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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.6.2009  
SEC(2009) 765 final

**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL, THE  
EUROPEAN PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**JUSTICE, FREEDOM AND SECURITY IN EUROPE SINCE 2005:**

**AN EVALUATION OF THE HAGUE PROGRAMME AND ACTION PLAN**

**Follow-up of the implementation of legal instruments in the fields of justice, freedom  
and security at national level**

**Implementation Scoreboard**

**{ COM(2009) 263 final }**

**{ SEC(2009) 766 final }**

**{ SEC(2009) 767 final }**

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<b>1. GENERAL ORIENTATIONS<sup>4</sup></b>				
<b>1.2. Respect for and active promotion of fundamental rights</b>				
• <b>Protection of personal data</b>				
Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data <sup>5</sup>	24 October 1998	Report from the Commission on the implementation of the Directive of 15.5.2003 <sup>6</sup> , report prepared on behalf of the Commission on the economic evaluation of the Directive dated May 2005 <sup>7</sup> as well as the Communication of 7.3.2007 on the follow-up of the Work Programme <sup>8</sup> .	All Member States have adopted and communicated legislation under the Directive.	Even though all Member States have now transposed the Directive, some of them have failed to incorporate a number of its important provisions. In other cases, transposition or practice has not been conducted in line with the Directive or has fallen outside the margin of manoeuvre left to Member States. This has resulted in a number of infringement proceedings. In two cases concerning incorrect implementation and application of the Directive, Germany was sent a reasoned opinion on 29 June 2007 in one case and referred to the Court on 22 November 2007 (case C-518/07, still pending) in another case.

<sup>1</sup> Taking into account only the instruments for which the deadlines for implementation or for entry into force had passed by the cut-off date of 31 March 2009.

<sup>2</sup> Excluding correspondence, complaints and petitions to the European Parliament and to the Commission.

<sup>3</sup> At the cut-off date of 31 March 2009.

<sup>4</sup> This table uses the same classification/titles as provided for under the Hague Action Plan.

<sup>5</sup> OJ L 281, 23.11.1995, p. 31.

<sup>6</sup> First report on the implementation of the Data Protection Directive 95/46/EC - COM(2003) 265.

<sup>7</sup> [http://europa.eu.int/comm/justice\\_home/fsj/privacy/studies/index\\_en.htm](http://europa.eu.int/comm/justice_home/fsj/privacy/studies/index_en.htm).

<sup>8</sup> Communication from the Commission to the European Parliament and the Council on the follow-up of the Work Programme for better implementation of the Data Protection Directive – COM(2007) 87 final.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
1.4. European strategy on drugs				

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
The Drugs Action Plan (2005-2008) in the framework of the EU Drugs Strategy 2005-2012	<b>2008</b>	Commission annual progress review on implementation of the Action Plan by all stakeholders (Member States, Commission, EMCDDA, Europol). The first progress review was presented in December 2006 followed by a progress review presented in December 2007 <sup>9</sup> . Final evaluation was presented on 18 September 2008. <sup>10</sup>	Not applicable in a legal sense, but there is consensus among the Member States to report to the Commission under the Action Plan. There are regular reporting activities from Member States to the Commission, the EMCDDA (through the Reitox network) and Europol.	<p>The 2007 Progress Review reports on progress achieved by all stakeholders (Member States, Commission, EMCDDA, Europol) and on aspects to improve.</p> <p>The 2008 Final Evaluation showed that the objectives of the Plan have been partly achieved:</p> <ul style="list-style-type: none"> <li>- Although drug use in the EU remains at high levels, available data suggest that the use of heroin, cannabis and synthetic drugs has stabilised or is declining but that cocaine use is rising in a number of Member States.</li> <li>- Data available for comparable countries in other parts of the world show that the consumption of cannabis, cocaine, and amphetamines in the EU is significantly lower than, for instance, in the US.</li> <li>- Evidence shows that the EU is succeeding in at least containing the complex social phenomenon of widespread substance use and abuse in the population, and that it is increasingly focusing on measures to address the harm caused by drugs to individuals and society.</li> <li>- In terms of international cooperation, there is now better coordination of EU positions in international fora on drugs. Moreover, the EU's integrated and balanced approach to drugs is increasingly serving as a model for other countries worldwide. While progress has been made in many areas, weaknesses have also been identified. Policy coordination problems persist in many areas, within the Commission, between Member States, and within Member States, and even if the quality of information on the EU situation regarding drug use, prevention and treatment has consistently improved, considerable knowledge gaps remain.</li> </ul>

<sup>9</sup> Communication from the Commission on the 2007 Progress Review of the implementation of the EU Action Plan on Drugs (2005-2008) – COM(2007) 781 final.

<sup>10</sup> Communication on an EU Drugs Action Plan (2009-2012), accompanied by a Final Evaluation of the EU Drugs Action Plan 2005-2008 – COM(2008) 567/4 and SEC(2008) 2456. The evaluation was carried out by the Commission with the support of the Member States, the European Monitoring Centre on Drugs and Drug Addiction (EMCDDA), Europol, and European NGO networks represented in the Civil Society Forum.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking. <sup>11</sup>	<b>12 May 2006</b>	A report from the Commission is due by 12 May 2009 under the Framework Decision, which should serve as a basis for the report from the Council, due by 12 November 2009.	Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, France, Latvia, Lithuania, Luxembourg, Hungary, Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland and Sweden have communicated their transposition measures. <b>Ireland, Greece, Spain, Italy, Cyprus, Malta</b> and <b>UK</b> have not yet fulfilled their communication obligation.	The report on transposition is not yet available. Details will be provided in the Commission's report, due by 12 May 2009. Amendments are likely to be called for.
Council Decision 2005/387/JHA of 10 May 2005 on the information exchange, risk assessment and control of new psychoactive substances. <sup>12</sup>	<b>21 May 2005</b>	The EMCDDA and Europol must report annually to the European Parliament, the Council and the Commission on implementation of this Decision.	If the Council decides to submit a new psychoactive substance to control measures, Member States shall report the measures taken to the Council and the Commission.	The 2006 report from the EMCDDA and Europol analysed the first months of implementation. The 2007 Report reflected on the implementation of the instrument in 2006: 7 new substances were notified. The EMCDDA and Europol produced a Joint Report on one of them, called BZP. On 23 March 2007 the Council requested a risk assessment on psychoactive substance BZP to be carried out by the extended Scientific Committee of the EMCDDA. On 16 July 2007 the Commission decided on the basis of the evidence collected through the risk assessment procedure to propose to the Council to make the BZP subject to drug control measures and criminal provisions. The proposal was discussed and approved by the Horizontal Working Party on Drugs on 10 September 2007. The Council adopted the Decision on 7 March 2008 (2008/206/JHA) <sup>13</sup> and Member States shall take the necessary measures no later than one year from this date.

<sup>11</sup> OJ L 335, 11.11.2004, p. 8.

<sup>12</sup> OJ L 127, 20.5.2005, p. 32.

<sup>13</sup> OJ L 64, 7.3.2008, p. 45

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<b>2. STRENGTHENING FREEDOM</b>				
<b>2.1. Citizenship of the Union</b>				
Article 22 of the EC Treaty: reports from the Commission to the European Parliament, to the Council and to the Economic and Social Committee every three years on the application of the provisions of Part Two of the Treaty on "citizenship of the Union"		Five Commission reports on Citizenship of the Union, dated 20.12.1993 <sup>14</sup> , 27.5.1997 <sup>15</sup> , 7.9.2001 <sup>16</sup> , 26.10.2004 <sup>17</sup> and 15.2.2008 (from 1.5.2004 to 30.6.2007) <sup>18</sup> .	Not applicable.	All Commission reports focus on the provisions of Part Two of the EC Treaty related to the rights of Union citizens. The Commission's 5 <sup>th</sup> Report on Citizenship of the Union, which covers the first years following the Union's enlargement to 12 new Member States, highlights a number of developments and problems encountered in this area.

<sup>14</sup> COM(1993) 702 final.  
<sup>15</sup> COM(1997) 230 final.  
<sup>16</sup> COM(2001) 506 final.  
<sup>17</sup> COM(2004) 695 final.  
<sup>18</sup> COM(2008) 85 final.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Directives 90/364 of 28 June 1990 <sup>19</sup> , 90/365 of 28 June 1990 <sup>20</sup> and 93/96 of 29 October 1993 <sup>21</sup> on the right of residence of inactive persons, pensioners and students	<i>Expired</i> <sup>22</sup>	Two Commission reports were adopted on 17.3.1999 <sup>23</sup> (period 1992-1999) and 5.3.2003 <sup>24</sup> (period 1999-2002). A third and last report was adopted by the Commission on 5.4.2006 <sup>25</sup> (period 2003-2005).	All Member States have adopted and communicated national transposing measures.	Application is basically satisfactory, as the declining number of complaints received by the Commission shows. Nevertheless, there are still individual cases of non-compliance or incorrect application. <b>Netherlands</b> was ruled against by the Court for non-compliance with the Directive 90/364 on 10 April 2008 (case C-2006/398). The Netherlands has adopted legislation to comply with the judgement but the Commission is still examining how this applies in practice. On 17 October 2007 the Commission decided to refer <b>France</b> to the Court for non-compliance with Directives 90/364, 90/365 and 93/96. <b>Belgium</b> was ruled against by the Court for non-compliance notably with Directive 90/364 on 23 March 2006 (case C-408/03). On 23 October 2007 the Commission sent a reasoned opinion under Article 228 of the EC Treaty for non-compliance with the judgement of the Court. New legislation adopted by Belgium appears to rectify the infringement.

