



Brussels, 24 February 2010

BACKGROUND¹
JUSTICE AND HOME AFFAIRS COUNCIL
Brussels, 25 and 26 February 2010

*The Justice and Home Affairs Council (JHA) will hold a two-day meeting on Thursday, 25 and Friday, 26 February 2010 (under the chair of **Alfredo PÉREZ RUBALCABA, Minister for the Interior** and **Francisco CAAMAÑO DOMÍNGUEZ, Minister for Justice**) in the Justus Lipsius building in Brussels.*

*On Thursday, the Council is expected to adopt, after a public debate, an **Internal Security Strategy for the European Union**, as well as a decision on setting up the **Standing Committee on operational cooperation on internal security (COSI)**. The Council is also expected to adopt conclusions on measures for reinforcing the **protection of the external borders and combating illegal immigration**.*

*Ministers will furthermore discuss the issue of **visa waiver reciprocity with Canada** and will hold a first orientation debate on an **European Pact Against Drug International Trafficking**.*

*In the margin of the Council session on Thursday, the **Mixed Committee** (the EU plus Norway, Iceland, Liechtenstein and Switzerland) will examine the state of play concerning the development of the **Schengen Information System II (SIS II)**. The Commission will present a draft regulation amending the rules on the Agency **FRONTEX**. The Agency will then present its 2010 Work Programme. Under any other business, the committee will also discuss **the issue of visas in relation with Libya**.*

*On Friday, the Spanish presidency will present the state of play regarding the initiative for a directive on a **European protection order**, followed by a public debate. Two other items to be discussed in public: the state of play of a directive on the **rights of interpretation and translation in criminal proceedings** and the **EU's accession to the Council of Europe's convention for the Protection of Human Rights and Fundamental Freedoms**. Justice ministers are also expected to adopt a resolution on a **model agreement for setting up a Joint Investigation Team (JIT)**.*

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

Finally, the Spanish presidency will inform justice and home affairs ministers, on both days, about **EU-US relations**.

Important A-items (for adoption by the Council without discussion) include the Council's position and a statement of the Council reasons concerning a regulation on establishing a **European Asylum Support Office (EASO)** as well as a decision determining the seat of the office.

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The presidency intends to organise a **press conference** on 25 February around 13.00 and at the end of the proceedings as well as on 26 February around 13.00 (tbc).

Press conferences and public deliberations can be followed by video streaming:

<http://video.consilium.europa.eu/>

Video coverage of the event will be available for preview and download in broadcast quality (MPEG4) on <http://tvnewsroom.consilium.europa.eu>

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HOME AFFAIRS (Thursday 25 February)

EU Internal Security Strategy

The Council is expected to approve, after a public debate, a draft Internal Security Strategy for the European Union ([5842/2/10](#)) - one of the priorities of the Spanish Presidency in the area.

The strategy sets out the main crime-related threats and challenges the EU is facing such as terrorism, serious and organised crime, drug trafficking, cyber crime, trafficking in human beings, sexual exploitation of minors and child pornography, economic crime and corruption, trafficking in arms and cross border crime. The strategy also summarizes the most important instruments the EU is using already in response to those threats and it establishes an European Security Model based on common principles and strategic guidelines for future action.

Its main objectives are:

- to further develop common tools and policies using a more integrated approach which addresses the causes of insecurity and not just the effects,
- to strengthen law enforcement and judicial cooperation, border management, civil protection and disaster management.

The European Council of 10/11 December 2009, echoing the Stockholm Programme adopted at the same time, called for an internal security strategy that would further improve security in the EU and thus protect the lives and safety of European citizens. It asked to tackle, in particular, organised crime, terrorism and natural disasters.

Standing Committee on operational cooperation on internal security (COSI)

The Council will adopt as an A-item the decision on setting up the Standing Committee on operational cooperation on internal security (COSI) ([16515/09](#)). Moreover, ministers will exchange views on the scope and tasks, as well as some other key questions related to the functioning of this new committee, on the basis of a Presidency paper and member states reactions.

