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2184th Council meeting

- JUSTICE AND HOME AFFAIRS -

Brussels, 27/28 May 1999

Presidents: **Ms Herta DÄUBLER-GMELIN**
Minister for Justice

Mr Otto SCHILY
Minister for the Interior

of the Federal Republic of Germany

Internet: <http://ue.eu.int/Newsroom>
E-mail: press.office@consilium.eu.int

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For further information call 285 84 15 or 285 74 59

PARTICIPANTS

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

Belgium:

Mr Luc van den BOSSCHE Deputy Prime Minister and Minister for the Interior

Denmark:

Mr Thorkild SIMONSEN Minister for the Interior

Germany:

Mr Otto SCHILY Federal Minister for the Interior
 Ms Herta DÄUBLER-GMELIN Federal Minister for Justice
 Mr Claus Henning SCHAPPER State Secretary, Federal Ministry of the Interior
 Mr Hansjörg GEIGER State Secretary, Federal Ministry of Justice
 Mr Klaus HARDRATH Minister for the Interior of Sachsen

Greece:

Mr Loucas TSILAS Ambassador, Permanent Representative

Spain:

Ms Margarita MARISCAL de GANTE y MIRÓN Minister for Justice
 Mr Leopoldo CALVO-SOTELO Under-Secretary of State, Ministry of the Interior

France:

Ms Elisabeth GUIGOU Minister for Justice
 Mr Jean-Pierre CHEVENEMENT Minister for the Interior

Ireland:

Ms Mary WALLACE Minister of State for Justice, Equality and Law Reform

Italy:

Mr Giannicola SINISI State Secretary for the Interior
 Mr Giuseppe Maria AYALA State Secretary for Justice

Luxembourg:

Mr Luc FRIEDEN Minister for Justice

Netherlands:

Mr Job COHEN State Secretary for Justice

Austria:

Mr Nikolaus MICHALEK Federal Minister for Justice

Portugal:

Mr José VERA JARDIM Minister for Justice
 Mr Armando VARA State Secretary to the Minister for the Interior

Finland:

Mr Kari HÄKÄMIES Minister for the Interior
 Mr Johannes KOSKINEN Minister for Justice

Sweden:

Ms Laila FREIVALDS Minister for Justice
 Ms Gun-Britt ANDERSSON State Secretary at the Ministry of Foreign Affairs, with responsibility for Migration and Immigration Policy

United-Kingdom:

Mr Jack STRAW
Ms Kate HOEY
Mr Keith VAZ

Home Secretary
Parliamentary Under-Secretary of State, Home Office
Parliamentary Secretary, Lord Chancellors Department

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Commission:

Ms Anita GRADIN

Member

* * *

Other Participant:

Mr Gil Carlos RODRÍGUES IGLESIAS

President of the Court of Justice

OPEN DEBATE ON THE FUTURE OF THE JUDICIAL SYSTEM OF THE EUROPEAN UNION

The Council held an open debate - retransmitted to the Press Room where journalists and other interested parties from the public could follow it - on the future of the judicial system of the European Union.

Following introductory remarks by the Presidency, the President of the Court of Justice of the European Communities, Mr Rodriguez Iglesias, presented a discussion paper on this matter drawn up by the Court of Justice and the Court of First Instance.

In view of the institutional reforms and the Court's increasing workload, the paper contains three types of proposals:

- measures which may be adopted rapidly by means of simple amendments to the Rules of Procedure;
- reforms which require an amendment to the rules applicable to the institution in the Treaty or in the Statute;
- reflections of a more general and a more fundamental nature intended to clarify the issues which are important for decisions to be taken by the next Intergovernmental Conference.

The President of the Court stressed that urgent reforms were required if the Court was to maintain its present role in view of the future enlargement and the increasing workload, due in particular to the more frequent preliminary rulings in the case of the Court and to the new competences such as trademark law for the Court of First Instance. Against this background he asked for a more flexible application of the Court's Rules of Procedure, including accelerated proceedings, and for support by all Member States for the financial means to carry out the necessary reforms. In this context, he pointed out that in order to have judgments rapidly delivered, and translated into all languages, substantial budgetary means were required.

Commissioner Gradin announced that her institution would make its own contribution in the form of a report by a Committee of experts later in the year.

Delegations expressed their full understanding of the difficulties and challenges the Court is facing in terms of the future enlargement, the new competences and the increasing workload. They welcomed the discussion paper submitted by the Court as containing a number of useful ideas on which they gave preliminary comments. With regard to the large number of preliminary rulings issued by the Court, several delegations stressed that this increase proved that the institution had become deeply rooted in the Member States. Some delegations specifically referred to the future work of the Court in the area of Justice and Home Affairs, where requests for preliminary rulings linked to asylum proceedings are likely to be quite frequent. All delegations agreed that the reforms needed to ensure that proceedings were efficient and transparent while at the same time maintaining legal protection and guarantees as well as the coherence and unity of the judicial systems of the EU.

In her concluding remarks, the Council President confirmed that delegations agreed on the need to reform the judicial system in view of the indicated challenges. With regard to translation problems, she stressed that appropriate financial means were required to guarantee the proper functioning of the Court. She invited the President of the Court to specify the practical short-term proposals implying only simple amendments to the Rules of Procedure in order to implement them rapidly. With regard to the other measures proposed in the Court's paper in the longer term and requiring more extensive reforms, the Council President indicated that a more in-depth examination and reflection would be carried out by the Council, and that some of these proposed reforms might be considered by the next Intergovernmental Conference.

EURODAC

The Council took note of a presentation by Commissioner Gradin of a proposal for a Regulation on Eurodac, which her institution adopted on 26 May on the basis of the provisions of the Amsterdam Treaty under which asylum and migration became Community matters.