<sup>19</sup> OJ L 180, 13.7.1990, p. 26.

<sup>20</sup> OJ L 180, 13.7.1990, p. 28.

<sup>21</sup> OJ L 317, 18.12.1993, p. 59.

<sup>22</sup> The three Directives were repealed with effect from 30 April 2006 by Directive 2004/38/EC of 29 April 2004.

<sup>23</sup> Report from the Commission to the Council and the European Parliament on the implementation of Directives 90/364, 90/365 and 93/96 (right of residence) - COM(1999) 127.

<sup>24</sup> Second Commission report to the Council and Parliament on the implementation of Directives 90/364, 90/365 and 93/96 (right of residence) - COM(2003) 101.

<sup>25</sup> Third Commission report to the Council and Parliament on the application of Directives 93/96, 90/364, 90/365 on the right of residence for students, economically inactive and retired Union citizens – COM(2006) 156 final.



Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<p>Directive 64/221 of 25 February 1964 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health<sup>26</sup>; Directive 72/194 of 18 May 1972 extending to workers exercising the right to remain in the territory of a Member State after having been employed in that State the scope of the Directive of 25 February 1964<sup>27</sup>; Directive 73/148 of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services<sup>28</sup>; Directive 75/34 of 17 December 1974 concerning the right of nationals of a Member State to remain in the territory of another Member State after having pursued therein an activity in a self-employed capacity<sup>29</sup>; Directive 75/35 of 17 December 1974 extending the scope of Directive 64/221 to include nationals of a Member State who exercise the right to remain in the territory of another Member State after having pursued therein an activity in a self-employed capacity<sup>30</sup>.</p>	<p><b>Expired<sup>31</sup></b></p>	<p>A Commission report on Directive 64/221 was adopted on 19 July 1999<sup>32</sup>.</p>	<p>Communication of measures transposing Directives 72/194, 73/148, 75/34, 75/35 and 64/221 is completed.</p>	<p>Application of these directives is basically satisfactory, as the declining number of complaints received by the Commission shows. Nevertheless, there are still individual cases of non-compliance or incorrect application.</p> <p><b>Netherlands</b> was ruled against by the Court in two cases of incorrect application of Directive 64/221 in expulsion cases, on 7 June 2007 (joint cases C-2006/050). The Commission is examining the measures adopted by the Netherlands (the Aliens Circular) to comply with the judgement.</p> <p><b>Belgium</b> was ruled against by the Court for non-compliance notably with Directive 90/364 on 23 March 2006 (case C-408/03). On 23 October 2007 the Commission sent a reasoned opinion under Article 228 of the EC Treaty for non-compliance with the judgement of the Court. New legislation adopted by Belgium appears to rectify the infringement.</p> <p><b>Italy</b> was sent a reasoned opinion on 1 December 2008 for incorrect application of Directives 68/360 and 73/148.</p>

<sup>26</sup> OJ L 121, 26.5.1964, p. 850, English special edition Series I Chapter 1963-1964, p. 117.

<sup>27</sup> OJ L 121, 26.5.1972, p. 32, English special edition Series I Chapter 1972(II), p. 474.

<sup>28</sup> OJ L 172, 28.6.1973, p. 14.

<sup>29</sup> OJ L 14, 20.1.1975, p. 10.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<p>Directive 2004/38 of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221, 68/360, 72/194, 73/148, 75/34, 75/35, 90/364, 90/365 and 93/96<sup>33</sup></p>	<p><b>Implementation due by 30 April 2006</b></p>	<p>A Commission report on Directive 2004/38 was adopted on 10 December 2008.</p>	<p>All Member States have adopted and communicated national transposing measures.</p>	<p>The Commission Report shows that the overall transposition of Directive 2004/38 is rather disappointing. Not one Member State has transposed the Directive effectively and correctly in its entirety. Not one Article of the Directive has been transposed effectively and correctly by all Member States.</p> <p>On the other hand, in some areas Member States adopted transposition measures that are more favourable to EU citizens and their family members than required by the Directive itself.</p> <p>In the thirty months since the Directive has been applicable, the Commission has received more than 1800 individual complaints, 40 questions from the Parliament and 33 petitions on its application. It has registered 115 complaints and opened five infringement cases for incorrect application of the Directive.</p> <p>The problems revealing persistent violation of the core rights of EU citizens are mostly related to:</p> <ul style="list-style-type: none"> <li>- the right of entry and residence of third country family members (problems with entry visas or when crossing the border, conditions attached to the right of residence not foreseen in the Directive and delayed issue of residence cards);</li> <li>- the requirement for EU citizens to submit with the applications for residence additional documents not foreseen in the Directive.</li> </ul> <p>The difficult issues of interpretation which have arisen so far can be addressed by issuing guidelines following further discussion and clarification.</p>

<sup>30</sup> OJ L 14, 20.1.1975, p. 14.

<sup>31</sup> The three Directives were repealed with effect from 30 April 2006 by Directive 2004/38/EC of 29 April 2004.

<sup>32</sup> COM(1999) 372 final.

<sup>33</sup> OJ L 158, 30.4.2004, p.77.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals <sup>34</sup>	<b>Implementation due by 1 February 1994</b>	Two Commission reports on its application were adopted on 7 January 1998 <sup>35</sup> and on 18 December 2000 <sup>36</sup> . On 12 December 2006 the Commission adopted a third report: Communication on European elections 2004 <sup>37</sup> .	Communication of national measures is considered satisfactory.	Conformity of the legislation of the 12 newest Member States with the Directive is currently being assessed by the Commission. Requirement of a permanent residence or other additional conditions imposed on EU citizens are amongst difficulties that the assessment revealed. Discussions and contacts with the Member States shall take place in 2009 in view of ensuring correct implementation of the Directive. In 2006 the Commission proposed to amend the Directive 93/109 by introducing measures that lighten the burden on candidates and Member States while providing the necessary guarantees against abuses <sup>38</sup> . Implementation by the 12 new Member States is currently being assessed by the Commission.
1976 Act <sup>39</sup> on the election of representatives of the European Parliament by direct universal suffrage as amended by Council Decision 2002/772/EC, Euratom <sup>40</sup>	<b>Implementation due by 1 April 2004</b>	No report provided for under the Decision.	Not applicable	A study for assessing conformity of the legislation of the Member States with the Act has been launched in 2008. Final results are expected for 2009.

<sup>34</sup> OJ L 329, 30.12.1993, p. 34.

<sup>35</sup> COM(1997) 731.

<sup>36</sup> COM(2000) 843.

<sup>37</sup> Commission report on the participation of European Union citizens in the Member State of residence (Directive 93/109/EC) and on the electoral arrangements (Decision 76/787/EC as amended by Decision 2002/772/EC, Euratom) – COM(2006) 790 final.

<sup>38</sup> Proposal for a Council Directive amending Directive 93/109/EC of 6 December 1993 as regards certain detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals – COM(2006) 791 final.

<sup>39</sup> The Act is annexed to Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (OJ L 278, 8.10.1976, p. 5).

<sup>40</sup> OJ L 283, 21.10.2002.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Directive 94/80 of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals <sup>41</sup>	<b>Implementation due by 1 January 1996</b>	A Commission report was adopted on 30 May 2002 <sup>42</sup> , together with two reports, dated 22 November 1999 and 22 August 2005, on granting derogation pursuant to Article 19(1) of the EC Treaty, presented under Article 12(4) of Directive 94/80 <sup>43</sup> . A second Commission report is envisaged in 2009.	Communication of national measures can be considered satisfactory for all Member States.	Implementation by the 12 newest Member States is currently being assessed by the Commission. Requirement of a permanent residence or additional conditions imposed on EU citizens are amongst problems that the assessment revealed. Discussions and contacts with the Member States shall take place in 2009 in view of ensuring correct implementation of the Directive. Legal implementation was considered satisfactory for the Member States covered by the 2002 report <sup>44</sup> . Results in practice have not been so successful, since the proportion of non-national EU citizens entered on the electoral rolls is generally rather low.

<sup>41</sup> OJ L 368, 31.12.1994, p. 38. Directive as last amended by Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ L 236, 23.9.2003, p. 33).

<sup>42</sup> COM(2002) 260.

<sup>43</sup> COM(1999) 597 and COM(2005) 382.

