



Brussels, 6 November 2007

BACKGROUND¹
JUSTICE and HOME AFFAIRS COUNCIL
Brussels, 8-9 November 2007

The Mixed Committee (UE+Norway, Iceland and Switzerland) meeting will start on Thursday 8 November at 14:30h with a discussion on Schengen related issues, in particular the assessment of the situation regarding the lifting of the internal borders with nine new Member States.

The Council will then examine the "interior" issues, in particular a draft Decision establishing the European police office, a draft Decision implementing the "Prüm Decision", a draft Decision on the improvement of cooperation between special intervention units in crisis situation, and will have a first exchange of views on the Commission proposals: on the admission of highly skilled immigrants, and on a single application procedure for a single permit for non- EU nationals to reside and work in the EU.

The "justice" issues will be discussed on Friday 9 November at 10h00. The Council will examine a draft Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters and is expected to reach an agreement on a draft Directive on mediation in civil and commercial matters. The Ministers of Justice will also discuss conclusions concerning a general policy on the fight against cybercrime and conclusions on trafficking in human beings.

Press conferences will be held on 8 November at ±18h00 ("interior" issues) and the final one will be held on 9 November at ±15h00, ("justice" issues).

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

"HOME AFFAIRS" issues, Thursday 8 November at 14.30

Enlargement of the Schengen area

The Council will assess the state of preparedness of the new Member States to implement the Schengen acquis, with a view to the lifting of internal borders in December 2007 (land and sea borders) and in March 2008 (air borders).

The latest evaluation visits, which took place over the past six months, demonstrated that the Member States concerned are sufficiently prepared to apply the Schengen acquis in a satisfactory manner.

The Council is therefore expected to adopt conclusions on the Schengen evaluation, according to which the necessary conditions for the application of the Schengen acquis have been met in all areas (air, land and sea borders, police cooperation, the Schengen information system, data protection and visa issuance) in the Member States concerned.

The Council Decision to lift the internal borders controls will be then taken in December, once the European Parliament has rendered its opinion.

Prüm Implementing Decision

The Council is expected to reach a general approach on a Draft Decision regarding cross-border cooperation in combating terrorism and cross-border crime.

This text will implement the Prüm Decision adopted in June 2007. The new text will lay down the necessary administrative and technical provisions for different forms of cooperation, especially for the automated exchange of DNA data, dactyloscopic data and vehicle registration data.

Establishment of a European Police Office

The Council is expected to reach agreement on Chapter II ("Information progressing systems") and III ("Common provisions on information processing") of a draft Decision establishing the European Police Office.

The Council already reached agreement on Chapter I ("Establishment and tasks") at its meeting on 12-13 June 2007.

This Council Decision would replace the Europol Convention and will constitute a real improvement of the operational and administrative functioning of Europol. The Council Decision would be finalised by June 2008.

Special intervention units for crisis situations

The Council will reach a political agreement on a draft Decision on the improvement of cooperation between the special intervention units of the Members of the EU in crisis situations.

Following the attacks of 11 September 2001, the special intervention units of all law enforcement authorities of the Member States have already initiated cooperation activities under the aegis of the Police Chiefs Task Force. Since 2001, their network, called "Atlas", has conducted various seminars, studies, exchanges of materials, and joint exercises.

No single Member State has all the means, resources and expertise at its disposal to deal effectively with all possible kinds of specific or large scale crisis situations requiring special intervention. It is therefore of crucial importance that each Member State be able to request the assistance of another Member State.

Council Decision on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime ("Prüm Decision") and in particular its Article 18 regulates forms of police assistance between Member States in connection with mass gatherings and similar major events, disasters and serious accidents. The Decision which will be discussed on 9 November by the Council constitutes a complement to those provisions of the Prüm Decision, envisaging forms of police assistance between Member States through special intervention units in other situations, i.e. in man-made crisis situations presenting a serious direct physical threat to persons, property, infrastructure or institutions, in particular hostage taking, hijacking and similar events.

Admission of highly skilled immigrants and single permit procedure

The Council will have a first exchange of views on two recently adopted Commission proposals:

- a proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, and
- a proposal for a Council Directive on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State

The proposal for a Directive on the admission of highly skilled immigrants seeks to establish more attractive entry and residence conditions for third-country nationals to take up highly qualified employment in EU Member States – the so-called "EU Blue Card".