It is recalled that the Council already reached agreement on a draft Eurodac Convention in December 1998 and on the content of a draft Protocol extending the Convention *ratione persone* in March 1999, on the understanding that the Commission would table a proposal for a Community instrument immediately after the entry into force of the Amsterdam Treaty. The Commission's proposal is intended to replace the draft Eurodac Convention and Protocol by reproducing their content in the form of a Community instrument. Certain changes are due to the new institutional framework.

Eurodac will be a central database, to be established within the Commission, for the comparison of fingerprints of asylum seekers, individuals who irregularly cross an external border of a Member State and, under certain circumstances, persons found illegally present in a Member State. Its establishment will facilitate the implementation and application of the Dublin Convention which determines the Member State responsible for examining an asylum application lodged in one of the Member States.

The Council mandated its competent bodies to examine the proposal of the Commission as soon as it is transmitted, with a view to reaching final agreement by the end of the year. In this work, the Opinion of the European Parliament to be delivered on this new proposal will also be taken into account.

**RE-ADMISSION AGREEMENTS - CONSEQUENCES OF THE ENTRY INTO FORCE OF
THE AMSTERDAM TREATY**

Following a debate on the effects of the entry into force of the Amsterdam Treaty on future re-admission agreements with third States concerning repatriation of persons illegally present in a Member State, the Presidency drew the following conclusions:

"The Community objectives in the field of immigration policy include the repatriation of persons residing unlawfully in a Member State (Article 63(3) of the EC Treaty). Readmission agreements constitute a valuable instrument of an active expulsion policy. The Council will in suitable cases authorise the Commission to conduct negotiations with third States on readmission agreements.

However, Community readmission agreements are not, generally speaking, indissolubly linked with the achievement of the Community objective of "repatriation of illegal residents". Whether this is so must be assessed in each individual case. This also applies to the question of whether distortions can arise for other Member States through a Member State's bilateral readmission agreement with a third State.

The Community's responsibility with regard to the conclusion of readmission agreements is therefore not exclusive. A Member State can continue to conclude readmission agreements with third States provided that the Community has not concluded an agreement with the third State concerned or has not concluded a mandate for negotiating such an agreement. In individual cases Member States may also conclude bilateral agreements after the conclusion of a Community agreement or after the opening of negotiations, for instance where the Community agreement or the negotiating mandate contains only general statements on readmission but one or more Member States require more detailed arrangements on the matter. The Member States may no longer conclude agreements if these might be detrimental to existing Community agreements."

HIGH LEVEL WORKING GROUP ON ASYLUM AND MIGRATION

The Presidency reported on the state of work of the High Level Working Group on Asylum and Migration set up in December 1998 on the basis of a Dutch proposal. The Group's remit is to develop a cross-pillar common strategy and overall approach to asylum and migration policy for selected countries from which most migrants to the EU originate.

It is recalled that in January 1999 the Council chose five countries/regions for this integrated cross-pillar approach, namely Afghanistan and the region, Albania and the neighbouring region, Morocco, Somalia and Sri Lanka. It mandated the Group to draw up action plans for each of the five chosen countries/regions with a view to submitting them to the Tampere Special European Council.

With regard to the EU Action Plan on the influx of migrants from Iraq and the neighbouring region, adopted in January 1998, the Council asked the Group to extend its scope both with reference to the geographical area and the actions undertaken.

In the meantime sub-Groups have been set up on each of the five countries/regions led by a coordinator (The Netherlands for Afghanistan/Pakistan, Italy and Austria for Albania and the neighbouring region, Spain for Morocco, Sweden for Somalia and the United Kingdom for Sri Lanka). Draft action plans are being drawn up and should be finalised in June. However, in view of the current situation in Kosovo, the Group might not be in a position to submit to the Tampere European Council an action plan on Albania and the neighbouring region.

The country-by-country plans will analyse the causes of mass flight and migration. The human rights situation is part of this analysis. They will contain concrete proposals for short- and long-term measures for closer cooperation with the individual countries. Political, development-policy, economic and humanitarian cooperation, conflict prevention and cooperation on combating illegal immigration and organised crime will all be covered. The action plans will also refer to cooperation with the UNHCR and other inter-governmental or non-governmental organisations.

CONCLUSIONS CONCERNING DISPLACED PERSONS FROM KOSOVO

1. The Council remains deeply concerned about the humanitarian consequences of the crisis in Kosovo, which continues to result in hundreds of thousands of persons from this region being displaced.
2. The Council recalls that at its special meeting in Luxembourg on 7 April 1999 it was agreed that people displaced from Kosovo were in need of effective protection and that such protection should be provided as extensively as possible in the region, in order to facilitate their return to their homes. In this context the Council welcomes the readiness of Albania to take in displaced Kosovars from other parts of the region, readiness of great importance, which all parties concerned have to take into account insofar as the reception of refugees in the region itself must be considered before any other alternative. Furthermore, it was recognised that it might prove necessary to afford displaced persons protection and assistance outside their region of origin on a temporary basis for humanitarian reasons and to avoid destabilising individual host countries in the region of origin.
3. Since that meeting the Council notes with approval that, complementary to a major effort of assistance of the Community and Member States in the region where the vast majority of persons have been afforded protection, Member States have responded to the requests of UNHCR especially following its appeal of 30 April 1999 for assistance affording protection to displaced persons from Kosovo, both in the region and through its humanitarian evacuation programme.
4. The Council emphasises the need for closer co-operation and co-ordination to ensure that the requirements of UNHCR continue to be met and that displaced persons are afforded the most appropriate assistance according to their circumstances.
5. The Council recognises a continued and even increased need to provide temporary protection to displaced persons from Kosovo and welcomes the willingness of Member States to continue to do so positively and promptly, taking into account assessments of UNHCR as well as Member States' ability to receive displaced persons and their wider commitments to providing support in the region.