<sup>44</sup> Luxemburg and Belgium benefit from derogations permitted under the Directive.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<b>2.2. Asylum, immigration, frontiers</b>				
Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) <sup>45</sup>	<b>Entry into force: 17 January 2007</b>	Two years after SIS II is brought into operation and every two years thereafter the Commission or, when it is established, the management authority is to produce a report on the technical functioning of SIS II and the communication infrastructure. Three years after SIS II is brought into operation and every four years thereafter, the Commission is to produce a report on an overall evaluation of SIS II.	Not applicable.	Member States shall provide the Management Authority and the Commission with the information necessary to draft the reports.

<sup>45</sup> OJ L 381, 28.12.2006, p. 4. This Regulation, as well as Regulation 1986/2006 of the European Parliament and of the Council of 20 December 2006 regarding access to the Second Generation Schengen Information System (SIS II) by the services in the Member States responsible for issuing vehicle registration certificates (OJ L 381, 28.12.2006, p. 1) form a package with Council Decision 2007/533/JHA (OJ L 205, 7.8.2007, p. 63).

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Decision 2007/533/JHA of 12 <sup>th</sup> June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II)	<b>Entry into force: 2<sup>nd</sup> July 2007</b>	Two years after SIS II is brought into operation and every two years thereafter the Commission or, when it is established, the management authority is to produce a report on the technical functioning of SIS II and the communication infrastructure. Three years after SIS II is brought into operation and every four years thereafter, the Commission is to produce a report on an overall evaluation of SIS II.	Not applicable.	Member States shall provide the Management Authority and the Commission with the information necessary to draft the reports.
Regulation (EC) No 767/2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) <sup>46</sup> .	<b>Entry into force: 2<sup>nd</sup> September 2008</b>	Two years after the VIS is brought into operation and every two years thereafter, the Commission or, when it is established, the Management Authority is to submit a report to the European Parliament, the Council and the Commission on the technical functioning of the VIS. Three years after the VIS is brought into operation and every four years thereafter, the Commission is to produce an overall evaluation of the VIS. The Commission is to transmit the evaluation reports to the European Parliament and the Council.	Not applicable.	Member States shall provide the Management Authority and the Commission with the information necessary to draft the reports.

<sup>46</sup> OJ L 218 of 13.8.2008, p. 60.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Decision 2008/633/JHA concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences <sup>47</sup>	<b>Entry into force: September 2008</b>	Two years after the VIS is brought into operation and every two years thereafter, the Commission or, when it is established, the Management Authority is to submit to the European Parliament, the Council and the Commission a report on the technical functioning of the VIS. Three years after the VIS is brought into operation and every four years thereafter, the Commission is to produce an overall evaluation of the VIS. The Commission is to transmit the evaluation to the European Parliament and the Council.	Not applicable.	Member States and Europol shall provide to the Management Authority and the Commission the information necessary to draft the reports.
<b>2.3. Common European Asylum System</b>				
Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of the Dublin Convention <sup>48</sup>	<b>Entry into force: 15 December 2000</b>	Annual Commission reports were adopted on 5 May 2004 <sup>49</sup> , 20 June 2005 <sup>50</sup> , 15 September 2006 <sup>51</sup> , 11 September 2007 <sup>52</sup> and 26 January 2009 <sup>53</sup> .	Not applicable.	The Commission reports show very satisfactory results on the activities of EURODAC, although certain difficulties were detected on a case-by-case basis, such as excessive delay for the transmission of data to the EURODAC Central Unit, low quality of data sent by some Member States or proper respect of data protection rules.

<sup>47</sup> OJ L 218 of 13.8.2008, p. 129.

<sup>48</sup> OJ L 316, 15.12.2000, p. 1.

<sup>49</sup> SEC(2004) 557.

<sup>50</sup> SEC(2005) 839.

<sup>51</sup> SEC(2006) 1170.

<sup>52</sup> SEC(2007) 1184.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Directive 2001/55 of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof <sup>54</sup>	<b>Implementation due by 31 December 2002</b>	A Commission report was due by 31 December 2004, but because of its specific nature this Directive has not been applied and no report has been drafted.	All Member States have adopted and communicated national transposing measures <sup>55</sup> .	
Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers <sup>56</sup>	<b>Implementation due by 6 February 2005</b>	A report from the Commission was adopted on 26 November 2007 <sup>57</sup> .	All Member States have adopted and communicated national transposing measures <sup>58</sup> .	According to the Commission's Report, overall, the Directive has been transposed satisfactorily in the majority of Member States. Only a few horizontal issues of incorrect transposition or misapplication of the Directive are highlighted.
Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national <sup>59</sup>	<b>Entry into force: 17 March 2003</b>	An evaluation report was adopted on 6 June 2007 <sup>60</sup> .	Not applicable.	According to the Commission's Report, overall, the objectives of the Dublin system, notably to establish a clear and workable mechanism for determining responsibility for asylum applications, have to a large extent been achieved. Owing to the lack of precise data it was not possible to evaluate the cost of Dublin system. Nevertheless some concerns remain, both on the practical application and the effectiveness of the system.

<sup>53</sup> COM(2009) 13 final.  
<sup>54</sup> OJ L 212, 7.8.2001, p. 12.  
<sup>55</sup> Denmark and Ireland are not bound by this Directive.  
<sup>56</sup> OJ L 31, 6.2.2003, p. 18.  
<sup>57</sup> Report from the Commission to the Council and to the European Parliament on the application of Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers – COM(2007) 745 final.  
<sup>58</sup> Denmark and Ireland are not bound by this Directive.  
<sup>59</sup> OJ L 50, 25.2.2003, p. 1.  
<sup>60</sup> Report from the Commission to the European Parliament and the Council on the evaluation of the Dublin system – COM(2007) 299 final.



Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted <sup>61</sup>	<b>Implementation and communication due by 10 October 2006</b>	A Commission report will be presented by October 2009. After the first report the Commission has a reporting obligation every five years.	Belgium, Bulgaria, Czech Republic, Germany, Estonia, Greece, Ireland, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Romania, Slovakia and Slovenia have adopted and communicated national transposing measures <sup>62</sup> . <b>Sweden</b> and <b>UK</b> have partially fulfilled their obligation. <b>Spain</b> and <b>Finland</b> have not yet fulfilled their obligation <sup>63</sup> .	

<sup>61</sup> OJ L 304, 30.9.2004, p. 12.

<sup>62</sup> Denmark is not bound by this Directive.

<sup>63</sup> Spain, Finland, Sweden and UK were referred to the Court in June – July 2008 (cases respectively C-2008/272, C-2008/293, C-2008/322, C-2008/256). Finland was ruled against by the Court on 5 February 2009.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status <sup>64</sup>	<b>Implementation and communication due by 1 December 2007 and 1 December 2008 (Article 15 only)</b>	A Commission report will be presented by 1 December 2009. After the first report the Commission has a reporting obligation every two years.	Bulgaria, Czech Republic, Germany, Estonia, Greece, France, Italy, Latvia, Lithuania, Luxemburg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia and UK have adopted and communicated national transposition measures for the obligation expiring 1 December 2007 <sup>65</sup> . The Commission is examining national transposition measures communicated for the obligation expiring 1 December 2008. <b>Belgium, Ireland and Sweden</b> have partially fulfilled their obligation. <b>Spain, Cyprus and Finland</b> have not yet fulfilled their obligation <sup>66</sup> .	

<sup>64</sup> OJ L 326, 13.12.2005, p.13.

<sup>65</sup> Denmark is not bound by this Directive.

<sup>66</sup> Spain, Cyprus, Finland and Sweden were sent letters of formal notice on 29 January 2008. Belgium was sent a reasoned opinion on 23 September 2008.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<b>2.4. Legal Migration Including Admission Procedures</b>				
Council Directive 2003/86 of 22 September 2003 on the right to family reunification <sup>67</sup>	<b>Implementation and communication due by 3 October 2005</b>	First report from the Commission was due on 3 October 2007 under the Directive. Publication of the report in October 2008 <sup>68</sup> only due to late transposition of the Directive by Member States and in order to take account of the results of the Odysseus conformity checking study. Report will be followed-up by a Green paper in the first half of 2009.	All Member States have adopted and communicated national transposition measures <sup>69</sup> .	Overall, the Directive has been transposed satisfactorily in the majority of Member States. However a few horizontal issues of incorrect transposition or misapplication of the Directive had to be highlighted. In addition the main application problem is that some "may" provisions of the Directive enabling Member States to introduce or maintain certain requirements for the exercise of the right to family reunification (e.g. fees, waiting period, stable and regular resources, integration measures such as language and other test) are applied in a too broad or excessive way, restricting the right to family reunification to an extent which runs counter the effet utile of the Directive.
Council Directive 2003/109 of 25 November 2003 concerning the status of third-country nationals who are long-term residents <sup>70</sup>	<b>Implementation and communication by 23 January 2006</b>	Report from the Commission due by 23 January 2011 under the Directive.	Belgium, Bulgaria, Czech Republic, Germany, Estonia, Greece, France, Italy, Cyprus, Latvia, Lithuania, Luxemburg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland and Sweden have adopted and communicated national transposing measures <sup>71</sup> . <b>Spain</b> <sup>72</sup> has not yet fulfilled its obligation.	

<sup>67</sup> OJ L 251, 3.10.2003, p. 12.