The proposal does not create the right of admission. The scheme is entirely demand-driven, fully respectful of the principle of Community preference and Member States' jurisdiction to decide on the numbers of persons admitted. Since labour market needs differ from Member State to Member State, the proposed common system is flexible and centred around a number of key points. For example, it introduces a fast-track procedure, based on common criteria. If a third-country national is admitted under this scheme, he/she would receive a special residence and work permit, called the "EU Blue Card", entitling him/her to a series of socio-economic rights and favourable conditions for family reunification. Facilitated access to the labour market is also provided for.

In a bid to avoid negative brain drain effects in developing countries, especially in Africa, the proposal advocates ethical recruitment standards to limit – if not ban – active recruitment by Member States in developing countries already suffering from serious brain drain, and contains measures to facilitate circular migration.

The second proposal is horizontal in nature, and seeks to simplify procedures for all potential immigrants applying to reside and work in a Member State. Furthermore, it aims to ensure a common set of rights to all third-country workers already admitted and legally working in a Member State, comparable to those of EU citizens. It does not harmonise admission conditions for labour immigrants, which will remain in the hands of the Member States.

The proposal therefore provides for a "one-stop-shop" system for the applicants. It introduces a single application procedure, which aims to simplify and accelerate the procedure both for the employer and for the immigrant, as well to introduce certain safeguards (access to information on the documents needed for an application, obligation to provide reasons for rejection and to take a decision on the application within 90 days). Once admitted, the immigrant will receive a "single permit", which will entitle him/her to stay and work for the period granted: in practical terms, information on access to the labour market will be on the residence permit.

The proposal, acknowledging the contribution made by legal immigrant workers to the EU's economy and to help them integrate more convincingly, seeks to guarantee basic socio-economic rights on an equal footing with Member State's own nationals, in particular as regards working conditions and pay, education, trade union's rights and social security.

The Portuguese Presidency has highlighted the issue of legal migration in the context of its Presidency. A High Level Conference on Legal Migration, held in Lisbon on 13-14 September, brought together Ministers and a wide range of experts. It focussed on three themes - Legal Migration channels and the management of migratory flows, integration and the Lisbon Agenda on migration and development.

The Presidency is also proposing to convene a special joint meeting of the JHA and the Employment, Social Policy, Health and Consumer Affairs (ESPHCA) Council to discuss employment in December.

"JUSTICE" issues, Friday 9 November 2007 at 10.00

Mediation in civil and commercial matters

The Council is expected to reach a political agreement on a draft Directive on mediation in civil and commercial matters.

The objective of this proposal is to facilitate access to alternative dispute resolution and to promote the amicable settlement of disputes by encouraging the use of mediation and by ensuring a balanced relationship between mediation and judicial proceedings.

The proposal will apply, in cross-border disputes, to civil and commercial matters except for such rights and obligations which are not at the parties' disposal under the relevant applicable law. It will not extend, in particular, to revenue, customs or administrative matters or to the liability of the State for acts and omissions in the exercise of State authority ("acta jure imperii").

The Commission submitted this proposal on 22 October 2004 and it is subject to the codecision procedure. The new compromise text reflects the amendments agreed with the European Parliament.

Personal data protection

The Council is expected to reach a general approach on a Proposal for a Framework Decision on the protection of personal data processes in the framework of police and judicial cooperation in criminal matters.

The purpose of this legislation is to ensure a high level of protection of the basic rights and freedoms, and in particular the privacy of individuals, while guaranteeing a high level of public safety when exchanging personal data.

The file was discussed at the Council meeting of 18.09.2007 and an agreement was reached on the regime for onward transfer on personal data obtained from another Member State to third States.

The Council also confirmed the understanding that the text applies to the cross-border exchange of personal data only.

Fight against Cybercrime

The Council is expected to adopt conclusions concerning a general policy on the fight against cybercrime.

These conclusions are based on the Commission communication of 22 May 2007, "Towards a general policy on the fight against cybercrime". It aims at strengthening EU-wide cooperation between police and judicial authorities, especially as regards the establishment of a permanent cybercrime training platform.

Trafficking of Human Beings

The Council is expected to adopt conclusions on Trafficking in Human Beings on the basis of key recommendations and actions included in the EU Action Plan on Trafficking in human beings.

The European Union is determined to contribute to the implementation of the EU Plan on best practices, standards and procedures for combating and preventing trafficking in Human Beings.