6. The Council supports the objective of providing equitable levels of protection and social benefits in all Member States in accordance with their respective national legislations, for example, the residence in the host Member State for at least the duration of the temporary protection arrangements; appropriate accommodation or means to obtain such accommodation; access to public education, social and medical services; appropriate information on their rights and obligations in their own language and in the language of the receiving country. Beneficiaries shall also have access to the labour market if national legislation so provides.

However, temporary protection may be refused to any person with respect to whom there are serious reasons for considering that he has committed a crime against peace, a war crime or a crime against humanity or with respect to whom one of the other grounds for exclusion mentioned in Article 1 F of the Geneva Convention would apply.

7. The Council supports the principle that persons should be evacuated out of the region temporarily, only if they are willing to leave for the Member State which is willing to receive them. Priority should be given to the protection of particularly vulnerable groups and those in special need of protection. Family unity should be maintained wherever possible. The Council notes the important role of UNHCR in collecting the essential information necessary to facilitate the voluntary evacuation of such persons.
8. The Council agrees the importance of retaining a flexible approach to responding to the changing situation in the region, which the Council and the Commission will keep under review.
9. If necessary the Council will meet, in order to facilitate further consideration of Member States' responses to the crisis, in particular in cases of imbalance between the needs on the one hand and the means and resources that the Community and its Member States have made available to respond to those needs on the other, taking into account the assessments of UNHCR.
10. In accordance with the conclusions of the European Council in Vienna, the Council emphasises the need for comprehensive solutions as regards temporary protection of displaced persons.

11. The Council recalls that, in accordance with the objectives of the Community as they result from the Treaty of Amsterdam, the European Community and its Member States should develop minimum standards for giving temporary protection to displaced persons from third countries who cannot return to their country of origin and for persons who otherwise need international protection.
12. The Council invites the Commission and Member States to draw on the experience of their response of the Kosovo crisis in drawing up measures in accordance with the TEC.

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With regard to Kosovo, Commissioner Gradin called on the Council to pay particular attention to victims of rape from Kosovo and to ensure that individuals having suffered from rape as an act of war and persecution should, in principle, be considered as refugees. She also indicated that a conference on the issue of rape victims would be held in Vienna from 18 to 20 June which will be supported by the Commission in the framework of the Odysseus Community programme (training, exchanges and cooperation in the field of asylum, immigration and crossing of external borders).

COMMON STANDARDS ON ASYLUM PROCEDURES

The Council held a first exchange of views on the Commission's working document of 3 March 1999 on common standards on asylum procedures. With this document, the Commission intended to launch a broad policy discussion with the Council, the European Parliament, NGOs and the UNHCR, on the scope and content of a future legal instrument on asylum procedure, before tabling officially such a proposal under the new provisions of the Amsterdam Treaty.

All delegations welcomed the Commission's document as a useful contribution to work in this area. The debate focused on two points raised in the Commission's document, namely

- whether to proceed in this area by a more flexible step by step approach whereby certain basic principles would be binding for all Member States (minimum standards), whilst the latter would remain free to determine the details of the necessary administrative arrangements; or to follow a stricter approach which would require all Member States to apply exactly the same procedures and hence achieve greater harmonisation in this area;
- what measures could be taken in order to speed up asylum procedures.

On the first issue, the debate showed that Ministers generally supported the flexible approach which seemed a more realistic one in order to make progress in the development of common asylum procedures, given the existing differences in national legislations. It was underlined by several Member States, however, that the initial effort should not be confined to reaching the minimum common denominator and that the ultimate objective must be the achievement of harmonised asylum procedures.

On the point referring to possible ways to speed up asylum procedures, delegations reported on the experiences made at national level. They agreed that it was important to speed up asylum procedures, but also to simplify and make them more efficient while safeguarding an effective level of guarantees for the persons concerned. With regard to the specific measure suggested in the Commission's document of establishing a common approach to the "safe third country" concept (countries to which asylum applicants can be sent back without fear for their safety), several delegations voiced doubts about its applicability at Community level. It was also indicated by some Member States that the use at national level of the "safe third country" concept had not brought about the expected success. Some delegations considered that a common approach with regard to manifestly unfounded applications would contribute to speeding up asylum procedures.

The Council mandated its competent bodies to continue work on the Commission's document - on which the European Parliament will also give its opinion- by taking into account comments made by Ministers.

EUROPOL

- EUROPOL'S TAKING-UP OF ACTIVITIES

The Presidency welcomed the fact that, according to the information given by delegations, on 1 July 1999 Europol would be able to take up its full activities and to replace its precursor the European Drugs Unit (EDU).

In fact, delegations indicated that the procedures on the last two legal instruments would be completed on time, namely the ratification of the Protocol on the Privileges and Immunities of Europol's officials and the agreement, with the Netherlands, of the bilateral Protocols on the Immunities of the national liaison officers.

With regard to the Protocol on Privileges and Immunities, the Italian delegation informed the Council that national ratification was completed on 26 May. The French Minister undertook to deposit France's instrument of ratification before the end of May in order to enable Europol's taking up of activities on 1 July.

It is expected that the delegations of the four Member States which have not yet finalised the bilateral Protocols with the Netherlands, would complete these Protocols within the next few weeks.

Given that the rules of procedure of the Supervisory Body on data protection were already agreed on 29 April 1999, all the conditions would, therefore, have been met to enable Europol to become fully operational on 1 July 1999.

- *SUPPLEMENTARY BUDGET 1999 AND DRAFT BUDGET 2000*

The Council examined the Europol draft supplementary budget for the year 1999 as well as the draft budget for the year 2000.

The 1999 supplementary budget provides for 7 new posts following Europol's new tasks regarding the fight against terrorism and counterfeiting (4 posts for terrorism, 3 posts for counterfeiting/forgery of currency), as well as for the upgrading of a number of new posts. The overall costs would be financed from the 1999 budget surplus which stems from the delays in Europol's taking-up of activities. No additional expenditure would therefore be requested from Member States.

