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Subject :	The Stockholm Programme – An open and secure Europe serving and protecting the citizens
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**I. INTRODUCTION**

The draft Stockholm Programme was presented by the Presidency on 16 October 2009. Coreper held a first exchange of views on the Programme during its meetings on 21 and 22 October 2009. Following that, the JHA Counsellors have examined the entire text at three meetings on 30 October, 6 and 13 November. Coreper has examined the text also on 3 occasions on 4, 11 and 20 November. Many issues were brought forward and the text has been redrafted, as set out in the annex to this note, to reflect those discussions and written comments received from a number of delegations. The Presidency herewith submits to Coreper the result of those discussions.

The Presidency has now restructured some parts of the texts in accordance with what has been suggested by some delegations. A new Chapter has been added on “Access to Europe in a globalised world”, which consists in the previous chapters on an integrated border management and on visa policy. Issues such as “training” and “evaluation” have been grouped together to make the Programme more readable.

## II CONCLUSION

The text put forward by the Presidency following these discussions can be found in the Annex to this note. The Presidency is of the opinion that the text now reflects a carefully drafted balance between the different views of delegations and seeks to take into account all views. It should be reminded that Counsellors have spent nearly 40 hours examining the text in detail. Only those points that are of high political importance should at this stage be taken up in further discussions.

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## **The Stockholm Programme-**

### **An open and secure Europe serving and protecting the citizen**

#### **1. Towards a Citizens' Europe in the area of Freedom, Security and Justice**

The European Council reaffirms the priority it attaches to the development of an area of freedom, security and justice (JLS), responding to a central concern of the peoples of the States brought together in the Union.

Building on the achievements of the Tampere and Hague Programmes, **significant progress** has been achieved to date in this field. Internal border controls have been removed in the Schengen area and the external borders of the EU are now managed in a more coherent manner. Through the development of the Global Approach to Migration, the external dimension of the EU's migration policy focuses on dialogue and partnerships with third countries, based on mutual interests. Significant steps have been taken towards the creation of a European Asylum System. European agencies such as Europol, Eurojust, the Fundamental Rights Agency and Frontex have reached operational maturity in their respective fields of activity. Cooperation in civil law is facilitating the everyday life of citizens and law enforcement cooperation provides for enhanced security.

In spite of these and other important achievements in the area of freedom, security and justice **Europe still faces challenges**. These challenges must be addressed in a comprehensive manner. Further efforts are thus needed in order to improve coherence between policy areas. In addition cooperation with partner countries should be intensified.

It is therefore time for a new agenda to enable the Union and its member states to build on the achievements and to meet future challenges. To this end the European Council has adopted this new multi-annual programme to be known as **the Stockholm Programme**, for the period 2010-2014.

The European Council welcomes the increased role that the European Parliament and National Parliaments will play following the entry into force of the **Lisbon Treaty**<sup>1</sup>. Citizens and representative associations will have an increased opportunity to make known and publicly exchange their views in all areas of Union action in accordance with article 11 TEU. This will reinforce the open and democratic character of the European Union for the benefit of its people.

The Treaty facilitates the process of reaching the goals outlined in this programme, both for the institutions and for the Member States. The role of the Commission in preparing initiatives is confirmed, as well as the right for a group of at least seven Member States to submit legislative proposals. The legislative process is improved by the use, in most sectors, of co-decision procedure, thereby granting full involvement of the European Parliament. National Parliaments will play an increasing role in the legislative process. By enhancing also the role of the Court of Justice, it will improve the European capacity to fully implement policy in this area and ensure the consistency of interpretation.

All opportunities offered by the Lisbon Treaty to strengthen the European area of freedom, security and justice for the benefit of EU citizens should be used by the European institutions.

The present programme defines strategic guidelines for legislative and operational planning within the area of freedom, security and justice in accordance with Article 68 TFEU.

## **1.1 Political priorities**

The European Council considers that a priority for the coming years will be **to focus on the interests and needs of citizens. The challenge will be to ensure respect for fundamental freedoms and integrity while guaranteeing security in Europe**. It is of paramount importance that law enforcement measures and measures to safeguard individual rights, the rule of law, international protection rules go hand in hand in the same direction and are mutually reinforced.

All actions taken in the future should be centred on the citizen and other persons for whom the EU has a responsibility. The EU should in the years to come work towards the following main priorities:

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<sup>1</sup> As it is commonly known. The Treaty is actually two Treaties: the Treaty on European Union (TEU) and the Treaty of the Functioning of the European Union (TFEU). For ease of reading,

***Promoting citizenship and fundamental rights:*** European citizenship must become a tangible reality. The area of freedom, security and justice must above all be a single area in which fundamental rights are protected. Respect for the human person and human dignity and for the other rights set out in the Charter of Fundamental Rights and the European Convention on Human Rights are core values. For example, the exercise of these freedoms and citizens' privacy must be preserved beyond national borders, especially by protecting personal data. Allowance must be made for the special needs of vulnerable people and European citizens and others must be able to exercise their specific rights to the full within the European Union, even, where relevant, outside the Union.

***A Europe of law and justice:*** The achievement of a European area of justice must be consolidated so as to move beyond the current fragmentation. Priority should be given to mechanisms that facilitate access to justice, so that people can enforce their rights throughout the Union. Cooperation between public professionals and their training should also be improved, and resources should be mobilised to eliminate barriers to the recognition of legal acts in other Member States.

***A Europe that protects:*** An internal security strategy should be developed in order to further improve security in the Union and thus protect the lives and safety of European citizens and tackle organised crime and other threats. The strategy should be aimed at strengthening cooperation in law enforcement, border management, civil protection, disaster management as well as criminal judicial cooperation in order to make Europe more secure. Moreover, the European Union needs to base its work on solidarity between Member States and make full use of Article 222 TFEU.

***Access to Europe in a globalised world:*** Access to Europe for businessmen, tourists, students, scientists, workers, persons in need of international protection and others having a legitimate interest to access EU territory has to be made more effective and efficient. At the same time, the Union and its Member States have to guarantee security for its citizens. Integrated border management and visa policies should be construed to serve these goals.

***A Europe of responsibility, solidarity and partnership in migration and asylum matters:*** The development of a forward-looking and comprehensive European migration policy, based on solidarity and responsibility, remains a key policy objective for the European Union. Effective implementation

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the “Lisbon Treaty” or “the Treaty” will sometimes be used in the Programme.

of all relevant legal instruments needs to be undertaken and full use should be made of relevant Agencies and Offices operating in this field. Well-managed migration can be beneficial to all stakeholders. The European Pact on Immigration and Asylum provides a clear basis for further development in this field. Europe will need a flexible policy which is responsive to the priorities and needs of Member States and enables migrants to take full advantage of their potential. People in need of protection must be ensured access to legally safe and efficient asylum procedures. Moreover, in order to maintain credible and sustainable immigration and asylum systems in the EU, it is necessary to prevent, control and combat illegal migration as the EU faces an increasing pressure from illegal migration flows and particularly the Member States at its external borders, including at the present time in the Mediterranean in particular, in line with the conclusions of the European Council in October 2009.