<sup>68</sup> COM (2008) 610 final.

<sup>69</sup> Denmark, Ireland and UK are not bound by this Directive.

<sup>70</sup> OJ L 16, 23.1.2004, p. 44.

<sup>71</sup> Denmark, Ireland and UK are not bound by this Directive.

<sup>72</sup> Spain was ruled against by the Court for non-communication on 15 November 2007 (case C-2007/059) and has not yet complied with the judgment. On 24 February 2009 the Commission sent a reasoned opinion under Article 228 of the EC Treaty to Spain.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Directive 2004/114 of 13 December 2004 on the conditions of admission of third-country nationals for the purpose of studies, pupil exchange, unremunerated training or voluntary service <sup>73</sup>	<b>Implementation and communication by 11 January 2007.</b>	A Commission report will be presented by 12 January 2010, in the light of the spring 2009 proposal for a Directive amending Directive 2004/114 to extend its scope of application to remunerated trainees and au-pairs. After the first report the Commission has a periodical reporting obligation.	Germany, Estonia, Greece, France, Italy, Cyprus, Luxemburg, Malta, Poland, Portugal, Romania, Slovakia and Finland national transposing measures <sup>74</sup> . The Commission is examining national transposition measures communicated by Belgium, Bulgaria, Czech Republic, Latvia, Lithuania, Hungary, Netherlands, Austria, Slovenia and Sweden. <b>Spain</b> has not yet fulfilled its obligation <sup>75</sup> .	
Council Directive 2004/81 of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities <sup>76</sup>	<b>Implementation and communication by 5 August 2006.</b>	A Commission report was due by 6 August 2008 but has been postponed, awaiting the entry into force of the Lisbon Treaty. After the first report the Commission has a reporting obligation every three years.	Belgium, Czech Republic, Germany, Estonia, Greece, France, Italy, Cyprus, Latvia, Luxemburg, Malta, Poland, Portugal, Slovakia and Sweden have adopted and communicated national transposing measures <sup>77</sup> . The Commission is examining national transposition measures communicated by Bulgaria, Lithuania, Hungary, Netherlands, Austria, Romania, Slovenia and Finland. <b>Spain</b> has not yet fulfilled its obligation <sup>78</sup> .	

<sup>73</sup> OJ L 375, 23.12.2004, p. 12.

<sup>74</sup> Denmark, Ireland and UK are not bound by this Directive.

<sup>75</sup> On 19 March 2009 the Commission took a decision to send a reasoned opinion to Spain.

<sup>76</sup> OJ L 261, 6.8.2004, p. 19.

<sup>77</sup> Denmark, Ireland and UK are not bound by this Directive.

<sup>78</sup> Spain was referred to the Court on 19 June 2008 (case C-2008/266).

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research <sup>79</sup>	<b>Implementation and communication due by 12 October 2007</b>	A Commission report was due to be presented by 13 December 2008 but has been delayed to 2009.	Czech Republic, Estonia, Greece, France, Italy, Latvia, Lithuania, Luxemburg, Malta, Poland, Slovenia, Slovakia, Finland and Sweden have adopted and communicated national transposition measures <sup>80</sup> . The Commission is examining national transposition measures communicated by Belgium, Bulgaria, Germany, Ireland, Hungary, Netherlands, Austria, Portugal and Romania. <b>Spain and Cyprus</b> have not yet fulfilled their obligation <sup>81</sup> .	

## 2.6. Fight Against Illegal Immigration

Council Directive 2001/40 of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals <sup>82</sup>	<b>Implementation and communication due by: 2 December 2002 for EU-15 Member States; 21 December 2007 for EU-9 Member States</b>	No report provided for under the Directive.	All the EU-15 Member States <sup>83</sup> have adopted and communicated national transposing measures. Latvia, Lithuania, Hungary, Poland and Slovenia have adopted and communicated national transposition measures. <b>Czech Republic, Estonia, Malta and Slovakia</b> have partially fulfilled their obligation.	
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<sup>79</sup> OJ L 289, 3.11.2005, p.15

<sup>80</sup> Denmark and UK are not bound by this Directive.

<sup>81</sup> Cyprus was sent a reasoned opinion on 8 May 2008. Spain was referred to the Court on 27 November 2008 (case C-2008/523).

<sup>82</sup> OJ L 149, 2.6.2001, p. 34.

<sup>83</sup> The EU-12 Member States are not bound to transpose Directive 2001/40/EC before the date when the Schengen *acquis* will fully apply to them.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Directive 2001/51 of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 <sup>84</sup>	<b>Implementation and communication due by 11 February 2003</b>	No report provided for under the Directive.	All Member States have adopted and communicated national transposing measures <sup>85</sup> .	
Council Directive 2002/90 of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence <sup>86</sup>	<b>Implementation and communication due by 5 December 2004</b>	No report provided for under the Directive. Evaluation of impact, possible shortcomings and recast have been announced by the Commission <sup>87</sup> .	All Member States have adopted and communicated national transposing measures <sup>88</sup> .	
Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air <sup>89</sup>	<b>Implementation and communication due by 6 December 2005</b>	No report provided for under the Directive.	All Member States have adopted and communicated national transposition measures <sup>90</sup> , except <b>Spain</b> <sup>91</sup> . The Commission is examining national transposition measures communicated by Belgium <sup>92</sup> .	

<sup>84</sup> OJ L 187, 10.7.2001, p. 45.

<sup>85</sup> Denmark and Ireland are not bound by this Directive.

<sup>86</sup> OJ L 328, 5.12.2002, p. 17.

<sup>87</sup> Communication from the Commission on Policy priorities in the fight against illegal immigration of third-country nationals – COM(2006) 402 final.

<sup>88</sup> Denmark and Ireland are not bound by this Directive.

<sup>89</sup> OJ L 321, 6.12.2003, p. 26.

<sup>90</sup> Denmark, Ireland and UK are not bound by this Directive.

<sup>91</sup> Spain was ruled against by the Court for non-communication on 14 February 2008 (case C-2007/058) and has not yet complied with the judgment. On 23 September 2008 it was sent a letter of formal notice under Article 228 of the EC Treaty.

<sup>92</sup> Belgium was ruled against by the Court for non-communication on 8 November 2007 (case C-2007/003).

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data <sup>93</sup>	<b>Implementation and communication due by 5 September 2006</b>	No reporting obligation under the Directive.	Belgium, Bulgaria, Germany, Estonia, Spain, Italy, Cyprus, Luxembourg, Hungary, Malta and Netherlands have adopted and communicated national transposing measures <sup>94</sup> . The Commission is examining national transposition measures communicated by Czech Republic, Ireland, Greece, France, Latvia, Lithuania, Austria, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden and UK. <b>Poland</b> has not yet fulfilled its obligation <sup>95</sup> .	

### 3. STRENGTHENING SECURITY

#### 3.2. TERRORISM<sup>96</sup>

Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences <sup>97</sup>	<b>Implementation due by 30 June 2006</b>	No report provided for under the Decision.	Not applicable: there is no obligation to communicate national measures under the Decision.	Not known: no data available (no reports, no infringement procedures possible).
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<sup>93</sup> OJ L 261, 6.8.2004, p. 24.

<sup>94</sup> Denmark is not bound by this Directive.

<sup>95</sup> On 19 March 2009 the Commission decided to send a reasoned opinion to Poland.

<sup>96</sup> Other legislative instruments relevant to the fight against terrorism are examined in section 4.2 “Judicial cooperation in criminal matters” (such as the Framework Decision on terrorism and the European arrest warrant).

<sup>97</sup> OJ L 253, 29.9.2005, p. 22. Council Decision 2005/671/JHA repealed Council Decision 2003/48/JHA of 19 December 2002 on the implementation of specific measures for police and judicial cooperation to combat terrorism in accordance with Article 4 of Common Position 2001/931/CFSP (OJ L 16, 22.1.2003, p. 68).

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<b>3.3. Prevention of and Fight Against Organised Crime</b>				
Joint Action of 21 December 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union <sup>98</sup>	<b>29 December 1998</b>	No report provided for under the Joint Action.	Not applicable: there is no obligation to communicate national measures under the Joint Action.	Joint Action repealed by the Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime <sup>99</sup> .
Council Decision of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information (2000/642/JHA) <sup>100</sup>	<b>17 October 2003</b>	Under the Decision only the Council has a reporting obligation (the deadline was 17 October 2004), but the Council asked the Commission to prepare a report, which was adopted on 20 December 2007 <sup>101</sup> .	Not applicable, but on 24 May 2006 the Commission asked Member States to communicate transposition measures <sup>102</sup> . 26 Member States have communicated their transposition measures. <b>Ireland</b> sent an interim reply to date. Some replies were fairly incomplete.	Member States can be largely considered as <i>legally</i> compliant with most of the key requirements of the Decision. However, there seems to be lack of clarity about the applicable legal framework on financial intelligence units related data protection issues. Also, more needs to be done in terms of operational cooperation among EU financial intelligence units.

<sup>98</sup> OJ L 351, 29.12.1998, p. 1.