The draft budget for 2000 submitted to the Council and based on the opinion of Europol's management board amounts to 28 344 000 euro and provides for 193 posts. It is recalled that the 1999 budget set total expenditure at 18 896 000 euro and total posts at 139.

The Council agreed that an increase in the budget is required in view of Europol's taking-up of full activities and the extension of its remit to include the fight against terrorism and counterfeiting/forgery of currency, however, a more thorough examination needed to be carried out on both the 1999 supplementary budget and the 2000 budget. The Council, therefore, asked the Management Board to further examine these items at its next meeting on 8/9 July, with a view to enabling a final agreement on both budgets to be reached before the end of June.

COMMON EVALUATION OF ACCESSION STATES' IMPLEMENTATION AND APPLICATION OF THE EU-ACQUIS

The Council took note of a report on the operation and scope of the evaluation mechanism established under a joint action adopted on 29 June 1998.

The expert Group set up by this joint action was mandated to prepare and keep up-to-date collective evaluations of the situation in applicant countries on the enactment, application and effective implementation of the acquis of the EU in the field of Justice and Home Affairs.

The Council welcomed the work carried out by this expert group and mandated it to continue further its analysis and evaluation of the situation in the applicant countries. It was recalled that accession States will have to adapt to the EU acquis by ensuring both its legal application and its effective implementation.

With regard to the features of this evaluation initiative, the report stresses that the evaluation is a continuing process which will accompany the whole enlargement process with regard to JHA matters and that it is also a collective process depending on Member States' willingness to fully cooperate by drawing up reports, providing direct experiences or by involving their embassies in the candidate countries. The outcome of this continuing evaluation process is to help the Commission in adjusting the accession partnerships without prejudging the competence of the Community or the established structures for determining the position of Member States in accession negotiations.

The report sets out the methodology of the Group's work: first all possible information material was collected. The information gained through the screening of the JHA, started last October by the Commission, was also useful to the work of the Group. The information material was then analysed on the basis of a country by country approach, on the one hand, and a thematic approach (asylum, migration, border management, police cooperation and judicial cooperation), on the other. The Group has just entered the second stage, consisting of the actual evaluation. Complete country reports will be drawn up on all applicant countries and will be regularly updated.

The report stresses that in the evaluation process an adequate balance must be maintained between Justice matters and Home Affairs topics. It was also underlined that the evaluation must emphasise not only the "repressive" aspects of the acquis (such as border control or the fight against crime) but also those parts of it that grant and secure positive rights (such as asylum or judicial cooperation in civil matters).

INTEGRATION OF SCHENGEN

The Presidency reported on the integration of the Schengen acquis into the legal framework of the EU, which has now been fully implemented following the entry into force of the Amsterdam Treaty on 1 May 1999.

The last decisions in this respect, concerning the definition of the Schengen acquis and its allocation to a legal basis in the Treaty, were adopted on 20 May 1999. The only provisions of the Schengen acquis on which no agreement could be reached regarding its allocation to either the first or the third pillar, concern the Schengen Information System. According to what is established under the Schengen Protocol, these provisions are provisionally allocated to the third pillar.

The Agreement with Iceland and Norway on their association with the implementation and development of the Schengen acquis was signed on 18 May 1999 and the first meeting of the Mixed Committee (composed of representatives from Iceland and Norway, the Member States and the Commission) was held the same day. Another agreement under negotiation with Iceland and Norway will determine the relations between Iceland and Norway, on the one hand, and the United Kingdom and Ireland on the other.

The Council noted that the United Kingdom submitted a formal application, on 20 May 1999, to participate in those measures of the Schengen acquis that relate to law enforcement and criminal judicial cooperation, including the Schengen Information System, by exercising the provision of Article 4 of the Schengen Protocol. Minister Straw underlined that this application was one part of the UK's wider intention to participate in all aspects of JHA cooperation which are consistent with its different policy on frontier controls.

Delegations welcomed this application and expressed the hope that it would be followed by further participation of the United Kingdom in the Schengen acquis, such as that concerning the free movement of persons. One delegation pointed out that the territorial scope of the UK's envisaged participation raised specific problems, which needed to be carefully examined.

The Irish delegation informed the Council that it will also table a formal application in the coming weeks.

The Council mandated its competent bodies to begin examination of the UK's application as well as that of Ireland once it has been formally submitted.

PREPARATION OF THE TAMPERE EUROPEAN COUNCIL

The incoming Finnish Presidency reported on the state of preparation of the special European Council on Justice and Home Affairs scheduled for 15/16 October 1999 in Tampere, further to the conclusions of the Vienna European Council. They stated that their bilateral contacts undertaken with delegations on this matter showed that, at this stage, the degree of preparation still varied between Member States.

The Finnish Ministers stressed that the agenda for this meeting should be ambitious and concentrate on questions of high political priority in order to reach concrete, tangible results in the establishment of an area of freedom, security and justice.

They also underlined the importance of the Justice and Home Affairs Council, along with the customary role of the General Affairs Council, in the preparation of this Summit.

All delegations agreed that this special meeting of Heads of State or Government needed to provide a decisive impulse to work in the area of immigration and asylum, the fight against organised crime and judicial cooperation in civil and penal matters. Delegations also pointed out a number of specific issues which in their view needed to be dealt with at Tampere, such as a common strategy on migration, codification of asylum law, the development of Europol, racism and xenophobia, youth crime, crime prevention, access to justice for all citizens, recognition of judgments, etc.

The incoming Finnish Presidency welcomed the interventions made by delegations and undertook to take them into account in continuing the preparation of the Tampere special European Council.

FIGHT AGAINST TRAFFICKING IN WOMEN AND VIOLENCE AGAINST WOMEN

The Council took note of a report giving an overview of recent and innovative measures taken at national level in the fight against trafficking in women and violence against women, which the Commission has drawn up on the basis of Member States' contributions, further to the invitation of the JHA Council at its informal meeting in Berlin on 11 February 1999.