***The role of Europe in a globalised world – the external dimension:*** The importance of the external dimension of the EU's policy in the area of freedom, security and justice underlines the need for increased integration of these policies into the general policies of the European Union. The external dimension is essential to address the key challenges we face and providing greater opportunities for EU citizens to work and do business with countries across the world. The external dimension of JLS is crucial to the successful implementation of the objectives of this programme and should in particular be taken into account in, and be fully coherent with, all other aspects of EU foreign policy.

## **1.2 The tools**

If the next multi-annual programme is to be implemented successfully, the following tools are important.

### **1.2.1 Mutual trust**

**Mutual trust** between authorities and services in the different Member States as well as decision-makers is the basis for efficient cooperation in this area. Ensuring trust and finding new ways to increase reliance on, and mutual understanding between, the different systems in the Member States will thus be one of the main challenges for the future.

### **1.2.2 Implementation**

Increased attention needs to be paid in the coming years to the **full and effective implementation, enforcement and evaluation of existing instruments**. Legal transposition should be ensured using, to its fullest extent, wherever necessary, existing institutional tools.

The time taken to respond to the needs of citizens and businesses must also be shorter in the future. The Union should focus on identifying the needs of citizens and practitioners and the appropriate responses. The development of action at Union level should involve Member States' expertise and consider a range of measures, including non-legislative solutions such as agreed handbooks, sharing of best practice (among other things, making best use of the European Judicial Networks) and regional projects that address those needs, in particular where they can produce a fast response.

### 1.2.3 Legislation

In general, **new legislative initiatives, by the Commission or by Member States where the Treaty so provides**<sup>1</sup>, should be tabled only after verification of the respect for the principles of proportionality and subsidiarity, a thorough preparation, including prior impact assessments, also involving identifying needs and financial consequences and using Member States' expertise. It is crucial to evaluate the implications of new legislative initiatives on the four freedoms under the Treaty and to ensure that such initiatives are fully compatible with internal market principles.

The European Council considers that the development of legislation in the area of freedom, security and justice is impressive, but it has shortcomings in terms of overlapping and a certain lack of coherence. At the same time, the **quality of the legislation** including the language used in some of the legal acts could be improved.

A horizontal review of the instruments adopted should be considered, where appropriate, in order to **improve consistency and consolidation of legislation**. Legal coherence and ease of accessibility is particularly important. **Better regulation and lawmaking principles** should be strengthened throughout the decision-making procedure. The inter-institutional agreement on simplification reached between the EU institutions should be applied in full. All EU institutions at all stages of the inter-institutional procedure should make an effort to draft EU legislation **in clear and comprehensible language**.

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<sup>1</sup> For ease of reading, the Programme only attributes the Commission the right of initiative. This does not hinder that member states may take initiatives in accordance with Article 76 TFUE.

#### 1.2.4 Increased coherence

The European Council invites the Council and the Commission to enhance the internal co-ordination in order to achieve greater **coherence** between external and internal elements of JLS work. The same need for coherence and improved coordination applies to the EU agencies (Europol, Eurojust, Frontex, CEPOL, the Lisbon Drugs Observatory, the future European Asylum Support Office and the Fundamental Rights Agency). The Council should exercise more political oversight over the agencies, by, for instance, drawing conclusions on annual reports. Special rules in relation to some agencies apply as regards oversight by the European Parliament.

#### 1.2.5 Evaluation

The Lisbon Treaty provides that measures may be taken so that the Member States, in cooperation with the Commission, shall undertake **an objective and impartial evaluation of the implementation of the policies in the area**, in particular to promote the full application of the principle of mutual recognition. The European Parliament and the national parliaments are to be informed of the content and results of the evaluations. The European Council considers that such evaluation mechanisms should avoid duplication and, in the long term, encompass all policies in the area. There should also be an efficient system of follow-up to such evaluations.

There has to be an evaluation of the effectiveness of the legal instruments adopted at Union level. Evaluation is also necessary to determine any obstacles to the proper functioning of the European judicial area. It should focus on specific problems and therefore facilitate full application of the mutual recognition principle. Judicial cooperation in criminal matters should be pursued as the first area for evaluation. but other policy areas will have to follow such as respect for asylum procedures in relevant legislation. Evaluation procedures should be adapted to the policy area in question where necessary.

The European Council invites the Commission to

- submit one or several proposals under Article 70 TFEU concerning the evaluation of policies under Title V TFEU. This proposal/s should, where appropriate, include an evaluation mechanism based on the well-established system of peer-evaluation. Evaluation should be carried out periodically, include an efficient follow-up system, and should facilitate better understanding of national systems in order to identify best practice and obstacles to cooperation. Professionals should be able to contribute to the evaluations. The



Council should, in principle, have a leading role in the evaluation process, and in particular its follow-up.

Duplication with other evaluation mechanisms should be avoided, but synergies and cooperation should be sought, in particular with the work of the Council of Europe. The Union should take an active part in and contribute to the work of the monitoring bodies of the Council of Europe.

### **1.2.6 Training**

In order to foster a genuine European judicial and law enforcement culture, it is essential to step up training on EU-related issues and make it systematically accessible for all professions involved in the implementation of the Area of freedom security and justice. This will include judges, prosecutors, judicial staff, police and customs officers and border guards.

The objective should be pursued of systematic European Training Schemes offered to all involved. The ambition should be that a substantive number of professionals by 2015 will have participated in a European Training Scheme or an exchange with another Member State, which might be part of training schemes that are already in place.

Member States have the primary responsibility in this respect, but the Union must give their efforts support and financial backing and also be able to have its own mechanisms to supplement national efforts. The European Council considers that EU and international cooperation aspects should be part of national curricula. For training of judges, prosecutors and judicial staff it is important to safeguard judicial independence while at the same time the emphasis should be placed on the European dimension for professionals that use European instruments frequently. CEPOL and Frontex should play a key role in training of law enforcement personnel and border guards with a view to ensuring a European dimension in training. Training of border guards and customs officers is of special importance with a view to fostering a common approach to an integrated border management. Solutions at European level could be sought, with a view to strengthening European Training Schemes. E-learning programmes and common training materials must also be developed to train professionals in the European mechanisms.

The European Council invites the Commission to

- propose an Action Plan for raising substantially the level of European training and exchange schemes systematically in the Union, The Plan should propose how to ensure that one third

of police and half of the judges, prosecutors and judicial staff as well as half of other professionals involved in this area could be involved in European Training Schemes.

- examine what could be defined as a European Training Scheme, and to suggest in the Action Plan how to develop this idea with a view to giving it a European dimension,
- set up specific “Erasmus”-style exchange programmes, which could involve non-member states and in particular candidate countries and countries with which the Union has concluded Partnership and Cooperation Agreements,
- ensure that participation in joint courses, exercises and exchange programmes is decided on the basis of tasks and is not dependent on sector-specific criteria.

