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2211th Council meeting

- JUSTICE AND HOME AFFAIRS -

Luxembourg, 29 October 1999

Presidents : **Mr Johannes KOSKINEN**
Minister for Justice

Mr Kari HÄKÄMIES
Minister for the Interior

of the Republic of Finland

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For further information call 285.84.15 - 285.81.11

PARTICIPANTS

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

Belgium :

Mr Frans VAN DAELE Ambassador, Permanent Representative

Denmark :

Mr Poul Skytte CHRISTOFFERSEN Ambassador, Permanent Representative

Germany :

Mr Otto SCHILY Federal Minister for the Interior

Ms Herta DÄUBLER-GMELIN Federal Minister for Justice

Greece :

Mr Loucas TSILAS Ambassador, Permanent Representative

Spain :

Mr José Luis GONZALEZ MONTES State Secretary for Justice

France :

Mr Philippe ETIENNE Deputy Permanent Representative

Ireland :

Mr John O'DONOGHUE Minister for Justice, Equality and Law Reform

Italy :

Ms Rosa JERVOLINO Minister 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 António COSTA Minister for Justice

Finland :

Mr Johannes KOSKINEN Minister for Justice

Mr Kari HÄKÄMIES Minister for the Interior

Ms Kirsti RISSANEN State Secretary for Justice

Sweden :

Mr Gunnar LUND Ambassador, Permanent Representative

United-Kingdom :

Mr Jack STRAW Home Secretary

Ms Barbara ROCHE Minister of State, Home Office

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Commission :

Mr António VITORINO Member

OPEN DEBATE ON THE AREA OF FREEDOM, SECURITY AND JUSTICE

The Council held an open debate on the area of freedom, security and justice, transmitted, as customary, to the interested media and public by a video link.

Justice and Home Affairs Ministers, who did not participate in the deliberations of the Tampere Special European Council of 15/16 October 1999 in line with the Treaty provisions concerning the composition of European Councils, welcomed the significant achievements obtained at this Summit towards the creation of an area of freedom, security and justice. It was recalled that these achievements build on the Amsterdam Treaty which entered into force on 1 May 1999 and the 1998 Vienna Action Plan.

Recognising the important work lying ahead, delegations stressed their commitment to implement fully the Tampere conclusions. It was also underlined that the three components freedom, security and justice needed to be developed in a balanced way, in full respect of democratic values.

While recognising the importance of the "ten Tampere milestones" ¹, as well as of the Tampere conclusions on the Charter of fundamental rights, some delegations pointed out that further progress was needed towards achieving a single European asylum system, the setting-up of a European prosecutor to protect financial interests of the Community and the speeding-up of the creation of a European enforcement order.

Several delegations also underlined the role of the candidate countries in relation to the implementation of the Tampere conclusions.

¹ The ten Tampere milestones towards a Union of Freedom, Security and Justice are the following: partnership with countries of origin, a common European Asylum System, fair treatment of third-country nationals, management of migration flows; better access to justice in Europe, mutual recognition of judicial decisions, greater convergence in civil law; preventing crime at the level of the Union, stepping up co-operation against crime, special action against money laundering and stronger external action.

FOLLOW UP OF THE EUROPEAN COUNCIL OF TAMPERE

The Council addressed the question of the implementation of the various parts of the conclusions of the Tampere European Council, on the basis of an informal technical working paper drawn up by the Presidency, the Commission and the Council General Secretariat, indicating who is supposed to do what and by when.

The President underlined that the paper is intended to assist delegations and future Presidencies in their planning for the implementation of the Treaty of Amsterdam, the Vienna Action Plan and the conclusions of the Tampere European Council. He also stressed that, except where the Tampere conclusions contain a formal mandate to the Commission and set clear deadlines, the paper is not prescriptive but only indicative.