In presenting this report, Commissioner Gradin stressed in particular that it appears from the national contributions that violence against women is, in most Member States, no longer seen as a private matter but as a criminal act. With regard to the trafficking in women she indicated that all Member States have criminalised this behaviour. Commissioner Gradin also set out the initiatives taken or envisaged at EU level, such as an ongoing campaign against violence and the DAPHNE programme designed to finance measures relating to violence against women, young persons and children.

Member States welcomed this report as a very useful contribution to further work in this area, which will be carried out under the Finnish Presidency. Member States, which had not yet submitted national contributions to the Commission, were invited to do so with a view to completing the report.

DRAFT CONVENTION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The Council discussed once again the problem of interception of telecommunications covering traditional, GSM and international satellite-based networks, which is one of the last, but particularly difficult, open questions on this draft Convention.

The purpose of this Convention is to supplement and facilitate the application of the 1959 Council of Europe Convention on mutual assistance in criminal matters, and to adopt new investigation methods in order to provide for a more efficient and faster judicial cooperation in criminal matters.

With regard to interception, it is recalled that the draft Convention only applies to interceptions carried out in the framework of a criminal investigation. Its provisions are aimed in particular at providing the necessary legal basis for appropriate cooperation among Member States regarding interception, and notably the obligation to inform another Member State when carrying out an interception on its territory, the obligation to refrain from intercepting or stop ongoing interception in certain circumstances, as well as the conditions for the use of material already intercepted.

The Council examined three issues in this context, namely the "remote approach" regarding satellite telecommunications, the request by one Member State to establish certain derogations from the general obligation to inform another Member State when carrying out an interception on its territory without needing its assistance, and finally, the use of already intercepted material.

With regard to the "remote approach" concerning the interception of satellite telecommunications, the Council noted that a reservation by one Member State remained on the draft provisions. It is recalled that under the "remote approach", a Member State wanting to intercept a target present on its territory can do so via a national service provider of a satellite telecommunications network whose ground-station is located in another Member State, without needing technical assistance from the latter. The draft provisions establish that the ground station Member State should have no role in this interception as the target is not on its territory and no technical assistance is needed from this Member State. It is recalled that the first satellite network called Iridium opened last year in Italy.

On the second issue concerning derogations from the general obligation to inform another Member State when carrying out an interception on its territory without needing its assistance, the Council noted that the delegation asking for such derogations because of its special national rules on interception, was willing nevertheless to participate fully in the drawing up of provisions in this area. The Council mandated its competent bodies to examine possible solutions by agreeing on a definition of criminal investigation, as the draft Convention is only intended to cover interception carried out in the framework of a criminal investigation.

The Council also mandated its competent bodies to further examine the provisions determining the use of intercepted material in criminal proceedings with a view to reaching a solution acceptable to all delegations.

**RESOLUTION ON INCREASING PROTECTION BY PENAL SANCTIONS AGAINST
COUNTERFEITING IN CONNECTION WITH THE INTRODUCTION OF THE EURO**

The Council adopted this resolution which is of particular importance in view of the preparation of the introduction of the euro currency in 2002.

The purpose of this resolution is to define guidelines for the drawing up of a binding legal instrument of the EU in order to improve the criminal law protection of the euro, given that all Member States agree that the main existing legal instrument in this area, namely the 1929 International Convention for the Suppression of Counterfeiting Currency, does not provide sufficient guarantees.

The resolution is structured in four parts. The first part refers to the provisions of this Convention as a common minimum standard for all Member States. Those which are not yet parties to the Convention (Sweden and Luxembourg) declare their intention to accede to it.

The second part sets out the guidelines for a new binding legal instrument to be drawn up, identifying the specific activities related to counterfeiting which, in addition to those targeted by the provisions of the above-mentioned Convention, should also be considered as criminal activities. The new instrument should allow for prosecuting counterfeiting, at least in any of the euro-participating Member States, irrespective of the nationality of the offender or the place where the offence was committed.

The third part refers to the possible need to strengthen measures in order to cooperate efficiently, with the help of the ECB and Europol, in the suppression of counterfeiting of the euro.

The last part concerns urgent measures, namely the implementation of this resolution prior to the introduction of the euro currency. Member States are asked to ensure that counterfeiting activity committed prior to 1 January 2002 in respect of the future euro banknotes and coins is punishable by means of appropriate penal sanctions.

REVISION OF THE BRUSSELS AND LUGANO CONVENTIONS

The Council confirmed the agreement reached at expert level on the revision of both the 1968 Brussels Convention on jurisdiction and enforcement of decisions on civil and commercial matters and the parallel 1988 Lugano Convention which extends the rules of the Brussels Convention to Switzerland, Norway and Iceland.

It welcomed the fact that it had been proved possible, within only 18 months, to conclude the work on the revision of the two Conventions aimed at modernising these fundamental instruments for judicial cooperation in the field of civil law. This revision succeeded in making the functioning of these Conventions more efficient and it will also clarify their application by the Courts in the Member States and by the Court of Justice of the European Communities.

Commissioner Gradin announced that her Institution would propose, as soon as possible, a Community instrument under the new provisions of the Amsterdam Treaty, which would fully reflect the text on which agreement had been reached by the Council. She recalled that the European Parliament would have to be consulted on this new proposal.

Among the major improvements in the functioning of the Conventions resulting from the revision, the following should be particularly underlined

- clarification of the special jurisdictions in contractual law (Article 5.1)¹, which complement the "general" jurisdiction of the domicile of the defendant;
- the new provisions now cover jurisdiction over all consumer contracts and a new section on individual contracts of employment was set up; the general aim is to protect the weaker party to a contract (Articles 13, 14, 15 and 15A to 15D);

¹ The Articles mentioned refer to the revised text.