### 1.2.7 Communication

The achievements in the area of freedom, security and justice are generally of great importance to citizens, businesses and professionals. The European Council therefore calls on all Institutions, in particular the Commission as well as on the Member States, to consider ways to **better communicate with the citizens the concrete results** of the policy in the area of freedom, security and justice to citizens and practitioners. It asks the Commission to devise a strategy on how best to explain to citizens how they can benefit from the new tools and legal frameworks, for instance through the use of E-Justice and the E-Justice Portal.

### 1.2.8 Dialogue with civil society

The European Council encourages the Union's Institutions, within the framework of their competences, to hold an open, transparent and **regular dialogue with representative associations and civil society**. The Commission should put in place specific mechanisms, such as the European Forum for Justice, to step up dialogue in areas where such mechanisms are appropriate.

### 1.2.9 Financing

The European Council emphasizes that the Stockholm Programme should be financed within the headings and ceilings of the current financial framework. Many of the measures and actions in the programme can be implemented through a more effective use of existing instruments and funds. The European Council notes that the current **financial perspectives** expire at the end of 2013. It underlines its intention to reflect the goals of the Stockholm Programme. The programme does not however prejudge the negotiations on the next financial perspective.

The European Council also considers that procedures for application to the financing programmes should, while taking account of the experience of Member States, be transparent, flexible, coherent and streamlined and made more easily accessible to administrations, established partners and practitioners through the active dissemination of clear guidelines, a mechanism for identifying partners and accurate programming. The European Council requests the Commission to examine appropriate means of achieving that goal.

Within the next financial perspectives, it should be examined if the scope of relevant financial instruments could be extended, in particular in the field of fight against organised crime and terrorism, to operational projects developed outside the Union which enhances the Union's security. Careful consideration should be given to ways and means to speed up the EU reaction to urgent events in this area in terms of financial assistance and how to provide technical assistance for the global implementation of international conventions, such as those relating to terrorism.

#### **1.2.10 Action Plan**

In light of the Stockholm Programme, the European Council invites the Commission to present promptly **an Action Plan in 2010** to be adopted by the Council. This Action Plan will translate the aims and priorities of the Stockholm Programme into concrete actions with a clear timetable for adoption and implementation. It should include a proposal for a timetable for the transformation of instruments with a new legal basis.

#### **1,2,11 Review of the Stockholm Programme**

The European Council invites the Commission to submit **a mid-term review** before June 2012 of the implementation of the Stockholm Programme. Trio Presidency programmes and Commission legislative programmes should be published as soon as possible so as to enable national Parliaments to have early sight of proposals.

## **2. Promoting citizens' rights: a Europe of rights**

### **2.1 A Europe built on fundamental rights**

The European Union is based on common values and respect for fundamental rights. After the entry into force of the Lisbon Treaty, the rapid accession of the EU to the European Convention on

Human Rights is of key importance. This will reinforce the obligation of the Union, including its institutions, to ensure that in all its areas of activity, fundamental rights are actively promoted. The case law of the Court of Justice of the European Union and the European Court of Human Rights will be able to continue to develop in step, reinforcing the creation of a uniform European fundamental and human rights system based on the European Convention and those set out in the Charter of Fundamental Rights,

The European Council invites

- the Commission to submit a proposal on the accession of the EU to the European Convention on Human Rights as a matter of urgency,
- the EU Institutions and the Member States to ensure that legal initiatives are and remain consistent with fundamental rights throughout the legislative process by way of strengthening the application of the methodology for a systematic and rigorous monitoring of compliance with the Convention and the rights set out in the Charter of Fundamental Rights.

The European Council invites the EU institutions to

- make full use of the expertise of the European Union Agency for Fundamental Rights and to consult, where appropriate, with the Agency, in line with its mandate, on the development of policies and legislation with implications for fundamental rights, and to use it for the communication to citizens of human rights issues affecting them in their everyday life,
- pursue the EU's efforts to bring about the abolition of the death penalty, torture and other inhuman and degrading treatment,
- continue to support and promote Union and Member States' activity against impunity and to fight against crimes of genocide, crimes against humanity and war crimes; in that context, promote cooperation between the Member States, third countries and the international tribunals in this field, and in particular the International Criminal Court, and develop exchange of judicial information and best practices in relation with the prosecution of such crimes through the European Network of Contact Points in respect of persons responsible for genocide, crimes against humanity and war crimes.

The Union is an area of shared values, values which are incompatible with crimes against humanity, genocide and war crimes, including crimes committed by totalitarian regimes. Each Member State

has its own approach to this issue but, in the interests of reconciliation, the memory of those crimes must be a collective memory, shared and promoted, where possible, by us all.

The European Council invites the Commission

- to examine and to report to the Council in 2010 whether there is a need for a legal instrument covering publicly condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes directed against a group of persons defined by reference to criteria other than race, colour, religion, descent or national or ethnic origin, such as social status or political convictions.

## **2.2 Full exercise of the right to free movement**

The right to free movement of citizens and their family members within the European Union is one of the fundamental principles on which the Union is based and one of the fundamental freedoms of European citizenship. Citizens of the Union have the right to move and reside freely within the territory of the member states, the right to vote and stand as candidates in elections to the European Parliament and in municipal elections in their member State of residence, protection of diplomatic and consular authorities of other Member States etc. When exercising their rights, citizens are ensured equal treatment to nationals under the conditions set by Union law. The effective implementation of relevant European legislation is therefore a priority.

As noted by the European Parliament, Schengen cooperation, which enshrines the freedom of movement of persons within the EU, is at the core of the Area of freedom, security and justice. The European Council recalls its attachment to the further enlargement of the Schengen area. Provided that all requirements to apply the Schengen acquis have been fulfilled, the European Council calls on the Council, the European Parliament and the Commission to take all necessary measures to allow for the abolition of controls at internal borders with the remaining Member States that have declared their readiness to join the Schengen area.

European citizens must be assisted in administrative and legal procedures they are faced with when exercising the right to free movement. Within the framework of the Treaty, obstacles restricting that right in everyday life should be removed.

The European Council invites the Commission to

- monitor the implementation and application of these rules in order to guarantee the right to free movement.

Obtaining a right of residence under Union law for EU citizens and their family members is an advantage inherent in the exercise of the right of free movement. The purpose of that right is however not to circumvent immigration rules. Freedom of movement not only entails rights but also imposes obligations on those that benefit from it; abuses and fraud should be avoided. Member States should further safeguard and protect the right of free movement by working together to combat actions of a criminal nature with forceful and proportionate measures, with due regard to the applicable law.

The European Council therefore further invites the Commission to

- monitor the implementation and application of these rules to avoid abuse and fraud,
- examine how best to exchange information on residence permits and documentation and how to assist member states' authorities to tackle abuse of this fundamental right effectively.