Commissioner VITORINO indicated that a first draft of the scoreboard asked for by Heads of State and Government in Tampere, aimed at keeping under constant review progress made in Justice and Home Affairs, will be ready for discussion by Ministers at the December Council session. Following that discussion, as well as a debate to be held with the European Parliament and civil society, the Commission will draw up a final version of this scoreboard keeping in mind that it will need to be progressively adapted to achievements in this area.

The Commission and the incoming Presidencies underlined the need to cooperate closely on the implementation of the Tampere conclusions.

EURODAC - COMPARISON OF FINGERPRINTS OF ASYLUM APPLICANTS AND CERTAIN OTHER ALIENS

The Council took note of the state of work on the draft regulation proposed by the Commission last July, following the entry into force of the Amsterdam Treaty, aimed at transposing into a Community instrument the texts of the "frozen" draft Eurodac Convention and Protocol. The Council had reached agreement on these texts respectively in December 1998 and March 1999.

It is recalled that Eurodac will be a data base, set up at the Commission, to which Member States shall communicate fingerprints taken from asylum applicants and certain other aliens, in order to control whether a person has already applied for asylum in another Member State. The system would contribute to a better functioning of the Dublin Convention which determines the Member State responsible for examining an asylum application.

The Council took note of an intervention by the Danish delegation announcing Denmark's wish to take part in the Eurodac Regulation on an intergovernmental basis, in full respect of its Protocol to the Amsterdam Treaty. It should be noted that, in application of their respective Protocols to the Treaty, both Ireland and the United Kingdom have already notified their wish to take part in the adoption and application of the Eurodac Regulation.

The Council mandated its competent bodies to finalise work on the outstanding issues in sticking as closely as possible to the agreed text of the "frozen" draft Convention and Protocol, in order to reach agreement on this regulation by the end of this year. Due account will also be taken of the Opinion of the European Parliament, expected in November.

It should be noted that the two main outstanding questions concern the possibility of granting certain implementing powers to the Commission (comitology) and the territorial scope of the draft regulation.

DUBLIN PARALLEL AGREEMENT WITH NORWAY AND ICELAND

The Council took note of the state of play as regards the draft mandate for the Commission to negotiate with Iceland and Norway an agreement aimed at extending to these two countries the rules applied by the EU Member States under the Dublin Convention.

The Dublin Convention, which entered into force on 1 September 1997, sets up the criteria and mechanisms determining the Member State responsible for examining an asylum application lodged in one of the EU Member States.

It should be noted that the Dublin parallel arrangements with Iceland and Norway must be put in place before the abolition of frontier checks with the Nordic countries (Denmark, Finland, Sweden, Norway and Iceland), expected for the second half of the year 2000.

In view of the urgency of the matter, the Commission has proposed a Community agreement for negotiating the Dublin parallel arrangements with Norway and Iceland, rather than a mixed agreement, given that the latter would need to be ratified by all Member States and would therefore not be operational before the second half of the year 2000.

Following the Commission's practical approach as well as pertinent legal analysis, the general view among Member States is that it should indeed be a Community agreement. However, one delegation has, at this stage, maintained a reserved position.

The Council instructed the Permanent Representatives Committee to solve urgently the outstanding issues so that negotiations with Iceland and Norway can be opened without delay.

NEGOTIATIONS BETWEEN EUROPOL AND THIRD COUNTRIES AND INTERNATIONAL ORGANISATIONS

The Council attempted to reach agreement on the draft decision authorising the Director of Europol to enter into negotiations on agreements with third States and non-EU related bodies. However, consensus could not be secured on the main question of identifying the countries with whom negotiations should be launched first.

The objective of such negotiations is to further enhance the effectiveness of combating organised forms of criminality through Europol by establishing appropriate relations between Europol and third States and bodies, and in particular with the candidate countries.

The draft decision is based on three acts adopted by the Council in 1998 and 1999 which laid down the rules governing Europol's external relations with third States and non-EU related bodies, concerning the receipt of information by Europol from third parties and rules governing the transmission of personal data by Europol to third States and third bodies.