- a new general rule was set up indicating at which time lis pendance (namely which jurisdiction is competent when a case is pending in two or more Courts) takes place, hence clarifying a crucial aspect of determining jurisdiction (Article 23A);
- a simplified and faster enforcement procedure was set up which enables a judgment given in one of the Member States to be declared enforceable immediately when presented to a competent authority in the State where enforcement is sought. If a Member State so decides, the competent authority may be also an administrative authority (Article 31 to 49);
- provisions were agreed on cases where judgment is given in default of appearance in order to reduce abuses by the person against whom recognition or enforcement is sought (Article 27);
- a common concept of domicile of legal persons was established (Article 53);
- a new simplified acceding procedure to the Lugano Convention was set up (Articles 60 to 62C).

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With regard to the ongoing negotiations on a worldwide Exequatur Convention aimed at covering similar areas as the Brussels and Lugano Conventions at an international level, Commissioner Gradin informed the Council that her Institution had approved a recommendation for a Council decision regarding these negotiations, in order to achieve a common Community approach and to ensure that they would not conflict with Community provisions in this area.

**BRUSSELS II (MATRIMONIAL MATTERS) AND SERVICE OF DOCUMENTS -
COMMISSION PROPOSALS**

Commissioner Gradin presented to the Council two proposals, which her Institution adopted on 4 May 1999 on the basis of the new provisions of the Amsterdam Treaty on judicial cooperation in civil law.

The first is a proposal for a Regulation on jurisdiction, recognition and enforcement of judgements in matrimonial matters and in matters of joint parental responsibility for children, intended to replace the Brussels II Convention signed on 28 May 1998. The second proposal is a Directive on the service in the Member States of judicial and extrajudicial documents in civil and commercial matters, designed to replace the Convention signed on 26 May 1997.

Commissioner Gradin stressed that both proposals entirely reproduce the substance of the two Conventions, subject to the adaptations required by the new institutional framework. She explained that with regard to the Brussels II Convention, her Institution chose to propose a Regulation because of the need to apply strictly defined and harmonised rules to jurisdiction and recognition of judgements in the matrimonial area. She expressed the wish that the United Kingdom and Ireland would decide to accede to these legal instruments and that a way could be found to extend these rules to Denmark in full respect of its opt out Protocol to the Amsterdam Treaty.

In reply to the Commissioner's intervention, the UK and Irish delegations indicated that they had not yet taken a final decision as to whether they would take part in civil law cooperation. The Danish delegation noted that it would continue the national ratification procedure of the two abovementioned Conventions and wished to participate in the discussions on these instruments.

The incoming Finnish Presidency stressed that it would organise work in such a way so that the Opinion of the European Parliament could be examined and final agreement on both proposals could be reached before the end of the year.

REGULATION ON INSOLVENCY PROCEEDINGS - JOINT GERMAN/FINNISH INITIATIVE

The German and Finnish delegations tabled an initiative for a regulation on insolvency proceedings, by making use of the provisions of the Amsterdam Treaty on judicial cooperation in civil matters under which, the Commission and Member States, can make proposals.

They explained that the purpose of this proposal is to establish rapidly a binding Community instrument to improve and speed up insolvency proceedings with cross-border implications and hence, improve the proper functioning of the Internal Market. They also stressed that the proposal is intended to reproduce the content of the Convention on Insolvency Proceedings which was opened for signing on 23 November 1995. This Convention was not signed by all Member States and, therefore, did not enter into force; in fact, the United Kingdom which could have signed up until the deadline of 23 May 1996, did not do so.

The Presidency expressed its hope that the United Kingdom and Ireland would accede to this legal instrument, in view of its importance for the completion of the Internal Market, even though, on the basis of their special Protocols to the Amsterdam Treaty, they are not bound by civil law cooperation. It also hoped that a solution could be found to extend its rules to Denmark in full respect of its opt out Protocol to the Amsterdam Treaty.

OTHER BUSINESS

Commissioner Gradin presented to the Council a communication on an EU Action Plan to combat drugs for the years 2000-2004, which her Institution had adopted on 26 May 1999. She stressed that the proposed Plan was aimed at continuing the present strategy and its three main elements of demand reduction, supply and international cooperation, but also focused on new challenges such as synthetic drugs. She recalled that the new Action Plan needed to be adopted by the Council before the end of the year in order to replace the present one, which expires at the end of 1999.

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MEETING OF THE DUBLIN CONVENTION COMMITTEE

In the margins of the Council session, the Dublin Convention Executive Committee, composed of the 15 delegations of the parties to the 1990 Convention, held its third meeting, under the Chairmanship of Mr Schapper, State Secretary at the Federal Ministry of the Interior of Germany.

This Committee is set up under Article 18 of the Dublin Convention - which entered into force on 1 September 1997 - in order to examine matters of application and interpretation relating to this Convention, which determines the State responsible for examining applications for asylum lodged in one of the Member States.

The Committee reached broad agreement, subject to a scrutiny reservation by one delegation, on the only agenda item, namely a draft decision concerning the transfer of responsibility for family members aimed at ensuring the harmonised and efficient implementation of the Dublin Convention's provision relating to family members and their reunification. Formal adoption will take place once the text has been legally finalised.

In order to limit the scope of the draft decision, the text defines the notion of family members (the spouse of an asylum applicant or his/her unmarried child who is less than 18 years old, or his/her father /mother where the asylum applicant is an unmarried child less than 18 years old). It also applies to another close relative of an asylum applicant under certain conditions.

The draft decision sets out the conditions for family reunification and for maintenance of a family group. It establishes, in particular, that families are normally reunited in cases where : a family member is a minor and would otherwise remain behind unaccompanied in a Member State; a family member is dependent on support on account of situations such as pregnancy, a new-born child, a serious illness or handicap or advanced age.