With this aim in mind, Member States should also closely monitor the full and correct implementation of the existing acquis and tackle possible abuse and fraud of the right of free movement of persons and exchange information and statistics on such abuse and fraud. If systematic trends in abuse and fraud of the right to free movement are identified, Member States should report such trends to the Commission, which will suggest to the Council how these trends might be addressed through the most appropriate means.

## **2.3 Living together in an area that respects diversity and protects the most vulnerable**

Since diversity enriches the Union, the EU and its Member States must provide a safe environment where differences are respected and the most vulnerable protected. Measures to tackle discrimination, racism, anti-semitism, xenophobia and homophobia must be vigorously pursued.

### **2.3.1 Racism and xenophobia**

The European Council invites the Commission to

- report during the period of the Stockholm Programme on the transposition of the 2008 Framework Decision on racism and xenophobia by 28 November 2013, and, if appropriate, to make proposals for amending it,
- make full use of the existing instruments, in particular the financing programmes to combat racism and xenophobia.

The Member States should implement the Framework Decision as soon as possible and at the latest by 28 November 2010.

### **2.3.2 Rights of the child**

The rights of the child – i.e. the principle of the best interest of the child being the child's right to life, survival and development, non-discrimination and respect for the children's right to express their opinion and be genuinely heard in all matters concerning them according to their age and level of development as proclaimed in the Charter and the United Nations Convention on the Rights of the Child, concern all EU policies. They must be systematically and strategically taken into account with a view to ensuring an integrated approach. The Commission Communication "Towards an EU Strategy on the rights of the child (2006) reflect important considerations in this regard. An ambitious EU strategy on the rights of the child should be developed.

The European Council calls upon the Commission to

- identify measures, to which the Union can bring added value, in order to protect and promote the rights of the child. Children in particularly vulnerable situations should receive special attention, notably children that are victims of sexual exploitation and abuse as well as children that are victims of trafficking and unaccompanied minors in the context of immigration policy.

As regards parental child abduction, apart from effectively implementing existing legal instruments in this area, the possibility to use family mediation at international level should be explored, while taking account of good practices in the member states. The Union should continue to develop criminal child abduction alert mechanisms, by promoting cooperation between national authorities and interoperability of systems.

### **2.3.3 Vulnerable groups**

All forms of discrimination remain unacceptable. The EU and the Member States must make a concerted effort to fully integrate vulnerable groups, in particular the Roma community, into society by promoting their inclusion in the education system and labour market and by taking action to prevent violence against them. For this purpose, Member States should ensure that the existing legislation is properly applied to tackle potential discrimination. The EU will offer practical support and promote best practice to help Member States achieve this. Civil society will have a special role to play.

Vulnerable groups in particularly exposed situations, such as women victim of violence or of genital mutilation or persons who are harmed in a Member State of which they are not nationals or residents, are in need of greater protection, including legal protection. Appropriate financial support will be provided, through the available financing programmes.

The need for additional proposals as regards vulnerable adults should be assessed in the light of the experience acquired from the application of the 2000 Hague Convention on the International Protection of Adults by the Member States which are parties or which will become parties in the future. The Member States are encouraged to join the Convention as soon as possible.

#### **2.3.4 Victims of crime, including terrorism**

Those who are most vulnerable or who find themselves in particularly exposed situations, such as persons subjected to repeated violence in close relationships, victims of gender based violence, or persons who fall victim to other types of crimes in a Member State of which they are not nationals or residents, are in need of special support and legal protection. Victims of terrorism also need special attention, support and social recognition. An integrated and coordinated approach to victims is needed, in line with the Council conclusions on a strategy to ensure fulfilment of the rights of, and improve support for, persons who fall victims of crime.

The European Council calls on the Commission and the Member States to

- examine how to improve legislation and practical support measures for protection of victims and to improve implementation of existing instruments,
- offer better support to victims otherwise, possibly through existing European networks that provide practical help and put forward proposals to that end,



- examine the opportunity of making one comprehensive legal instrument on the protection of victims, by joining together the Directive on compensation to victims and the Framework Decision on victims, on the basis of an evaluation of the two instruments.

Increased use of the financing programmes should be made in accordance with their respective legal frameworks.

## **2.4 Rights of the individual in criminal proceedings**

The protection of the rights of suspected and accused persons in criminal proceedings is a fundamental value of the Union, which is essential in order to maintain mutual trust between the Member States and public confidence in the European Union. The European Council therefore welcomes the adoption by the Council of the Roadmap for strengthening procedural rights of suspected and accused persons in criminal proceedings, which will strengthen the rights of the individual in criminal proceedings when fully implemented. That Roadmap will henceforth form part of the Stockholm Programme.

The European Council invites the Commission to

- put forward the foreseen proposals in the Roadmap for its swift implementation, on the conditions laid down therein,
- examine further elements of minimum procedural rights for accused and suspect persons, and to assess whether further proposals are needed.

## **2.5 Protecting citizen's rights in the information society**

When it comes to assessing the individual's privacy in the area of freedom, security and justice, the right to freedom is overarching. The right to privacy and the right to the protection of personal data are set out in the Charter of Fundamental Rights. The Union must therefore respond to the challenge posed by the increasing exchange of personal data and the need to ensure the protection of privacy. The Union must secure a comprehensive strategy to protect data within the EU and in its relations with other countries. In that context, it should promote the application of the principles set out in relevant EU instruments on data protection and the 1981 Council of Europe Convention on data protection as well as promoting accession to that convention. It must also foresee and regulate the

circumstances in which interference by public authorities with the exercise of these rights is justified and also apply data protection principles in the private sphere.

The Union must address the necessity for increased exchange of personal data whilst ensuring the utmost respect for the protection of privacy. The European Council is convinced that the technological developments not only present new challenges to the protection of personal data, but also offer new possibilities to better protect personal data.

Basic principles such as purpose limitation, proportionality, legitimacy of processing, limits on storage time, security and confidentiality as well as respect for the rights of the individual, control by an independent supervisory authority, and access to effective judicial redress need to be ensured and a comprehensive protection scheme must be established. These issues are also dealt with in the context of the EU Information Management Strategy set out in Chapter 4.

The European Council invites the Commission to:

- evaluate the functioning of the various instruments on data protection and present, where necessary, further legislative and non-legislative initiatives to maintain the effective application of the above principles,
- propose a Recommendation for the negotiation of a data protection and, where necessary, data sharing agreement for law enforcement purposes with the United States of America, building on the work carried out by the EU-US High Level Contact Group on data protection,
- consider core elements for data protection agreements with third states for law enforcement purposes, which may include, where necessary, privately held data, based on a high level of data protection,
- improve compliance with the principles of data protection through the development of appropriate new technologies, improving cooperation between the public and private sector, particularly in the field of research,
- examine the introduction of a European certification scheme for "privacy-aware" technologies, products and services,
- conduct information campaigns, in particular to raise awareness among the public.