COSI is provided for in Art. 71 TFEU: "A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union."

COSI's coordination role will concern, among other things, police and customs cooperation, external border protection and judicial cooperation in criminal matters relevant to operational cooperation in the field of internal security. The committee shall regularly report on its activities to the Council which, in return, shall keep the EP and national parliaments informed.

COSI will also be responsible for evaluating the general direction and efficiency of operational cooperation with the goal to identify possible shortcomings and adopt recommendations to address them. It can also invite representatives from EUROJUST, EUROPOL, FRONTEX and other relevant bodies to its meetings and is supposed to help ensure consistency of action by these bodies.

The Council will adopt without discussion the decision on the establishment of COSI. The ministers will discuss some key questions related to the functioning of the Committee based on the Presidency presentation of the positions and proposals of the Member States on this questions.

Visa requirements imposed by Canada on Czech nationals

The Council will discuss the state of play regarding the reintroduction by Canada of a visa requirement for Czech nationals. The Commission presented a report on the subject in October 2009, three months after the Czech government had notified the Commission and the Council of the measure taken by Canada.

On 14 July 2009, Canada unilaterally introduced the visa requirement for Czech nationals. Since then and in consultation with the Czech authorities, the Commission has been examining the issue with the Canadian government with a view to restoring visa-free travel for Czech nationals.

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 possible 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..

European Pact Against Drug International Trafficking

Ministers will hold a first orientation debate on an European Pact Against International Drug Trafficking, an initiative by France.

Protection of the external borders and combating illegal immigration

Ministers are expected to adopt conclusions on an important set of measures for reinforcing the protection of the external borders and combating illegal immigration.

EU-US relations

The Spanish presidency will inform justice and home affairs ministers, on both days, about EU-US relations.

The focus will be on the follow-up to the Toledo meeting on 21 January where EU Ministers and ministers from Schengen associate countries met with US Homeland Secretary Janet Napolitano. They agreed on a statement, which lists a number of objectives to be reached in the field of aviation security, information sharing, research activities and international activity. A first report on progress reached is expected to be made at the EU-US JHA Ministerial meeting on 8-9 April 2010 in Madrid.

A second item under this point of the agenda relates to the EU-US agreement on the processing and the transfer of financial messaging data from the EU to the US for purposes of the Terrorist Finance Tracking Programme (TFTP). Earlier this week, the Presidency, on behalf of the Council, notified the US government of the immediate termination of the provisional application of the agreement as a consequence of the negative vote in the European Parliament. On 11 February, the EP rejected to give its consent to the agreement by 378 against 196 votes (with 31 abstentions).

MIXED COMMITTEE: SIS II, illegal immigration and Frontex

In the margin of the Council session on Thursday, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) will examine the state of play concerning the development of the Schengen Information System II (SIS II).

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

The committee will also hold discussions in relation to:

- the draft Council conclusions on measures for reinforcing the protection of the external borders and combating illegal immigration; and
- a draft regulation amending the rules on the Agency FRONTEX. This draft regulation is supposed to be adopted by the Commission on 24 February, i.e. the day before the meeting.

The director of FRONTEX will present the Agency's 2010 Work Programme.

Under any other business, the committee will also discuss the issue of visas in relation with Libya.

JUSTICE AFFAIRS (Friday, 26 February)

European Protection Order

The Council will hold a public debate on the state of play regarding the initiative for a directive on a European protection order ([17513/09](#)). The aim of the directive is to facilitate and enhance the protection granted to victims of crime, or possible victims of crime, who move between EU member states.

The state of play of negotiations is outlined in a public note ([6538/10](#)) which reports on the scope of the instrument, the relationship with other instruments, the list of measures to which the European protection order can apply, and on the powers of the issuing and executing state.