If such conditions for family reunification or for maintaining a family group exist, the Member States in which the persons concerned are present, and the other responsible Member States, will determine by mutual agreement within a month, and provided that the persons concerned agree to this procedure, which State shall take the responsibility for dealing with the asylum applications.

The draft decision also sets out the factors to be taken into account in determining the Member State responsible, such as the number of family members already present in one of the Member States concerned, or in the case of unaccompanied minors, the place where the father or mother is present in a Member State.

Where asylum proceedings are conducted by family members in different Member States, Member States are asked to exchange information early and to notify the completion of the respective asylum proceedings.

ITEMS APPROVED WITHOUT DEBATE

JUSTICE AND HOME AFFAIRS

Resolution on the creation of an early warning system on illegal immigration

The Council adopted a resolution on the creation of an early warning system for the transmission of information on illegal immigration and facilitator networks, in order to enable competent authorities to better prepare suitable counter-measures to combat illegal immigration.

The purpose of the early warning system is to provide immediate information on

- first indications of illegal immigration and facilitator networks, particularly in the countries in which migration originates;
- events and incidents which herald new developments in this area and require immediate counter-measures such as concentrations of specific nationalities, perceptible changes in routes and methods, new types of large-scale travel document forgery etc.

The early warning system is to operate in the framework of the existing CIREFI (Centre for information, discussion and exchange on the crossing of frontiers and immigration).

Under the terms of the resolution, candidate countries may also participate in this initiative, as much of the immigration takes place through their territories.

Improved exchange of information to combat counterfeit travel documents

The Council decided, in accordance with the provisions of the Amsterdam Treaty, to publish an initiative by Germany with a view to the adoption of a decision on the improved exchange of information to combat counterfeit travel documents. The text will be forwarded to the European Parliament for consultation.

The prime aim of this system of information exchange is to limit the counterfeiting of documents, given the increasingly alarming extent of counterfeit travel documents, and thus make an effective contribution to combating organised crime and the smuggling of human beings.

The initiative provides for the establishment of a reporting system for detecting counterfeit travel documents in order to make it easier to detect counterfeit travel documents on inspection, and increase the effectiveness of the search for stolen travel documents, with particular attention being paid to the serial number of the travel document. This exchange of information on false documents shall not include personal details.

The exchange of information shall take place directly and without delay between the central units of each Member State. The text contains a standard form to be used for the purpose of transmitting information as well as a standard questionnaire for ensuring uniform collection of information which may be required for subsequent criminal proceedings relating to counterfeit travel documents.

Eurodac implementing rules

The Council noted that agreement has been reached on the content of the Eurodac implementing rules, subject to any necessary adaptations being made to take account of the Eurodac Regulation for which the Commission adopted a proposal on 26 May 1999.

It is noted that Eurodac will provide a system for the comparison of fingerprints of applicants for asylum as well as those of "illegal immigrants", to be set up within the Commission (see page 7).

The implementing rules stipulate the technical methodology for the taking, transmission and communication of these fingerprints to the Central Unit, and the means of carrying out comparisons and the transmission of results to the Member State in question. The text further sets out the rules regarding statistical collection, to be conducted by the Central Unit.

Comprehensive Action Plan on drugs between the EU, Latin America and the Caribbean

The Council agreed to the text of the Action Plan on drugs between the EU, Latin America and the Caribbean, in view of its endorsement at the EU/Latin America Summit on 28/29 June 1999 in Rio de Janeiro.

This text was discussed between the EU, Latin America and the Caribbean partners at the high level meeting of the coordination/cooperation mechanism on drugs on 8/9 April 1999 in Panama. It is recalled that this mechanism was set up following the conclusions of the 1995 European Council in Madrid.

The Action Plan stems from the efforts being made in both regions to address the world's drug problem, and the need to coordinate, improve and enhance the coherence of their strategies and actions with regard to drugs. It is based on the following principles:

- shared responsibility;
- an integrated and balanced approach based on participation;
- sustainable development;
- conformity with international law, and particularly with full respect for the sovereignty and territorial integrity of States, non-intervention in internal affairs of States, and all human rights and freedoms.

The Plan will have the following overall objectives:

- coordination and cooperation in the area of drugs shall be based on the development in the regions of policies and institution building at the national level which will enable States to improve their ability to cope with the world drug problem;
- the Action Plan aims to improve, via jointly agreed programs and measures, information systems on the aforementioned problem between the regions;

- cooperation between relevant EU institutions and agencies such as Europol and the European Monitoring Centre on Drugs and Drug Addiction (EMCDDA) and relevant institutions and agencies in Latin America and the Caribbean shall be enhanced;
- the partners shall share their experience accumulated in all aspects of the world drugs problem.

The fields of activities under the Plan cover demand and supply reduction (including precursor and licit drug control); police, customs and judicial cooperation and illicit drugs related arms trafficking; money laundering; judicial organisation and drug legislation and institutional capacity building. The Plan also sets out actions to be envisaged for the reinforcement of interregional cooperation between Latin America, the Caribbean and the EU, as well as examples of projects which are in the preparation and implementation phase and proposals for short-term measures.

Resolution on combating international crime with fuller cover of the routes used

The Council adopted a resolution aimed at ensuring that joint route-policing operations - carried out up to date by the Schengen States in order to combat international crime and providing fuller cover of the routes used - are continued by the EU Member States. Where appropriate, these coordinated operations will be carried out with the support of Europol.

The purpose of such concerted actions is to ensure that the police achieve optimum results in the prevention and detection of offences, to improve coordination of police action and communication and to obtain additional intelligence on criminal behaviour and methods of committing crimes.

Extension of Europol's mandate to cover fight against terrorism

The Council took note of a report from Europol on counter terrorism further to the agreement reached at the session of 28/29 May 1998 on the extension, as from the date of the taking-up of activities, of Europol's mandate to cover fight against terrorism, which should be implemented in 1999.