The Council mandated its competent bodies to finalise work on this draft decision.

**CONVENTION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS -
INTERCEPTION OF TELECOMMUNICATIONS**

The Council had a further exchange of views on the main outstanding question as regards this draft Convention, namely the interception of telecommunications, on which work was launched more than two years ago.

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

The Council examined in particular the precise scope of the obligation for a Member State intercepting a target present on the territory of another Member State, to inform the latter. It is stressed that the draft Convention is intended to cover only interceptions undertaken in the framework of criminal proceedings. The difficulties in defining the above-mentioned obligation are linked to the national legislation of one Member State in which no clear distinction is drawn between interceptions carried out for intelligence purposes, on the one hand, and interceptions undertaken in the framework of a criminal investigation, on the other.

Following long and difficult negotiations to overcome this problem, the Presidency tabled a compromise proposal aimed at providing a definition of the authorities involved in an interception as well as a specification of the characteristics of the criminal investigations concerned by this Convention.

In conclusion of the debate which showed that delegations need more time to study the compromise proposal, the Council mandated its competent bodies to pursue work with the aim of reaching an agreement on the draft Convention at the December session.

INFORMATION OF NATIONAL PARLIAMENTS AS REGARDS JHA MATTERS

Following a request made by the Dutch delegation at the last session that its national parliament be fully and timely informed on Justice and Home Affairs matters dealt with at EU level, the Council tasked the General Secretariat to draw up a report outlining the existing practices in the other Member States regarding this issue.

The President stressed that information of national parliaments is directly connected to bringing the EU citizens closer to the EU and that it should be considered as a horizontal matter affecting all activity at EU level.

The Council will revert to this matter once the report has been elaborated in order to define best practices.

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MIXED COMMITTEE AT MINISTERIAL LEVEL WITH NORWAY AND ICELAND

The first meeting at ministerial level of the Mixed Committee - composed of representatives of the fifteen EU Member States, the Commission as well as Iceland and Norway - took place following the Council session. The Mixed Committee was set up under the Agreement with Iceland and Norway "concerning the latter's association with the implementation, application and development of the Schengen acquis" signed on 17 May 1999 ¹.

The meeting was chaired by Ms Sólveig PÉTURSDÓTTIR, Minister for Justice of Iceland, in line with the rules of the Agreement, which establish that for the second semester of each year the chair goes alternatively to Iceland or Norway, while during the first semester of each year the chair is held by the EU Presidency. Norway was represented by Mr Odd Einar DØRUM, Minister for Justice.

With regard to the Schengen Information System (SIS), the Minister of Iceland reported on the state of play of the project called "SIS 1+" aimed at preventing possible problems linked to the millennium bug. The Minister also informed the Committee about the preparation of the SIS extension in order to include the Nordic countries (Denmark, Finland, Sweden, Norway and Iceland). This extension must be operational before the second half of the year 2000 when frontier checks with these countries are expected to be abolished.

All delegations stressed the importance of finalising these projects on time in order to avoid any hiccup in the smooth functioning of the SIS.

Minister PÉTURSDÓTTIR reported furthermore on the state of play of the communication network SISNET which will link diplomatic missions of Member States in third countries, notably in order to exchange data on the issuing of Visas. SISNET will replace the existing communication network SIRENE (Supplementary Information Requests for National Entries) in August 2001 when the contract with the current service provider will run out.

¹ Cooperation with Iceland and Norway on the Schengen-related areas stems from the 1996 Luxembourg Agreement between the Schengen countries and the Nordic countries (Denmark, Finland, Sweden, Norway and Iceland) on the abolition of border controls.

The EU Presidency informed Iceland and Norway of the outcome of the Special European Council in Tampere of 15/16 October. Both Ministers of these countries assured the EU of their interest and appropriate support in the implementation of the Tampere conclusions.

Over lunch, the Mixed Committee had undertaken a first preliminary assessment of the functioning of the Agreement with Iceland and Norway signed on 17 May 1999 and which is since applied on a provisional basis, until national ratification procedures will have been completed.