On a broader front, the Union must be a driving force behind the development and promotion of international standards for personal data protection, based on relevant EU instruments on data

protection and the 1981 Council of Europe Convention, and in the conclusion of appropriate bilateral or multilateral instruments.

## **2.6 Participation in the democratic life of the Union**

The European Council recalls that transparency of decision-making, access to documents and good administration contribute to citizens' participation in the democratic life of the Union. Furthermore, the European Citizens' Initiative introduced by Article 11 TEU will create a new mechanism for civic participation. It should be realized rapidly.

The European Council invites the Commission to

- examine how best to ensure transparency of decision-making, access to documents and good administration of justice in the light of the new opportunities opened up by the Lisbon Treaty and to make appropriate proposals to that end.

With a view to the European elections in 2014, careful consideration should be given to how to encourage citizens to vote. Voter turnout has diminished by 20 % since 1979 while at the same time the powers of the European Parliament as co-legislator has increased considerably. Measures such as making it easier to register on the electoral roll should be explored.

In addition, the European Council invites the Commission, before December 2012, to

- report to the European Council on national practices and traditions on elections to the European Parliament, and propose, on the basis of the report, how to achieve a common election day for elections to the European Parliament. In the light of that report, the European Council will consider how to take this issue forward.

## **2.7 Entitlement to protection in non-Member States**

A Union citizen travelling to or living in a non-EU country where his or her Member State is not represented is entitled to protection by the diplomatic and consular authorities of any Member State under the same conditions as the nationals of that State. This right, enshrined in the Treaties, is not well publicised, and more effort is needed to ensure its full application. Targeted communication campaigns could be conducted in connection with this right.

The European Council invites the Commission to:

- consider appropriate measures establishing coordination and cooperation necessary to facilitate consular protection in accordance with Article 23 TFUE.

### **3. Making people's lives easier: a Europe of law and justice**

The European Council declared at its meeting in Tampere in 1999 that enhanced mutual recognition of judicial decisions and judgements and the necessary approximation of legislation would facilitate co-operation between authorities and the judicial protection of individual rights and that the principle of mutual recognition should be the cornerstone of judicial cooperation in both civil and criminal matters. This principle is now expressed in the Treaty.

In the Hague Programme, adopted in 2004, the European Council noted that in order for the principle of mutual recognition to become effective, mutual trust needed to be strengthened by progressively developing a European judicial culture based on the diversity of legal systems and unity through European law. The judicial systems of the Member States should be able to work together coherently and effectively in accordance with their national legal traditions.

The EU should continue to enhance mutual trust in the legal systems of the Member States by establishing minimum rights as necessary for the development of the principle of mutual recognition and by establishing minimum rules concerning the definition of criminal offences and sanctions as defined by the Treaty. The European judicial area must also allow citizens to assert their rights anywhere in the Union by significantly raising overall awareness of rights and by facilitating their access to justice.

In this respect, the European Council emphasizes the horizontal importance of e-Justice, which is not confined to specific areas of law. It should be integrated into all areas of civil, criminal and administrative law in order to ensure better access to justice and strengthened cooperation between administrative and judicial authorities.

#### **3.1 Furthering the implementation of mutual recognition**

The European Council notes with satisfaction that considerable progress has been achieved in implementing the two programmes on mutual recognition adopted by the Council in 2000 and

emphasizes that the Member States should take all necessary measures to transpose at national level the rules agreed at European level. In this context the European Council emphasizes the need to evaluate the implementation of these measures and to continue the work on mutual recognition.

### **3.1.1 Criminal law**

In the face of cross-border crime, more efforts should be made to make judicial cooperation more efficient. The instruments adopted need to be more "user-friendly" and focus on problems that are constantly occurring in cross-border cooperation, such as issues regarding time limits and language conditions or the principle of proportionality. In order to improve cooperation based on mutual recognition, some matters of principle should also be resolved. For example, there may be a need for a horizontal approach regarding certain recurring problems during negotiations on instruments. The approximation, where necessary, of substantive and procedural law will facilitate mutual recognition.

Mutual recognition could extend to all types of judgments and decisions of a judicial nature, which may, depending on the legal system, be either criminal or administrative.

Victims of crime or witnesses who are at risk can be offered special protection measures which should be effective within the Union.

The European Council considers that the setting up of a comprehensive system for obtaining evidence in cases with a cross-border dimension, based on the principle of mutual recognition, should be further pursued. The existing instruments in this area constitute a fragmentary regime. A new approach is needed, based on the principle of mutual recognition but also taking into account the flexibility of the traditional system of mutual legal assistance. This new model should have a broad scope and should cover all types of evidence, taking account of the measures concerned.

The European Council invites the Commission to

- propose a comprehensive system, after an impact assessment, to replace all the existing instruments in this area, including the Framework Decision on the European Evidence Warrant, covering as far as possible all types of evidence and containing deadlines for enforcement and limiting as far as possible the grounds for refusal,
- explore whether there are other means to facilitate admissibility of evidence in this area,

- explore whether certain investigative measures could be executed by law enforcement or judicial authorities of the requesting/issuing member state in liaison and agreement with the authorities of the executing state in accordance with Article 89 TFUE, and, where appropriate, make necessary proposals,
- explore if and how authorities of one Member State could obtain information rapidly from private or public entities of another Member State without use of coercive measures,
- explore the results of the evaluation of the European Arrest Warrant, and, where appropriate, make proposals to increase efficiency and legal protection for individuals in the process of surrender, by adopting a step-by-step approach to other instruments on mutual recognition,
- prepare a comprehensive study on existing legal and administrative obstacles to cross-border enforcement of penalties and administrative decisions for road traffic offences, and to present, where necessary, further legislative and non-legislative initiatives to improve road safety in the Union.

The Union should aim for the systematic exchange of information and, as a long term goal, mutual recognition of judgments imposing certain types of disqualification.

The European Council invites the Commission to

- study the use of disqualification in the Member States and propose to the Council a programme of measures, including exchange of information on certain types of disqualifications and, by adopting a long term step-by-step approach, which accords priority to cases where disqualification is most likely to affect personal safety or business life.

In the field of judicial cooperation, the European Council emphasizes the need for Member States and Eurojust to implement thoroughly the Council Decision 2009/426 of 16 December 2008, which, together with the Lisbon Treaty, offers an opportunity for the further development of EUROJUST in the coming years, including in relation to initiation of investigations and resolving conflicts of competence. On the basis of an assessment of the implementation of this instrument, new possibilities could be considered, including giving further powers to the Eurojust national member, reinforcement of the powers of the Eurojust College or the setting-up of a European Public Prosecutor in accordance with the relevant provisions of the Treaty.

### 3.1.2 Civil law

As regards civil matters, the European Council considers that the process of abolishing all intermediate measures (the *exequatur*), should be continued during the period covered by the Stockholm Programme. At the same time the abolition of the *exequatur* will also be accompanied by a series of safeguards, which may be measures in respect of procedural law as well as of conflict-of-law rules.