<sup>99</sup> OJ L 300, 11.11.2008, p. 42.

<sup>100</sup> OJ L 271, 24.10.2000, p. 4.

<sup>101</sup> Report from the Commission on the implementation of the Council Decision of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information (2000/642/JHA) - COM(2007) 827 final.

<sup>102</sup> Bulgaria and Romania were requested to do so by letter of 24 January 2007.



Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<b>3.4. Police and customs cooperation</b>				
Convention of 18 December 1997 on Mutual Assistance and Cooperation between customs administrations: (Naples II-Convention) <sup>103</sup>	Subject to adoption by the Member States in accordance with their respective constitutional requirements. The Convention has been ratified by all Member States except Italy so far.	In 2004, a project group evaluated the implementation of Naples II-Convention. An update of that evaluation is ongoing by means of a new project group, under Germany's leadership and ISEC funding. A report should analyse the importance of assistance between customs administrations pursuant to the Naples II-Convention for the cooperation referred to in Title VI of the EU Treaty. The report should also indicate what practical, political and legal procedures are required to ensure that the best possible use is made of the Naples II instruments.	Not applicable: there is no obligation to communicate national measures under the Convention.	The Convention has still not been fully implemented.

<sup>103</sup> OJ C 24, 23.1.1998, p. 1.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Common Position 2005/69/JHA of 24 January 2005 on exchanging certain data with Interpol <sup>104</sup>	<b>Implementation due by December 2005</b>	The Commission's first report on the operation of Council Common Position was adopted on 21 April 2006 <sup>105</sup> . It should be followed by a Council report. A second report from the Commission was adopted on 1 August 2008 <sup>106</sup> .	All Member States have answered the second questionnaire that was sent out by the Commission in order to gather the information to be provided by the member States according to Article 4 of the Common Position (June 2007).	According to the Commission report, the general level of transposition is still incomplete and further efforts are required on the part of the Member States, but a majority have largely entered into the spirit of the Common Position, mainly by feeding the Interpol STD database. The second Commission report noticed a substantial improvement in the operation of the Common position since 2006. Member States have taken various steps in order to comply with their obligations. However, the implementation of the Common Position in the fullest sense of the term is still incomplete and requires a more proactive and committed effort on the part of the Member States.
Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC <sup>107</sup>	<b>Implementation due by 15 September 2007</b> <b>18 Member States have elected the option of delaying the implementation of certain provisions until 15 March 2009</b>	The Commission is to submit to the European Parliament and the Council an evaluation of the application of this Directive and its impact on economic operators and consumers no later than 15 September 2010.	Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Spain, France; Italy, Cyprus, Latvia, Hungary, Malta, Portugal, Romania, Slovenia, Slovakia and Finland have adopted and communicated national transposing measures. The Commission is examining national transposition measures communicated by Lithuania, Luxemburg and UK. <b>Ireland, Greece, Netherlands, Austria, Poland and Sweden</b> have not yet fulfilled their communication obligation <sup>108</sup> .	The Directive being in an advanced stage of its process of implementation, its impact on enhancing security can only be fully assessed in the years to come because of the complexity of the retention of the data, notably those communicated over Internet.

<sup>104</sup> Council Common Position 2005/69/JHA of 24 January 2005 on exchanging certain data with Interpol (OJ L 27, 29.1.2005, p. 61).

<sup>105</sup> COM(2006) 167 final and SEC (2006) 502.

<sup>106</sup> Report from the Commission to the Council: Second Monitoring and Evaluation Report on the Operation Council Common Position 2005/69/JHA - COM(2008) 502 final.

<sup>107</sup> OJ L 105, 13.4.2006, p. 54.

<sup>108</sup> On 23 September 2008 the Commission sent a reasoned opinion to all these Member States.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<b>3.5. Management of crisis within the European Union</b>				
<b>4. STRENGTHENING JUSTICE</b>				
<b>4.2. Judicial cooperation in criminal matters</b>				
<ul style="list-style-type: none"> <li>• Mutual recognition principle</li> </ul>				

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA) <sup>109</sup>	<b>Implementation due by 31 December 2003</b>	<p>Reports from the Commission of 23 February 2005<sup>110</sup> and of 24 January 2006 (revised version concerning Italian legislation)<sup>111</sup>. An updating report was adopted on 11 July 2007<sup>112</sup>.</p> <p>A round of mutual evaluations (peer review) on practical implementation of the European arrest warrant, based on the Joint Action of 5 December 1997, was launched by the Council in 2005 and is conducted in the 25 Member States from 2006 to 2009. In mid-2007 the Council published a report summarising the key findings in the first 10 Member States visited.</p>	All Member States have communicated their implementing measures.	<p>Despite an initial delay of up to 16 months (Italy) and hiccups caused by constitutional difficulties in at least two Member States (Germany during part of 2005 and 2006, Cyprus), the implementation of the Framework Decision has been a success. The European arrest warrant has been operational throughout all the Member States including Bulgaria and Romania since 1 January 2007.</p> <p>Although the need for certain improvements in transposition became apparent in 2005, these corrections remain peripheral to the process. The list of those Member States which need to make an effort to comply fully with the Framework Decision is still a long one.</p> <p>Currently the practical application of the EAW in the Member States is evaluated in the 4<sup>th</sup> round of mutual evaluations. This round will be finished in 2009. An overall report, based on the evaluation reports on the individual MSs will be drafted by the Councils General Secretariat.</p>

<sup>109</sup> OJ L 190, 18.7.2002, p. 1.

<sup>110</sup> Report from the Commission based on Article 34 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - COM(2005) 63 and SEC(2005) 267.

<sup>111</sup> Report from the Commission based on Article 34 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (revised version) - COM(2006) 8 final and SEC(2006) 79.

<sup>112</sup> Report from the Commission based on Article 34 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - COM(2007) 407 final and SEC(2007) 979.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence <sup>113</sup>	<b>Implementation due by 2 August 2005</b>	A report from the Commission was adopted on 22 December 2008 <sup>114</sup> . According to the Framework Decision, the report from the Council, based on the Commission's report, was due by 2 August 2006 but slow implementation by the Member States held the report up.	Belgium, Bulgaria, Czech Republic, Denmark, Spain, Estonia, France, Latvia, Lithuania, Hungary, Netherlands, Austria, Poland, Slovakia, Finland, and Sweden have communicated their transposition measures. <b>Cyprus, Slovenia</b> and <b>UK</b> have partially fulfilled their communication obligation. <b>Germany, Greece, Ireland, Italy, Luxembourg, Malta, Portugal</b> and <b>Romania</b> have not yet fulfilled their communication obligation.	The Commission report concludes that implementation of the Framework Decision is not satisfactory. This conclusion is mainly drawn from the low number of notifications, of which some implementing laws do not even refer to the Framework Decision (provisions were adopted in view of implementation of some other international law instruments). Cyprus and United Kingdom have only partially covered the provisions of the Framework Decision. The legislation sent by Slovenia shows that it has not implemented the principle of mutual recognition in that regard. National legislation received from 19 Member States indicates numerous omissions and misinterpretations. There is still room for improvement, especially concerning direct contact between judicial authorities, grounds for refusal to recognise or execute the freezing order and also reimbursement. However, the swift execution of freezing orders seems ensured.
Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties <sup>115</sup>	<b>Implementation due by 22 March 2007</b>	The Council was to assess the extent to which Member States have complied with this Framework Decision by 22 March 2008, on the basis of a report established by the Commission, adopted on 22 December 2008 <sup>116</sup> .	Czech Republic, Denmark, Estonia, France, Latvia, Lithuania, Hungary, Netherlands, Austria, Slovenia and Finland have communicated their transposition measures. <b>Belgium, Bulgaria, Germany, Ireland, Greece, Spain, Italy, Cyprus, Luxemburg, Malta, Poland, Portugal, Romania, Slovakia, Sweden</b> and <b>UK</b> have not yet fulfilled their communication obligation.	The Commission report concludes that the degree of implementation of the Framework Decision in the national legislation of the Member States cannot be fully assessed at this stage. The transposition is not satisfactory as only eleven notifications have been provided by Member States. The national implementing provisions generally are in line with the Framework Decision, especially regarding the most important issues such as abolishing dual criminality checks and the recognition of decisions without further formality. Unfortunately the analysis of grounds for refusal of recognition or execution proved once again that whereas almost all Member States transposed them, they were implemented mostly as obligatory grounds. Furthermore, some additional grounds were added. This practice is clearly not in line with the Framework Decision.

<sup>113</sup> OJ L 196, 2.8.2003, p. 45.

<sup>114</sup> Report from the Commission based on Article 14 of the Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence - COM(2008) 885 final.

<sup>115</sup> OJ L 076, 22.3.2005, p. 16.

<sup>116</sup> Report from the Commission based on Article 20 of the Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties - COM(2008) 888 final.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders <sup>117</sup>	<b>Implementation due by 24 November 2008</b>	The Council is to assess the extent to which Member States have complied with this Framework Decision by 24 November 2009, on the basis of a report established by the Commission.	Only four Member States - Austria, Romania, Finland and Sweden – have communicated their transposition measures before the set deadline.	It is likely that the preparation of the implementation report of the Commission will have to be delayed due to the very low number of notifications received at the time of the set deadline.