ITEMS APPROVED WITHOUT DEBATE

JUSTICE AND HOME AFFAIRS

1997/98 Report on football hooliganism

The Council took note of the report on football hooliganism in the Member States covering the years 1997/98 further to the 1997 Resolution "on preventing and restraining football hooliganism through the exchange of experience, exclusion from stadiums and media policy" which called for the drawing up of an annual report on this matter.

The objective of the report is threefold : to provide an accurate overview of the current situation of football hooliganism throughout the EU, to identify any weaknesses in the current system in order to rectify them, as well as to increase international cooperation and mutual assistance between law enforcement agencies.

The report is based on information provided by Member States covering a total of 350 matches played in the EU. Arrests and preventive custodies carried out at these matches amount to 466 and 577 respectively. The main types of offences are physical injury, damage to property and public disturbances.

The report also sets out in which Member States stadium bans are imposed and whether under civil or criminal law (a total of 2456 bans were introduced over the period). It also contains a general description of violence/disorder on the domestic football scene as well as the behaviour of supporters. Furthermore, the report deals with existing intelligence and cooperation and possible improvements.

The final summary of the report reads as follows "Although current cooperation is assessed very favourably, in some exchanges and cooperation between Member States leave room for improvement. Although, or perhaps because, violence and hooliganism do not feature to any great extent in all Member States, all countries run the risk of being confronted by this problem at international sporting events, particularly football matches. For this reason it is extremely important that information be gathered efficiently and passed on promptly".

EXTERNAL RELATIONS

EU/Gulf Cooperation Council

The Council established the position to be taken by the EU at the 9th EU-GCC Joint Council which will be held in Dubai on 2 November 1999.

The main items on the agenda are the following :

- implementation of the Cooperation Agreement: trade, investment and cooperation;
- state of play of free trade agreement negotiations, further to the GCC's decision to introduce a Customs Union in 2001 and the presentation by the GCC of a comprehensive mandate for these negotiations (since the last meeting of the Joint Council in Luxembourg on 27 October 1998, negotiations have proceeded into a new phase, with 2 sessions held on the 4 May and 2 September 1999, to develop the general framework of the agreement);
- exchange of views on developments in the EU (EMU, enlargement) and in the GCC (establishment of a Customs Union)
- exchange of views on political questions of common interest (Iraq, Iran, Yemen, Middle East Peace Process, non proliferation of weapons of mass destruction, promotion of human rights, drug trafficking).

European Economic Area

The Council approved on behalf of the Community 5 draft Decisions of the EEA Joint Committee amending the EEA Agreement.

The first amends Annex I (veterinary and phytosanitary matters) in order to prolong until 31 December 1999 the transition period during which direct landing of frozen fish is authorised in Iceland at a number of preselected border inspection posts.

The second Decision amends Protocol 31 on cooperation in specific fields outside the four freedoms, in order to extend cooperation in education, training and youth. It provides for a framework for cooperation and sets out the modalities for full participation of the EFTA EEA States in EC programmes and actions in this field (Programme "Leonardo da Vinci" 2000-2006).

The third Decision also amends Protocol 31, with the aim of updating cooperation in the field of consumer protection, by providing for a framework for cooperation and setting out the modalities for full participation of the EFTA EEA States in EC programmes and actions in this field (General Framework for Community activities in favour of Consumers 1999-2003).

The last two Decisions amend Annex IV on energy, by integrating all the relevant EC legislation into the EEA Agreement so as to ensure the requisite legal security and homogeneity.

TRANSPARENCY

Public access to Council documents

The Council approved the replies

- = to the fifth confirmatory application made by Mr T. BUNYAN in 1999, with the Danish and Swedish delegations voting against;
- = to the seventh confirmatory application made by Mr B. HAYES in 1999, with the Danish, Swedish and United Kingdom delegations voting against.