Mutual recognition should, moreover, be extended to fields that are not yet covered but essential to everyday life, e.g. succession and wills, matrimonial property rights and the property consequences of the separation of couples, while taking into consideration Member States' legal systems, including public policy, and national traditions in this area.

The European Council considers that the process of harmonising conflict-of-law rules at Union level should also continue in areas where it is necessary, which could include the area of company law, insurance contracts, security interests, as well as separation and divorces.

The European Council also highlights the importance of starting work on consolidation of the instruments adopted so far in the area of judicial cooperation in civil matters. First and foremost the consistency of Union legislation should be enhanced by streamlining the existing instruments. The aim should be to ensure the coherence and user-friendliness of the instruments, thus ensuring a more efficient and uniform application thereof.

The European Council invites the Commission to

- assess which safeguards are needed to accompany the abolition of *exequatur* and how these could be streamlined,
- assess whether there are grounds for consolidation and simplification in order to improve the consistency of existing Union legislation, and
- follow up on the recent study on the possible problems encountered with regard to civil status documents and access to registers of such documents.

In light of the findings, the Commission could submit appropriate proposals taking into account the different legal systems and traditions in the Member States. In the short term a system allowing citizens to obtain their own civil status documents easily could be envisaged. In the long term, it could be considered whether mutual recognition of the effects of civil status documents could be

appropriate, at least in certain areas. Work developed by the International Commission on Civil Status should be taken into account in this particular field.

## **3.2 Strengthening mutual trust**

One of the consequences of mutual recognition is that rulings made at national level have an impact in other Member States, in particular in their judicial systems. Measures aimed at strengthening mutual trust are therefore necessary in order to take full advantage of these developments.

The Union should support Member States' efforts to improve the efficiency of their judicial systems by encouraging exchanges of best practice and the development of innovative projects relating to the modernisation of justice.

### **3.2.1 Training**

Training of judges (including administrative courts), prosecutors and other judicial staff is essential to strengthen mutual trust; see also Chapter 1.2.6. The Union should continue to support and strengthen measures to increase training in line with Articles 81 and 82 TFUE.

### **3.2.2 Developing networks**

The European Council considers that contacts between senior officials of the Member States in areas covered by Justice and Home Affairs are valuable and should be promoted by the Union in so far as possible. Such areas could be, depending on national structures, senior police chiefs or prosecutors, heads of training institutes, heads of prison administrations, general directors of customs administration. Where appropriate, these networks should also be informed of the work of the Internal Security Committee, or be able to take part in the development of the Organised Crime Threat Assessment and other strategic tools of the Union. Such networks should primarily meet using existing structures such as Europol, Eurojust and Frontex or at the invitation of the Presidency as host country. Other Networks of professionals existing in this area should also continue to receive Union support. Among those are the European Network of the Councils of the Judiciary and the Network of the Presidents of the Supreme Judicial Courts.

### **3.2.3 Evaluation**



As in other areas, the development of mutual recognition in the judicial sphere must go hand in hand with improvements in evaluation, both ex-ante and ex-post; see also Chapter 1.2.5.

### **3.2.4 Improving the tools**

The European Council calls for the enhancement of the operational capabilities of and tools for judges, prosecutors and all other actors involved in the field of justice. To that end, the European Council calls for the more active involvement of Eurojust and the European Judicial Networks in civil and criminal law to participate in improving cooperation and the effective application of EU law by all practitioners. Work should continue on improving the electronic tools that have so far been developed and the necessary resources should be provided for pursuing this work.

### **3.2.5 Implementation**

A priority of the Union should be the implementation of decisions which have already been taken. This should be done in several ways: by accompanying the implementation of Union legislation more closely, through the better use of the financing instruments, by increasing the training of judges and other professionals and by enhancing evaluation mechanisms and practical measures.

Without prejudice to the role of the Commission and the Court of Justice, implementation is primarily a matter for the Member States, but as mutual recognition instruments are common tools, the Union should better accompany implementation of them by enabling the sharing of experiences and best practices.

The European Council invites the Commission to

- ensure the sharing of information by way of developing handbooks or national facts sheets together with experts in civil and criminal law and Member States, on the use of mutual recognition instruments, in the same manner as what has been done for the European Arrest Warrant. The aim should be to have a handbook or national fact sheet for each of the instruments that have been adopted so far at the end of the five-year period.

The European Council also considers that all modern means of electronic communication should be used to the full, and that the judicial authorities as soon as possible should be given means for secure

electronic communications to enable safe correspondence. The Union should also put an emphasis on videoconferencing and on assisting the development of translation tools in order to make them as accurate as possible. These developments should be accompanied by and form part of the implementation of the e-justice action plan. In addition, measures should be taken to enhance cooperation, while taking full account of data protection rules, between competent authorities so as to detect addresses where persons live as their habitual residence, in connection with service of documents.

### **3.2.6. Detention**

The European Council considers that efforts should be undertaken to strengthen mutual trust and render more efficient the principle of mutual recognition in the area of detention. Efforts to promote the exchange of best practices should be pursued and implementation of the European Prison Rules, approved by the Council of Europe, supported. Issues such as alternatives to imprisonment, pilot projects on detention, social rehabilitation of detainees and best practices in prison management could also be addressed. The European Commission is invited to reflect on this issue further within the possibilities offered by the Lisbon Treaty.

## **3.3 Developing a core of common standards**

The Treaty provides that, where necessary to facilitate mutual recognition, the Union may adopt common minimum standards. The European Council considers that a certain level of approximation of laws is necessary to foster a common understanding of issues among judges and prosecutors, and hence to enable the principle of mutual recognition to be applied properly, taking into account the differences between legal traditions and systems of Member States.

### **3.3.1 Criminal law**

In criminal law, minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis should become the object of common incriminations and common minimum levels of maximum sanctions. These are the serious offences referred to in Article 83(1) TFEU. Priority should be given to terrorism, trafficking in

human beings, illicit drug trafficking, sexual exploitation of women and children and child pornography and computer crime.

The European Council invites the Commission to

- examine whether the level of approximation is sufficient in relation to the adopted framework decisions and report on the need to establish common definitions and penalties and to consider submitting new legislative proposals where further approximation is needed.

The relationship between approximation of offences or their definition and the double criminality rule in the framework of mutual recognition should be further explored. The Commission is invited to make a report to the Council on this issue. On the basis of that report, the Council will consider whether it is necessary and feasible to approximate the offences for which double criminality does not apply in the mutual recognition instruments.

Criminal law provisions should be used when they are considered essential in order for the interests to be protected and, as a rule, only as a last resort.

Minimum rules with regard to the definition of criminal offences and sanctions may also be established when the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy which has been subject to harmonisation measures.