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<sup>117</sup> OJ L 328, 24.11.2006, p. 59.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<b>• Approximation</b>				
Convention on the protection of the European Communities' financial interests (PFI) of 26 July 1995 <sup>118</sup> and its protocols <sup>119</sup>	The PFI Convention, the 1st Protocol and the ECJ Protocol entered into force on 17 October 2002 following ratification by the then 15 Member States <sup>120</sup> . Ratification of the 2nd Protocol by Italy is still awaited <sup>121</sup> .	The Commission took the initiative of adopting a report, on 25 October 2004, on implementation by Member States of the Convention on the protection of the European Communities' financial interests and its protocols <sup>122</sup> . On 14 February 2008 the Commission adopted a second report on the implementation of the Convention and its protocols <sup>123</sup> .	All EU-15 Member States, as well as Bulgaria, Estonia, Cyprus, Latvia, Lithuania, Romania, Slovenia and Slovakia, have fulfilled their obligation to transmit to the Commission, in accordance with Article 10 of the PFI Convention (as also referred to in Article 7(2) of the 1st Protocol and Article 12(1) of the 2nd Protocol), the texts of the provisions transposing into domestic law the obligations imposed on Member States under the PFI instruments by Member States.	According to the first report, although the level of effective criminal-law protection of the EC's financial interests has increased, gaps and loopholes in the law which allow offences to go unpunished remain possible. The second report reflects the state of play of transposition in the EU-15 Member States in the light of conclusions of the previous report as well as with regard to the EU-12 Member States. Notwithstanding some progress which was achieved since 2004 there are still considerable deficits and shortcomings in criminal law protection of the Community's financial interests, delays in ratification and incorrect implementation.

<sup>118</sup> OJ C 316, 27.11.1995, p. 49.

<sup>119</sup> Protocol to the Convention on the protection of the European Communities' financial interests of 27 September 1996 (OJ C 313, 23.10.1996, p. 2); protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the protection of the European Communities' financial interests of 29 November 1996 (OJ C 151, 20.5.1997, p. 2); and second protocol to the Convention on the protection of the European Communities' financial interests of 19 June 1997 (OJ C 221, 19.7.1997, p. 12).

<sup>120</sup> The Convention, the 1<sup>st</sup> Protocol and the ECJ Protocol have also entered into force for Bulgaria, Estonia, Cyprus, Latvia, Lithuania, Romania, Slovenia and Slovakia, while the ECJ Protocol – for Cyprus, Latvia, Lithuania and Slovakia.

<sup>121</sup> In addition to the EU-15 Member States, Estonia, Cyprus, Latvia, Lithuania and Slovakia have also ratified the 2<sup>nd</sup> Protocol.

<sup>122</sup> COM(2004) 709 and SEC(2004) 1299.

<sup>123</sup> COM(2008) 77 final and SEC(2008) 188.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (2000/383/JHA) <sup>124</sup>	<b>Implementation due by 31 December 2000 (Article 5a) and 29 May 2001 (other Articles)</b> <sup>125</sup>	Two Commission reports, dated 13 December 2001 <sup>126</sup> and 3 September 2003 <sup>127</sup> , served as a basis for the Council reports, the latest one being dated 25 October 2004 <sup>128</sup> . The third report from the Commission was adopted on 17 September 2007 <sup>129</sup> .	By now all Member States have finally provided the information to the Commission.	The third report looks at the state of play of transposition of the Framework Decision in the 15 Member States in the light of the conclusions of the second report, as well as at the legislative situation in the 12 "new" Member States. According to the third report the transposition of the FD is estimated to be satisfactory overall, despite some failures to transpose. The offences and penalties proposed in the Framework Decision have indeed been incorporated into the Member States' legislation. The euro is therefore protected by the efficient and effective measures called for by the Framework Decision. The Framework Decision has therefore achieved its objective.

<sup>124</sup> OJ L 140, 14.6.2000, p. 1. Amended by the Council Framework Decision of 6 December 2001 amending Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (2001/888/JAI) - OJ L 329, 14.12.2001, p. 3.

<sup>125</sup> 31 December 2002 for the Council Framework Decision of 6 December 2001.

<sup>126</sup> Report from the Commission based on Article 11 of the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro - COM(2001) 771, 13.12.2001 and SEC(2001) 1999.

<sup>127</sup> Second Commission report based on Article 11 of the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro - COM(2003) 532, 3.9.2003 and SEC(2003) 936. This report does not cover the new Article 9a of the Framework Decision on recognition of previous convictions, as inserted by Council Framework Decision 2001/888/JHA of 6 December 2001. The Member States had provided no data on this subject by the date of this report.

<sup>128</sup> DROIPEN 25, rev.2.

<sup>129</sup> Third report from the Commission based on Article 11 of the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro - COM(2007) 524, 17.9.2007 and SEC(2007) 1158.



Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA) <sup>130</sup>	<b>Implementation due by 22 March 2002, 22 March 2004 (Articles 5 and 6) and 22 March 2006 (Article 10)</b>	<p>The Commission's first report on implementation of all the Articles (except Articles 5, 6 and 10) was adopted on 16 February 2004<sup>131</sup>. The Council report, dated 24 February 2005<sup>132</sup>, endorses in substance the Commission's conclusions.</p> <p>A supplementary report is planned for the EU-10 Member States. The second report (on the implementation of Articles 5 and 6), due in the last quarter of 2004, was not completed in time due to delays in answers from the Member States.</p> <p>A third report on Article 10, for which the deadline for transposition is 22 March 2006, should also be adopted. The Commission plans to present a single report combining these two reports in April 2009.</p>	<p>Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, Spain, France, Italy, Lithuania, Luxembourg, Hungary, Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden and United Kingdom have communicated their transposition measures.</p> <p><b>Greece, Cyprus, Latvia and Malta</b>, and have not fulfilled their communication obligation.</p>	<p>The Commission has made a concerted effort to obtain all outstanding information concerning transposition of this Framework Decision. A consolidated report is to be adopted in April 2009 showing the state of transposition for all Member States for all articles.</p> <p>The implementation in Member States of the Framework Decision is rather poor. The obligations are too vague to be implemented in a way that guarantees an effective service and proper protection. Better compliance with the Framework Decision probably cannot be achieved with the current text.</p>

<sup>130</sup> OJ L 82, 22.3.2001, p. 1.

<sup>131</sup> Report from the Commission on the basis of Article 18 of the Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings of 16 February 2004 - COM(2004) 54 final/2 and SEC(2004) 102.

<sup>132</sup> COPEN 137, REV 2.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Framework Decision of 28 May 2001 on combating fraud and counterfeiting of non-cash means of payment (2001/413/JHA) <sup>133</sup>	<b>Implementation due by 2 June 2003</b>	The report from the Commission of 30 April 2004 <sup>134</sup> served as a basis for the Council's report of 25 October 2004 <sup>135</sup> . The Commission adopted a second report on 20 February 2006 <sup>136</sup> .	<b>Greece, Luxembourg<sup>137</sup>, Cyprus<sup>138</sup>, Estonia, Hungary, Malta and Slovenia</b> had not yet fully fulfilled their communication obligation.	The second Commission report showed that most of the Member States which had communicated their national transposition measures to the Commission were complying explicitly or, in some cases, implicitly with the Framework Decision.
Council Framework Decision of 26 June 2001 relating to money laundering, the identification, tracing, freezing or seizing and confiscation of the instrumentalities and proceeds from crime (2001/500/JHA) <sup>139</sup>	<b>Implementation due by 31 December 2002</b>	The report from the Commission of 5 April 2004 <sup>140</sup> served as a basis for the report from the Council dated 25 October 2004 <sup>141</sup> . A second report was released on 21 February 2006 <sup>142</sup> . It focused on transposition in the 10 new EU Member States. Further details are given in the regular review of implementation of the Action Plan to combat terrorism <sup>143</sup> .	At the date of adoption of the Commission's second report, all EU Member States had communicated their transposition measures, with the exception of <b>Malta<sup>144</sup></b> .	The latest Commission report showed that overall transposition is satisfactory in the 24 Member States assessed. Nevertheless, no further information gave any reason to revise the unfavourable assessment in the first report concerning <b>Luxembourg</b> . Communication transmitted by Greece are to be evaluated. Minor flaws also seem to exist in Austria, Hungary and Latvia.

<sup>133</sup> OJ L 149, 2.6.2001, p. 1.

<sup>134</sup> COM(2004) 346 and SEC(2004) 532.

<sup>135</sup> DROIPEN 38, rev.2.

<sup>136</sup> COM(2006) 65 and SEC(2006) 188.

<sup>137</sup> Greece and Luxemburg reported that their transposition legislation is before their Parliament.

<sup>138</sup> Cyprus has not given the Commission adequate information for a full evaluation of the conformity of its legislation with the Framework Decision.

<sup>139</sup> OJ L 182, 5.7.2001, p. 1.

