the course of criminal proceedings, of non-custodial measures for persons who are not resident in the member state where the proceedings are taking place; and
- (c) to improve the protection of victims and of the general public.

### **Global Forum on migration and development**

The Council took note of preparations for the third meeting of the Global Forum on migration and development that will be held in Athens on 4 and 5 November 2009.

The [Global Forum on migration and development](#) is a non-binding and informal consultative process open to member states and observers of the United Nations that pursues the following goals:

- to address the multidimensional aspects related to international migration and its inter-linkages with development;
- to bring together government expertise from all regions;
- to enhance cooperation and partnership in the area of migration and development; and
- to foster practical and action-oriented outcomes at the national, regional and global levels.

### **Europol-Colombia and EU-FYROM: Negotiations on operational cooperation**

The Council adopted two decisions approving the authorisation to Europol to enter into negotiations with Colombia and with the former Yugoslav Republic of Macedonia with a view to concluding operational cooperation agreements. In this context, the Council also took note of data protection reports and of the Europol joint supervisory body opinions on both countries.

### **Europol-Ukraine: Agreement on strategic cooperation**

The Council authorised the director of Europol to conclude a draft agreement between Europol and Ukraine on strategic cooperation.

This agreement is designed to enhance the cooperation of the EU member states, acting through Europol, and Ukraine in preventing, detecting, suppressing, and investigating serious forms of international crime, in particular through the exchange of strategic and technical information.

### **Reinforced strategy for customs cooperation**

The Council adopted the resolution set out in document [14252/09](#).

**EXTERNAL RELATIONS**

**EU-Russia: Permanent partnership council (environment)**

The Council took note of preparations for the second EU-

Russia permanent partnership council (environment ministers) to be held in Moscow on 10 November 2009.

The issues for discussion will include climate change, international cooperation on environmental protection and marine and water issues.

**EU-South Caucasus: Cooperation councils**

The Council took note of preparations for cooperation council meetings of the EU with Armenia, Azerbaijan and Georgia, to take place in Luxembourg on 26 October 2009.

**EUROPEAN SECURITY AND DEFENCE POLICY**

**EU-Seychelles: EU military operation "Atalanta" against piracy off the Somali coast**

The Council adopted a decision approving the signing and conclusion of an agreement with the Republic of Seychelles on the status of the EU-led forces in this country in the framework of the EU military operation Atalanta ([12538/09](#)).

The Council also adopted a decision approving the signing of an exchange of letters between the EU and the Seychelles on the conditions and modalities for the transfer of suspected pirates and armed robbers from EUNAVFOR to the Seychelles and for their treatment after such transfer ([12190/09](#)).

In November 2008, the Council adopted 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<sup>1</sup> (operation "Atalanta").

## **AGRICULTURE**

### **Information provision and promotion measures for agricultural products - *Council conclusions***

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION

- (1) WELCOMES the Special Report No. 10/2009 of the European Court of Auditors "Information provision and promotion measures for agricultural products";
- (2) RECALLS that the information provision and promotion measures co-funded from the Community budget are complementary to national measures and therefore STRESSES that the activities co-funded from the Community budget need to be evaluated having this in mind;
- (3) IS PLEASED that the Court of Auditors has found that the Commission has for some years been making improvements to the management and control arrangements for expenditure connected with information provision and promotion measures for agricultural products;

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<sup>1</sup> <http://www.consilium.europa.eu/eunavfor-somalia>

- (4) APPRECIATES the Commission's efforts to support Member States in their evaluation and selection of programme proposals in order to deliver measures that facilitate reaching the objectives of the policy; STRESSES the importance of improving ways to measure the effectiveness and impact of projects;
- (5) ACKNOWLEDGES that the improvements currently being made to the Commission's selection procedure should be continued and that the Member States should continue to increase their selectivity. The Council CONSIDERS that this should be done without increasing the administrative burden and bearing in mind the ongoing objective of simplification of the CAP."

### **Imports of agricultural products following the accident in Chernobyl**

The Council adopted a regulation extending the conditions governing imports of agricultural products originating in third countries following the accident in the Chernobyl nuclear power station by ten years until 31 March 2020 ([13606/09](#)).

### **TRANSPARENCY**

#### **Public access to documents**

The Council adopted:

- the reply to confirmatory application No 21/c/01/09, the Danish, Finnish and Swedish delegations voting against ([13533/09](#)); and
- the reply to confirmatory application No 22/c/01/09, the Finnish and Swedish delegations voting against ([13802/09](#)).

**APPOINTMENTS**

**Europol deputy director**

The Council took a decision appointing Mr Antonius DRIESSEN as deputy director of Europol from 1 November 2009 to 31 October 2013.

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