The European Council stresses the importance of the coherence of criminal law provisions in the various EU instruments and invites the Commission together with the Council to

- [continue] preparatory work on model standard provisions in criminal law.

and the Commission to

- examine the possibilities of using the existing programmes to finance pilot schemes in the Member States testing alternatives to imprisonment.

### **3.3.2 Civil law**

The abolition of exequatur will be accompanied by a series of safeguards, especially regarding judgments taken by default, which may be measures in respect of procedural law as well as of conflict

of law rules (e.g. the right to be heard, the servicing of documents, time required for providing opinions, etc). The main policy objective in the area of civil procedural law is that borders between countries in the European Union should not constitute an obstacle either to the settlement of civil law matters or to initiating court proceedings, or to the enforcement of decisions in civil matters. With the Tampere conclusions and the Hague programme, major steps have been taken to reach this goal. However, the European Council notes that the effectiveness of Union instruments in this field still needs to be improved.

The European Council invites the Commission

- as a first step, to submit a report on the functioning of the present EU regime on civil procedural law across borders, and on the basis of that report put forward a proposal aimed at improving the consistency of existing Union legislation,
- to assess, also in the course of upcoming reviews of existing Regulations, the need to establish common minimum standards or standard rules of civil procedure for the cross-border execution of judgments and decisions on matters such as the service of documents, the taking of evidence, review procedures and enforcement, minimum standards in relation to the recognition of decisions on parental responsibility and, where appropriate, submit proposals on the issues, and
- to continue the work on common conflict-of-law rules, where necessary.

### **3.4 The benefits for citizens of a European judicial area**

#### **3.4.1 Providing easier access to justice**

Access to justice in the European judicial area must be made easier, particularly in cross-border proceedings. At the same time, efforts must continue to improve alternative methods of settling disputes, particularly in consumer law. Action is needed to help people overcome the language barriers that obstruct their access to justice.

The European Council considers that e-Justice presents an excellent opportunity to provide easier access to justice. The European e-Justice action plan, adopted at the end of November 2008, sets the framework for developing European e-Justice activities until the end of 2013. The European e-Justice portal will be a way of keeping people better informed of their rights and giving them access to a range of information and services on the various judicial systems. Better use should be made of

videoconferencing, for example to spare victims the effort of needless travel and the stress of participating in court proceedings. In accordance with data protection rules, some national registers will be gradually interconnected (e.g. registers on insolvency, interpreters, translators and wills). Some existing databases may also be partially integrated into the portal (e.g. the European Business Register and the European Land Information Service). In the medium term, some European and national cross-border procedures could be dealt with on-line (e.g. the European payment order, the European small claims procedure and mediation). Furthermore, the use of electronic signatures should be promoted within the framework of the e-justice project.

The European Council invites the Council, the Commission and the Member States to

- create effective conditions to enable the parties to communicate with courts by electronic means in the context of legal proceedings. For that purpose, dynamic forms should be made available through the e-Justice portal as regards certain European procedures, such as the European order for payment procedure and the European small claims procedure. During this phase, electronic communication between judicial authorities should be improved decisively in the area of the application of e-Justice.

The European Council further encourages the EU institutions and the Member States to

- devote efforts to the full implementation of the e-Justice action plan. In that context, the European Commission is invited to put forward proposals within the framework of the financial perspectives for an adequate funding of e-Justice projects and in particular horizontal large-scale IT projects.

Certain formalities for the legalisation of documents also represent an obstacle or an excessive burden. Given the possibilities offered by the use of new technologies, including digital signatures, the EU should consider abolishing all formalities for the legalisation of documents between Member States. Where appropriate, thought should be given to the possibility of creating, in the long term, authentic European documents.

The European Council invites the Commission to

- examine the possibility of dispensing with the formalities for the legalisation of documents between Member States, and submit a proposal to that effect.

### **3.4.2 Supporting economic activity**

The European judicial area should serve to support economic activity in the single market.

The European Council invites the Commission to

- assess the need for, and the feasibility of, providing for certain provisional, including protective, measures at Union level, to prevent e.g. the disappearance of assets before the enforcement of a claim,
- put forward appropriate proposals for improving the efficiency of enforcement of judgements in the EU regarding bank accounts and debtors' assets, based on the 2006 and 2008 Green Papers.

When devising measures of this kind, account should be taken on the impact they will have on the right to privacy and the right to the protection of citizens' personal data.

The European Council reaffirms that the common frame of reference for European contract law should be a non-binding set of fundamental principles, definitions and model rules to be used by the lawmakers at Union level to ensure greater coherence and quality in the lawmaking process. The Commission is invited to submit a proposal on a common frame of reference.

The current financial crisis has brought home the need to regulate financial markets and to prevent abuse. There is also a need to study further measures regarding business law, and to create a clear regulatory environment allowing small and medium business enterprises in particular to take full advantage of the internal market so that they can grow and operate across borders as they do in their domestic market. There is a need to explore whether common rules determining the law applicable to matters of company law, rules on insolvency for banks and transfer of claims could be devised. The issue of contractual law also needs to be examined further. The European Council invites the Commission to

- consider whether there is a need to take measures in these areas, and, where appropriate, to put forward proposals in this respect.

## **3.5 Increasing the EU's international presence in the legal field**

### **3.5.1 Civil law**

The European Council considers that clearly defining EU external interests and priorities in the area of judicial cooperation in civil matters is very important with a view to interacting with third countries in a secure legal environment.

The Lugano Convention is open to the accession of other States and it should be assessed, in cooperation with the other Contracting Parties, which third countries could be encouraged to accede to it.

The Union should use its membership of The Hague Conference to actively promote the widest possible accession to the most relevant Conventions and to offer as much assistance as possible to other States with a view to the proper implementation of the instruments. The European Council invites the Council, the Commission and the Member States to encourage all partner countries to accede to those Conventions which are of particular interest to the Union.

In cases where no legal framework is in place for relations between the EU and partner countries, and where the development of new multilateral cooperation is not possible from the Union's standpoint, the option of bilateral agreements should be explored, on a case-by-case basis and as a last resort.

The European Council invites the Council and the Commission to

- define a strategy in the area of civil law matters for the coming years which is coherent with overall EU external policy.

### **3.5.2 Criminal law**

As regards the criminal law field, it will be necessary to identify priorities for the negotiations of mutual assistance and extradition agreements. The Union should actively promote the widest possible accession of the partner countries to the most relevant and functioning Conventions and to offer as much assistance as possible to other States with a view to the proper implementation of the instruments. The Institutions should ensure, to the furthest extent possible, coherence between the EU and the international legal order. Where possible, synergy with the Council of Europe work should be considered.