<sup>140</sup> COM(2004) 230 and SEC(2004) 383.

<sup>141</sup> DROIPEN 24, REV 2.

<sup>142</sup> COM(2006) 72 and SEC(2006) 219.

<sup>143</sup> Last version dated 24 May 2006, SEC(2006) 686.

<sup>144</sup> The information provided by Greece was incomplete but Greece fulfilled its communication obligation in August 2006.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Framework Decision of 13 June 2002 on combating terrorism (2002/475/JHA) <sup>145</sup>	<b>Implementation due by 31 December 2002</b>	The first report from the Commission of 8 June 2004 <sup>146</sup> served as a basis for the Council's report dated 25 October 2004 <sup>147</sup> . The second report from the Commission was adopted on 6 November 2007 <sup>148</sup> .	At the current stage, all Member States have communicated their transposition measures, although they are not always complete.	Most Member States evaluated for the first time have satisfactory achieved implementation of the main provisions contained in the Framework Decision. Nevertheless, some major issues stand out. Concerning the Member States evaluated for the second time, the additional information they have sent has allowed the Commission to generally conclude that there is a higher level of compliance. However, most of the main deficiencies identified in the first evaluation report remain unchanged.
Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA) <sup>149</sup>	<b>Implementation due by 1 August 2004</b>	A report from the Commission's based on Article 10 of the Council Framework Decision was adopted on 2 May 2006 <sup>150</sup> . The report from the Council, based on the Commission's report, was due on 1 August 2005.	<b>Luxembourg<sup>151</sup>, Portugal, Lithuania and Ireland</b> have not yet fulfilled their communication obligation.	Subject to the missing notifications from four Member States, the Commission report suggests that the general level of implementation is quite satisfactory, although some improvements are still needed on some provisions.

<sup>145</sup> OJ L 164, 22.6.2002, p. 3.

<sup>146</sup> Report from the Commission based on Article 11 of the Council Framework Decision of 13 June 2002 on combating terrorism - COM(2004) 409, 8.6.2004 and SEC(2004) 688.

<sup>147</sup> DROIPEN 40, rev.2.

<sup>148</sup> Report from the Commission based on Article 11 of the Council Framework Decision of 13 June 2002 on combating terrorism - COM(2007) 681 final, 6.11.2007 and SEC(2007) 1463.

<sup>149</sup> OJ L 203, 1.8.2002, p. 1.

<sup>150</sup> COM(2006) 187 final and SEC(2006) 525.

<sup>151</sup> Luxemburg stated that it was awaiting finalisation of the discussion within the Council of Europe before implementing the Framework Decision.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (2002/946/JHA) <sup>152</sup>	<b>Implementation due by 5 December 2004</b>	A report from the Commission based on Article 9 of the Council Framework Decision was adopted on 6 December 2006 <sup>153</sup> . Evaluation of impact, possible shortcomings and recast has been announced <sup>154</sup> .	<b>Greece, Cyprus, Luxembourg, Austria and Portugal</b> have not yet fulfilled their communication obligation. <b>Estonia, Spain, Malta and Sweden</b> have only partially fulfilled their communication obligation.	According to the Commission's report, not all Member States have transmitted to the Commission in a timely manner all the relevant texts of their implementing provisions. Further evaluation on the basis of more reliable information may be necessary.
Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector <sup>155</sup>	<b>Implementation due by 22 July 2005</b>	A report from the Commission was adopted on 18 June 2007 <sup>156</sup> . According to the Framework Decision, the report from the Council, to be based on the Commission's report, was due by 22 October 2005.	Belgium, France, Italy, Luxemburg, Hungary, Austria, Portugal, Slovenia, Slovakia, Finland, Sweden and UK have communicated their transposition measures. <b>Greece, Spain, Cyprus and Malta</b> have not yet fulfilled their communication obligation <sup>157</sup> . <b>Czech Republic</b> has only communicated draft legislation.	20 Member States have provided the Commission with transposition commentaries and legislation. <b>No Member State</b> can be considered to have fully implemented the Framework Decision. In particular the Articles 2 and 7 are poorly implemented. The Commission has in its report expressed its concern regarding the fact that the transposition of the Framework Decision is still at an early stage among Member States.

<sup>152</sup> OJ L 328, 5.12.2002, p. 1.

<sup>153</sup> Report from the Commission based on Article 9 of the Council Framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence: COM(2006) 770 final, 6.12.2006 and SEC(2006) 1591.

<sup>154</sup> COM(2006) 402 final.

<sup>155</sup> OJ L 192, 31.7.2003, p. 54.

<sup>156</sup> COM(2007) 328 final and SEC/2007/808.

<sup>157</sup> Although Greece and Spain have indicated that legislation is being prepared.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography <sup>158</sup>	<b>Implementation due by 20 January 2006</b>	A report from the Commission was adopted on 16 November 2007 <sup>159</sup> . The report from the Council, based on the Commission's report, was due in 2008.	Belgium, Czech Republic, Denmark, Germany, Estonia, Spain, France, Ireland, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Netherlands, Austria, Poland, Slovakia, Slovenia, Finland, Sweden and UK have communicated their transposition measures.  At the time of the implementation report, <b>Greece, Malta and Portugal</b> had not yet fulfilled their communication obligation. In the meantime, Portugal has communicated its implementation measures.	According to the Commission's Report, the requirements set out in the Framework Decision have been met by almost all of the Member States. However, full information has not been received on many points, and it is in particular not possible to provide a precise assessment of the range of exemption from criminal liability concerning some types of child pornography.

<sup>158</sup> OJ L 13, 20.1.2004, p. 44.

<sup>159</sup> Report from the Commission based on Article 12 of the Council Framework Decision of 22 December 2003 on combating the sexual exploitation of children and child pornography - COM(2007) 716 final.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property <sup>160</sup>	<b>Implementation due by 15 March 2007</b>	The Council is to assess the extent to which Member States have complied with this Framework Decision by 15 June 2007, on the basis of a report established by the Commission. A report from the Commission was adopted on 12 December 2007 <sup>161</sup> .	Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, France, Italy, Cyprus, Latvia, Lithuania, Luxemburg, Hungary, Netherlands, Austria, Portugal, Romania, Slovenia, Finland and Sweden have communicated their transposition measures. <b>Spain, Ireland, Greece, Malta, Poland, Slovakia</b> and <b>UK</b> had not yet fulfilled their communication obligation at the time of the adoption of the report, but Malta, Poland and UK have later communicated full transpositions measures.	Ten of the Member States have in principle transposed the Framework Decision, while six Member States ( <b>Bulgaria, Ireland, Lithuania, Malta, Romania</b> and <b>Sweden</b> ) have transposed it in part.
Council Framework Decision 2005/222/JHA of 24 February 2005 on attacks against information systems <sup>162</sup>	<b>Implementation due by 16 March 2007</b>	The Council is to assess the extent to which Member States have complied with this Framework Decision by 16 September 2007, on the basis of a report established by the Commission. The Commission adopted a report on 14 July 2008 <sup>163</sup> which should serve as a basis for the Council's report.	Belgium, Czech Republic, Denmark, Germany, Cyprus, Lithuania, Latvia, Luxemburg, Italy, Hungary, Netherlands, Austria, Portugal, Romania, Slovenia, Finland and Sweden have communicated their transposition measures. <b>Spain, Ireland, Greece, Malta, Poland, Slovakia</b> and <b>UK</b> have not yet fulfilled their communication obligation.	According to the Commission's report, the Framework Decision is still being implemented in Member States. Significant progress has been made in practically all the 20 Member States assessed, and the level of implementation has been found to be relatively good.

<sup>160</sup> OL L 068, 15.3.2005, p. 49.

<sup>161</sup> Report from the Commission pursuant to Article 6 of the Council Framework Decision of 24 February 2005 on confiscation of crime-related proceeds, instrumentalities and property (2005/212/JHA) - (COM(2007) 805 final).

<sup>162</sup> OJ L 069, 16.3.2005, p. 67.

<sup>163</sup> Report from the Commission to the Council: based on Article 12 of the Council Framework Decision of 24 February 2005 on attacks against information systems - COM(2008) 448 final

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<ul style="list-style-type: none"> <li>• <b>Other instruments in the field of judicial cooperation in criminal matters</b></li> </ul>				
Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams <sup>164</sup>	<b>Implementation due by 1 January 2003</b>	The Commission adopted a report on 7 January 2005 <sup>165</sup> , which should serve as a basis for the Council's report. Further details are given in the regular review of implementation of the Action Plan to combat terrorism <sup>166</sup> .	After the adoption of the Commission's report, Belgium, Czech Republic, Ireland, Cyprus, Poland and Slovakia communicated national transposing measures. Lithuania and Hungary sent further legislation. <b>Greece, Italy</b> and <b>Luxembourg</b> informed that draft bill were to be discussed.	Legal implementation of the Framework Decision is very unsatisfactory. At the date of adoption of the Commission's report <sup>167</sup> , Spain was the only Member State fully complying (the remaining then <b>24 EU Member States</b> were not). The other legislation assessed by the Commission in its report has been considered as not, or not fully, compliant with the Framework Decision.
Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union <sup>168</sup>	<b>Implementation due by 19 December 2008</b>	The Council is to assess the extent to which Member States have complied with this Framework Decision by 19 December 2011, on the basis of a report established by the Commission by 19 December 2010.	No information available yet.	
Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime <sup>169</sup>	<b>Implementation due by 18 December 2008</b>	The Council is to assess the extent to which Member States have complied with this Framework Decision by 18 December 2010, on the basis of a report established by the Commission.	No information available yet.	