The directive will allow a competent authority in one member state to issue a European protection order on the basis of which a competent authority in another member state takes measures with a view to continue the protection of that person. These measures would include obligations or prohibitions imposed on the person causing danger. The focus of the initiative is on crimes which may endanger the victims' life, physical, psychological and sexual integrity, as well as their personal liberty. The ultimate goal is to avoid new acts of crime and to reduce the consequences of previous acts of crime.

The proposal for a European protection order is based on a joint initiative of twelve EU member states. According to the Stockholm programme, adopted in December 2009, mutual recognition could extend to all types of judgments and decisions of a judicial nature. The programme also points out that special protection measures should be effective within the Union, with particular attention being paid to those who are most vulnerable or who find themselves in particularly exposed situations, such as persons subjected to repeated violence in close relationships or victims of gender-based violence.

The initiative has been submitted to the European Parliament and to the Commission, as well as, in view of the subsidiarity test under the Lisbon Treaty, to the national parliaments of the member states. The delay of eight weeks for consultation of the national Parliaments will expire on 30 March 2010.

Rights of interpretation and translation in criminal proceedings

The Presidency will inform the Council on the state of play regarding a directive on the rights of interpretation and translation in criminal proceedings. The directive was tabled in December 2009 by 13 member states.

In the meantime, the initiative has been submitted to the European Parliament and to the Commission, as well as, in view of the subsidiarity test under the Lisbon Treaty, to the national parliaments of the member states. The delay of eight weeks for consultation of national parliaments will expire on 30 March 2010.

This initiative is based on the general approach which the Council unanimously reached in October 2009 in respect of a proposal for a framework decision which had been presented by the Commission in July 2009. The member states proposal for a directive is, so-to-say, the "Lisbonisation" of the previous Commission proposal.

The directive is part of a wider package of legislative and non-legislative initiatives that aim at strengthening procedural rights of suspected or accused persons in criminal proceedings. This wider package, or roadmap, was agreed upon in October 2009 ([14552/1/09](#)).

The roadmap identifies six main areas on which legislative or other initiatives are desirable over the coming months or years:

- translation and interpretation,
- information on rights and information about 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.

Procedural rights in criminal proceedings are considered important because the successful establishment of an area of freedom of movement and residence within the European Union has led to an increasing number of Europeans travelling, studying and working in other countries than that of their residence. As an inevitable consequence, EU citizens are also more likely to become involved in criminal proceedings in another member state. In those situations, ensuring the procedural guarantees of suspected or accused persons becomes particularly important in order to safeguard their right to a fair trial.

The Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the European Court of Human Rights, constitutes the common basis for the protection of the rights of suspected or accused persons in criminal proceedings. It constitutes an important foundation for European countries to have trust in each other's criminal justice systems. Additional EU legislation in this area is aimed at increasing this mutual trust, enhancing judicial cooperation between member states and increasing the protection of citizens within the European Union.

EU accession to the ECHR

In a public debate, the Council will take note of the work carried out so far on the EU's accession to the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

The Treaty of Lisbon provides the legal basis for the accession of the EU to the ECHR. Art. 6 (2) TEU stipulates: "The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms".

Further to this, the Stockholm Programme calls for a "rapid" accession to the ECHR and invites the Commission to submit a recommendation to the Council "as a matter of urgency".

Model Agreement for setting up a Joint Investigation Team (JIT)

Justice ministers are expected to adopt a resolution on a new model agreement for setting up a Joint Investigation Team (JIT).

The new model agreement is to replace the existing model agreement agreed upon in 2003, and is based on best practices collected over the past years. The non-binding template will be a useful tool and serve as a checklist for the practitioners setting up JITs. It is comprehensive but also flexible so as to ensure that the competent authorities may adapt it to the particular circumstances of each case.

JITs are established for cross-border and multi-national crime investigations. Their main objective is to obtain information and evidence about the crime under investigation. A need to update the model agreement from 2003 is recognized in the Stockholm Programme.