The report defines Europol's general mandate in this area, listing a number of general tasks and principles. It also sets out the implementation of this mandate to occur step by step to ensure that Europol would be thoroughly prepared for each task and that the general principles would be respected.

The general task are as follows: - to facilitate the exchange of information between the Member States; - to obtain, collate and analyse information and intelligence; - to identify and notify Member States about connections between criminal offences; - to aid Member States' investigations; - to maintain a computerised system of collected information; - to develop specialist knowledge of the investigative procedures of the competent authorities in the Member States.

Report on joint customs surveillance operations in 1998

The Council took note of the report on joint customs surveillance operations carried out in 1998. The report concludes that 1998 was another successful year for the joint customs surveillance operations that are an effective method of combating international trafficking in narcotic drugs. In addition to successful seizures, the measures enabled existing threat assessments to be tested, new smuggling routes to be identified and failings in the surveillance system to be detected. The participation of third States proved very valuable. Funding from the Community programme OISIN was crucial to ensure optimum organisation of measures.

The report outlines four customs surveillance operations carried out in 1998, namely air cargo (Quest), maritime traffic (Trident), container traffic (Felix) and road traffic (Roadrunner), the latter of which was executed jointly with the World Customs Organisation.

Operation Quest was aimed at detecting the smuggling of narcotic drugs, protected species of fauna and flora and counterfeit trademarks in air cargo. It was organised by the Netherlands with assistance from Germany, the United Kingdom and Belgium. In all, 21 States took part in the measure.

The purpose of operation Trident was to detect smuggling in maritime traffic to the EU of narcotic drugs, cigarettes, alcohol, arms and strategic goods. Italy organised this operation with the participation of 13 Member States and Norway.

Operation Felix was a joint surveillance exercise involving 28 States under the leadership of the United Kingdom to detect the smuggling of narcotic drugs in containers.

Operation Roadrunner was aimed at combating drug smuggling on the Balkan route. It involved in addition to the Member States, third countries, in particular States of Central and Eastern Europe.

These operations led to the seizure of, among others, 4000 kg of hashish, and 20400 litres of alcohol.

Joint Position on negotiations in the Council of Europe on a Draft Convention on Cyber Crime

The Council agreed to a Joint Position to be followed by the EU Member States in the negotiations underway within the Council of Europe on a Draft Convention on Cyber Crime.

Recognising the importance of developing effective means of preventing and combating the misuse of new technologies which are increasingly being used, Member States shall support the drawing-up of this Convention and advocate provisions which will facilitate the effective investigation and prosecution of criminal offences related to computer systems and data.

According to the Joint Position, the provisions shall cover, in particular, crimes against confidentiality, integrity and availability of computer data, computer-related offences such as computer fraud and forgery, and content-related offences such as those in the field of child pornography. The Member States will ensure that the appropriate jurisdiction for these crimes is established.

Furthermore Member States are asked to support the establishment of provisions which will facilitate international co-operation including those concerning mutual legal assistance to the widest extent possible; commit Parties to the Convention to preserve stored data upon request of another Party and, finally, request Parties to the Convention to provide for an expedited search of data stored in their own territory regarding investigation of serious criminal offences and, under certain circumstances, for the possibility of a transborder computer search.

This is the first formal Joint Position adopted by the Council after the entry into force of the Treaty of Amsterdam. It will enable the Union to speak with one voice in the ongoing negotiations within the Council of Europe.

Final report on the Telecommunications network of the European Judicial Network

The Council approved the final report on the Telecommunications Network of the European Judicial Network. The report outlines how the telecom system, as envisaged in the Joint Action of 29 June 1998 establishing the European Judicial Network (EJN), could be set up. Practical preparations on this pilot project could begin immediately with a view to the opening of the telecommunications network in the autumn.

The report analyses the solutions offered by different data processing systems together with their possible advantages and disadvantages, cost and the possibility of using already existing telecommunications network.

The purpose of the telecom system is to enable the national contact points (prosecutors and central authorities responsible for judicial cooperation) of the EJN to work in an effective and efficient way, facilitating the exchange of information between themselves and also to enable the Council Secretariat to update the contact points with the latest information on judicial cooperation. The system shall be user-friendly, cost-effective and have the possibility to be easily integrated into the existing computer infrastructure the contact point may already have.

It should be noted that a website (under <http://ue.eu.int>) has been opened for the EJN and other interested parties. This site contains practical information relating to judicial cooperation, legal instruments etc.

EXTERNAL RELATIONS

Partnership and Cooperation Agreements with Armenia, Azerbaijan, Georgia and Uzbekistan

= Agreement with Armenia

The Council adopted the Decision on the conclusion of the Partnership and Cooperation Agreement with Armenia, which was signed on 22 April 1996 (see Press release Nr. 6560/96 Presse 97) and which should come into force on 1 July 1999.

= **Agreement with Azerbaijan**

The Council adopted the Decision on the conclusion of the Partnership and Cooperation Agreement with Azerbaijan, which was signed on 22 April 1996 (see Press release Nr. 6560/96 Presse 97) and which should come into force on 1 July 1999.

= **Agreement with Georgia**

The Council adopted the Decision on the conclusion of the Partnership and Cooperation Agreement with Georgia, which was signed on 22 April 1996 (see Press release Nr. 6560/96 Presse 97) and which should come into force on 1 July 1999.

= **Agreement with Uzbekistan**

The Council adopted the Decision on the conclusion of the Partnership and Cooperation Agreement with Uzbekistan, which was signed on 21 June 1996 (see Press release Nr. 8397/96 Presse 181) and which should come into force on 1 July 1999.

These Agreements are designed to govern political, economic and trade relations between the parties and also establish the basis for social, financial, scientific, technological and cultural cooperation between them. They will replace the Agreement signed with the former USSR in 1989, which currently still governs the Community's relations with those of the Republics of the former USSR with which new agreements have not yet been concluded. These Partnership Agreements will initially be valid for a ten-year period.