<sup>164</sup> OJ L 162, 20.6.2002, p. 1.

<sup>165</sup> Report from the Commission on national measures taken to comply with the Council Framework Decision of 13 June 2002 on Joint Investigation Teams: COM(2004) 858, 7.1.2005 and SEC(2004) 1725 – mentioned in OJ C 64, 16.3.2005.

<sup>166</sup> Last version dated 24 May 2006, SEC(2006) 686.

<sup>167</sup> Required information was forwarded by Denmark, Germany, Spain, France, Latvia, Lithuania, Hungary, Malta, Netherlands, Austria, Portugal, Finland, Sweden and UK.

<sup>168</sup> OJ L 386, 29.12.2006, p. 89 and corrigendum OJ L 75, 15.3.2007, p. 26.

<sup>169</sup> OJ L 332, 18.12.2007, p. 103.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application

• Eurojust

Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (2002/187/JHA) <sup>170</sup>	<b>Implementation and communication are due by 6 September 2003</b>	A report from the Commission, although not provided for under the Decision, was adopted on 6 July 2004 <sup>171</sup> . A Communication from the Commission and the Parliament on the future of Eurojust, comprising the second report and proposals for strengthening Eurojust and its relationship with the European Judicial Network was adopted on 23 October 2007 <sup>172</sup> .	Not applicable: there is no obligation to communicate national measures under the Decision.	According to the Communication, the implementation of the Eurojust Decision by Member States is uneven. Some Member States have amended their legislation, others have not. There are significant differences in the status of national members regarding e.g. the term of office of national members and the powers that Member States have conferred on them. These differences hamper Eurojust to operate as efficiently as possible and to use its full potential.
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<sup>170</sup> OJ L 63, 6.3.2002, p. 1.

<sup>171</sup> Report from the Commission on the Legal Transposition of the Council Decision of 28 February 2002 setting up Eurojust with a view to Reinforcing the Fight Against Serious Crime: COM(2004) 457 and SEC(2004) 884 – mentioned in OJ C 313, 18.12.2004.

<sup>172</sup> Communication from the Commission to the Council and the European Parliament on the role of Eurojust and the European Judicial Network in the fight against organised crime and terrorism in the European Union - COM(2007) 644 final.



Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
<b>4.3. Judicial cooperation in civil matters</b>				
<ul style="list-style-type: none"> <li>Mutual recognition of decisions and elimination of obstacles to the proper functioning of proceedings</li> </ul>				
Council Directive 2003/8 of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes <sup>173</sup>	<b>Implementation due by 30 November 2004 (all Articles except Article 3(2)(a)) or by no later than 30 May 2006 (Article 3(2)(a))</b>	No report from the Commission is provided for under the Directive. 2009/JLS/046 Report on the application of the Council Directive on legal aid proposed to be postponed to 2010.	All Member States have adopted and communicated national transposing measures <sup>174</sup> .	
Council Directive 2004/80 of 29 April 2004 relating to compensation to crime victims <sup>175</sup>	<b>Implementation due by 1 January 2006</b>	A report from the Commission was due by 1 January 2009 under the Directive. 2008/JLS/125 Report on Council Directive relating to compensation to crime victims - adoption postponed to 7 April 2009.	All Member States have adopted and communicated national transposing measures, except <b>Greece</b> <sup>176</sup> .	

<sup>173</sup> OJ L 26, 31.1.2003, p. 41.

<sup>174</sup> Denmark is not bound by this Directive.

<sup>175</sup> OJ L 261, 6.8.2004, p. 15.

<sup>176</sup> Greece was ruled against by the Court for non-communication on 18 July 2007 (case C-2007/026) and has not yet complied with the judgment. It was sent a reasoned opinion under Article 228 of the EC Treaty on 23 September 2008.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters <sup>177</sup>	<b>Entry into force: 1 July 2001.</b> <b>Application from 1 January 2004, except for Articles 19, 21 and 22, which will apply from 1 July 2001</b>	A study on application of this Regulation has been launched in 2006. Final report of the study was delivered in mid-2007. The report of the Commission (first five-yearly report) was adopted on 5 December 2007 <sup>178</sup> .	Not applicable.	The report concludes that the application of the Regulation has generally improved, simplified and accelerated the cooperation between the courts on the taking of evidence in civil or commercial matters. The Regulation has achieved its two main objectives, namely to simplify the cooperation between Member States and to accelerate the performance of the taking of evidence, to a relatively satisfactory extent. Simplification has been brought about mainly by the introduction of direct court-to-court transmission (although requests are still sometimes or even often sent to central bodies), and by the introduction of standard forms. As far as acceleration is concerned, it can be concluded that most requests for the taking of evidence are executed faster than before the entry into force of the Regulation and within 90 days as foreseen by the Regulation.
Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters <sup>179</sup>	<b>Entry into force on 1 March 2002</b>	A report from the Commission is due five years after the entry into force of this Regulation. An evaluation study of application of Regulation 44/2001 was launched in 2005. It was delivered end 2007.	Not applicable.	In September 2009 the Commission is to adopt: - Evaluation report on the application of the Brussels I Regulation. - Green Paper in order to make a new legislative proposal for the amendment and the modernisation of this Regulation.

<sup>177</sup> OJ L 174, 27.6.2001, p. 1.

<sup>178</sup> Report from the Commission to the Council, the European Parliament and the European Economic and Social Committee on the application of the Council Regulation (EC) 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters - COM(2007) 769 final.

<sup>179</sup> OJ L 12, 16.1.2001, p. 1.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters <sup>180</sup>	<b>Entry into force on 31 May 2001</b>	The first five-yearly report from the Commission was adopted on 1 October 2004 <sup>181</sup> . After the adoption of the new Regulation on the service of documents in November 2007, another report is expected in 2011 and every 5 years thereafter.	Not applicable	The Commission's report shows that the Regulation has generally improved and expedited the transmission and service of documents between Member States. Nevertheless, the application of certain provisions was not fully satisfactory. For this reason, on 13 November 2007, the <b>Regulation (EC) No 1393/2007</b> of the European Parliament and of the Council was adopted.

<sup>180</sup> OJ L 160, 30.6.2000, p. 37. On 7 July 2005 the Commission adopted a proposal to improve the current provisions on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters. The purpose of these amendments is to speed up and streamline the procedures - COM(2005) 305.

<sup>181</sup> COM(2004) 603 and SEC(2004) 1145.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Regulation (EC) No 1393/2007 of the European Parliament and of the Council on 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 <sup>182</sup>	<b>Entry into force on 13 November 2008</b>	No later than 1 June 2011, and every five years thereafter, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Regulation.	Not applicable	<p><b>As of 13 November 2008</b>, the new Regulation replaces Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.</p> <p>The main modifications with respect to Council Regulation (EC) No 1348/2000 are:</p> <ul style="list-style-type: none"> <li>• Introduction of a rule providing that the receiving agency shall take all necessary steps to effect the service of the document as soon as possible, and in any event within one month of receipt.</li> <li>• Introduction of a new standard form to inform the addressee about his right to refuse to accept the document to be served at the time of service or by returning the document to the receiving agency within one week.</li> <li>• Introduction of a rule providing that costs occasioned by recourse to a judicial officer or to a person competent under the law of the Member State addressed shall correspond to a single fixed fee laid down by that Member State in advance which respects the principles of proportionality and non-discrimination.</li> </ul> <p>Introduction of uniform conditions for service by postal services (registered letter with acknowledgement of receipt or equivalent).</p>

<sup>182</sup> OJ L 324, 10.12.2007., p. 79.

Legal instrument <sup>1</sup>	Deadline for implementation/ entry into force	Reports and other in-depth analysis <sup>2</sup>	Current state of play <sup>3</sup>	
			Communication of national measures to the Commission	Compliance/application
Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 ("Brussels II bis Regulation") <sup>183</sup>	Entry into force on 1 March 2005, with the exception of Articles 67, 68, 69 and 70, which will apply from 1 August 2004.	No later than 1 January 2012, and every five years thereafter, the Commission will present a report on application of the Regulation.	All Member States have communicated information relating to courts and redress procedures.	It seems necessary to improve knowledge of the instrument and training for practitioners and central authorities <sup>184</sup> . A Practise Guide conceived by the Commission has been disseminated in 2006 among the EU judges; an information campaign is foreseen in 2008.

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<sup>183</sup> OJ L 338, 23.12.2003, p. 1.

<sup>184</sup> For this purpose, in 2005 the Commission published a practical guide to application of the Brussels II bis Regulation.