



Brussels, 14 September 2007

BACKGROUND ¹
JUSTICE and HOME AFFAIRS COUNCIL
Brussels, 18 September 2007

In the margins of the Council, the Mixed Committee (UE + Norway, Iceland and Switzerland) will meet on Tuesday 18 September 2007 at 10.00 with a view to discussing Schengen related issues, in particular:

- the state of play of the Schengen Information System: SISone4all and SISII,*
- the current situation on the southern maritime borders,*
- a report on the development of the European Patrols Network and use of a "toolbox" by Frontex,*
- the implementation of the Rapid Border Intervention Teams Regulation,*
- the draft Regulation laying down a uniform format for residence permits for non-EU citizens, and*
- a proposal relating to the protection of personal data processed in the framework of police and judicial cooperation in criminal matters.*

The Council will continue with an exchange of views on the provisions of the Statute of the Court of Justice instituting an emergency ruling procedure, a debate on the European Supervision Order and a debate on the basis of a Commission report on visa waiver reciprocity.

A press conference will be held before the lunch (+/- 12:45) and at the end of the working session (+/-17.00).

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

Schengen Information System

The Mixed Committee will be informed about the implementation of the SISone4all project (extension of the current SIS I to include the new Member States in the system) and the progress made by the future Schengen States to comply with the Schengen acquis.

The Presidency will inform that the technical part of the SISone4ALL project is now operational, according to schedule. This means that as of 1 September 2007 the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia are able to use the Schengen Information System (SIS). Some of the countries concerned have already announced hits in the system.

The next steps are the SIS and non-SIS-related aspects evaluations in the countries concerned.

Work on the evaluation of all non-SIS-related aspects (data protection, police cooperation, sea, land and air borders and visa-issuance) began in the first six months of 2006 and is now on the verge of being concluded.

Assuming all conditions are fulfilled, the JHA Council could set dates for the lifting of checks at internal borders - by the end of December 2007 for land and sea borders and by the end of March 2008 for air borders, at its next meeting on 8 and 9 November 2007.

The Commission will also be informed about the development of a SIS II project and the installation of a new SIS communication network.

FRONTEX

- Southern maritime borders

At its meeting on 12 and 13 June 2007, the JHA Council had a debate on the situation at the southern maritime borders, following a number of incidents in the Mediterranean Sea. The Council mandated Coreper to examine the matters discussed in Council, including in particular certain suggestions on sharing of responsibilities in certain circumstances, with a view to a proper follow-up on the issue.

The Presidency will propose at the Mixed Committee a set of Council Conclusions as a first step forward. The draft Conclusions mainly involves proper implementation of and making use of already existing possibilities, including proposals for burden sharing by encouraging Member States to provide support to each other on a bilateral basis. Frontex should run joint operations for longer periods than what has been the case so far. The parts of the text concerning cooperation with third countries and with international organisations are of great importance.

- European patrols network and rapid border intervention teams

The Mixed Committee will also examine a report on the development of the European Patrols Network, the use by the EU Borders Agency (Frontex) of its 'toolbox', and the implementation of the Regulation regarding the Rapid Border Intervention Teams (RABIT).

Uniform format for non-EU nationals residence permits

The Mixed Committee is expected to agree on a text setting the security features and biometric identifiers to be used by the Member States in a uniform format of residence permit for third-country nationals.

The uniform format for residence permits would include a storage medium containing the facial image and two fingerprints images of the holder, both in interoperable formats. The data shall be secured and stored, and the integrity, the authenticity and the confidentiality of the data will be guaranteed.

The technical specifications for the capture of biometric identifiers would be set in accordance with the technical requirements for passports issued by Member States to their nationals.

Protection of personal data in the framework of EU police and judicial co-operation

The Mixed Committee is expected to agree on the scope of this draft Framework Decision and on the data protection regime for transfer of data to third countries.

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.

After more than a year and a half of intense negotiations on this proposal, the Presidency will propose a narrow scope of the Framework Decision, which means that the text will apply to the cross-border exchange of personal data only. This understanding will also imply an evaluation by the Commission of the data protection system, including the limitation of the scope, three years after the Framework Decision will apply to Member States.

As regards the principles relating to the transmission of personal data to third States, there is a growing consensus that data transmitted to another Member State maybe transferred to third States or international bodies only if a number of conditions, including prior consent, are met.

Visa waiver reciprocity

The Commission will present its third report on visa waiver reciprocity. Commission Vice-President Franco Frattini will also inform the Council about the possibility of introducing a proposal regarding the establishment of a Passenger Name Record (PNR) system in the EU.

Establishment of an emergency preliminary ruling procedure at the Court of Justice

A member of the Court of Justice will present to the Council a request by the Court to amend its Statute with a view to instituting an emergency preliminary ruling procedure.

This amendment would allow derogations from certain provisions of the Protocol on the Statute of the Court of Justice with regard to the procedure governing urgent references for a preliminary ruling in specified areas.

Mutual recognition on non-custodial decisions at pre-trial and post trial stages

The Council will have an orientation debate on a proposal for a Framework Decision on the European supervision order, and will take note of a progress report in respect of a draft Framework Decision on "probation".

These two draft legal instruments aim at reinforcing the application of the principle of mutual recognition in the common area of freedom, security and justice. Both instruments have as their objective to allow persons to comply in their Member State of residence with a non-custodial supervision or probation measure which has been imposed in another Member State.

The Commission proposal on the European Supervision Order (in brief ESO) addresses the pre-trial phase. The Franco-German initiative on "probation" addresses the post-trial phase. Whereas a lot of work has already been carried out on this latter initiative - which is reflected in the Progress report - the work on the proposal on ESO has yet not started.

In fact, it seems appropriate to have firstly an orientation debate in the Council in respect of this Commission proposal and to revise the text accordingly, before assuming the work in the Council preparatory bodies.

The Commission proposal on the ESO aims at setting rules under which the Member State of residence supervises obligations imposed on a person in another Member State during the pre-trial phase.

This proposal mirrors the initiative on "probation", which was presented by German and France in January 2007, and which concerns the post-trial phase. In short, this initiative aims at setting rules under which the Member State where a sentenced person in ordinarily resident supervises probation measures or alternative sanctions imposed on than person in another Member State.

Other issues

The German Delegation will inform the Council about the terror attack planned and failed in Germany on 5 September 2007.