The European Council calls upon the Commission, the Council and the European Parliament where appropriate to:

- develop a policy aimed at the establishment of agreements on international judicial cooperation with third countries of interest. In particular, the following criteria should be taken into account when deciding on the priority countries: strategic relationship, whether bilateral agreements already exist, whether the country in question adheres to Human Right's principles, whether the country concerned cooperates with the EU in general and its Member States, and priorities of law enforcement and judicial cooperation,
- sponsor exchanges of best practice and the pooling of experience with non-member countries and, in particular with regard to enlargement countries, make full use of the instruments the Union has at its disposal to promote judicial reform and strengthen the rule of law, such as twinning schemes and peer reviews, also in cooperation with the Council of Europe,
- offer steady support to the justice systems in partner countries in order to promote the rule of law throughout the world,
  - continue to promote the Rome Statute principle of complementarity and compliance with Rome Statute obligations.

The European Council further invites the Commission to

- submit to the Council in 2010 a list of countries that have requested to conclude agreements on mutual legal assistance and extradition with the Union as well as an assessment, based on the above mentioned principles of the appropriateness and urgency of concluding such agreements with these or other countries.

## **4. A Europe that protects**

### **4.1 Internal Security Strategy**

The European Council is convinced that the enhancement of actions at European level, combined with better coordination with actions at regional and national levels, are essential to protection from trans-national threats. Terrorism and organised crime, drug trafficking, corruption, trafficking in human beings, smuggling of persons and trafficking in arms, among others, continue to challenge the internal security of the EU. Cross-border widespread crime has become an urgent challenge which requires a clear and comprehensive response. Action of the Union will enhance the work



carried out by Member States' competent authorities and improve the outcome of their work.

The European Council calls upon the Council and the Commission to

- define a comprehensive EU internal security strategy based, in particular, on the following principles:
  - clarity on the division of tasks between the EU and the Member States, reflecting a shared vision of today's challenges,
  - respect for fundamental rights, international protection and the rule of law,
  - solidarity between Member States,
  - reflection of a proactive and intelligence-led approach,
  - the need for a horizontal and cross-cutting approach in order to be able to deal with complex crises or natural or man-made disasters,
  - stringent cooperation between EU agencies, including further improving their information exchange,
  - a focus on implementation and streamlining as well as the improvement of preventive action,
  - the use of regional initiatives and regional cooperation,
  - the aim of making citizens aware of the importance of the Union's work to protect them.

Developing, monitoring and implementing the internal security strategy should become one of the priority tasks of the Internal Security Committee (COSI) set up under Article 71 TFEU. In order to ensure the effective enforcement of the internal security strategy, it shall also cover security aspects of border control and, where appropriate, judicial cooperation in criminal matters relevant to operational cooperation in the field of internal security.

The internal security strategy should also take into account the external security strategy developed by the EU as well as other EU policies, in particular those concerning the internal market. Account should also be taken of the impact it may have on relations with the EU's neighbourhood and particularly with the candidate and potential candidate countries, since internal security is interlinked with the external dimension of the threats. In a global world, crime knows no borders. As the policies followed in the fields of justice and home affairs gradually reach maturity, they should support each other and grow in consistency. In the years to come they should fit smoothly together with the other policies of the Union.

The European Council asks the Commission

- to consider the feasibility of setting up of an Internal Security Fund to promote the implementation of the Internal Security Strategy so that it becomes an operational reality.

## **4.2 Upgrading the tools for the job**

Security in the EU requires an integrated approach where security professionals share a common culture, pool information as effectively as possible and have the right technological infrastructure to support them.

### **4.2.1 Forging a common culture**

The European Council stresses the need to enhance mutual trust between all the professionals concerned at national and EU level. A genuine European law enforcement culture should be developed through exchange of experiences and good practice as well as the organisation of joint training courses and exercises in line with Chapter 1.2.6.

The European Council encourages Member States to devise mechanisms that gives incentives to professionals for taking up duties related to cross-border cooperation and thereby favour the creation of an EU-wide response at all levels.

### **4.2.2 Managing the flow of information**

The European Council notes with satisfaction that developments over the past years in the EU have led to a wide choice and created an extensive toolbox for collecting, processing and sharing information between national authorities and other European players in the area of freedom, security and justice. The principle of availability will continue to give important impetus to this work.

The European Council acknowledges the need for coherence and consolidation in developing information management and exchange and invites the Council and the Commission to

- [adopt and] implement an EU Information Management Strategy<sup>1</sup>, which includes a strong data protection regime. Development must be coherent with the priorities set for the area of freedom, security and justice and the internal security strategy, supporting the business vision for law enforcement, judicial cooperation, border management and public protection.

In this context, the European Council invites the Commission to

- assess the need for developing a European Information Exchange Model based on the evaluation of the current instruments, including the Prüm framework and the so-called Swedish Framework Decision. These assessments will determine whether these instruments function as originally intended and meet the goals of the Information Management Strategy.

The EU information management strategy is based on

- business-driven development (a development of information exchange and its tools that is driven by law enforcement needs,
- a strong data protection regime consistent with the strategy for protection of personal data as set out in Chapter 2 of this Programme,
- a well targeted data collection, both to protect fundamental rights of citizens and to avoid an information overflow for the competent authorities,
- guiding principles for a policy on the exchange of information with third States for law enforcement purposes,
- interoperability of IT systems ensuring full conformity with data protection and data security principles when developing such systems,
- a rationalisation of the different tools, including the adoption of a business plan for large IT systems,
- overall coordination, convergence and coherence.

The necessary EU and national structures need to be in place to ensure the implementation and

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<sup>1</sup> See Council document ...../09

management of the different information management tools. The European Council also calls for the establishment of an Administration, as proposed by the Commission, having the competence and capacity to develop and manage large-scale IT-systems in the area of freedom, security and justice. Possible additional tasks should be considered by the Council in the light of the Information Management Strategy.

Reflecting the discussions in the Council and the European Parliament, with a view to setting up an EU Passenger Names Record system, the European Council calls upon the Commission

- to propose an EU measure on PNR for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime, based on an impact assessment.

#### **4.2.3 Mobilising the necessary technological tools**

The European Council, while ensuring consistency with the strategy for protection of personal data in Chapter 2, stresses the need for new technologies to keep pace with and promote the current trends towards mobility, while ensuring that people are safe, secure and free.

The European Council invites the Council, the Commission, the European Parliament where appropriate and the Member States to

- draw up and implement policies to ensure a high level of network and information security throughout the European Union and improve measures aimed at protection, security preparedness and resilience of critical infrastructure, including Information and Communication Technology (ICT) and services infrastructure, and
- promote legislation that ensures a very high level of network security and allows faster reactions in the event of cyber-attacks.

The European Council also invites the Council and the Commission to

- ensure that the priorities of the internal security strategy are tailored to the real needs of users and focus on improving interoperability. Research and development in the field of security should be supported by public-private partnerships.

The European Council invites

- the Member States to implement the European Criminal Records Information System (ECRIS) as soon as possible and

- the Commission to assess whether the networking of criminal records makes it possible to prevent offences from being committed (e.g. through checks on access to certain jobs, particularly those relating to children), and extending the exchange of information on supervision measures,
- the Commission to propose, in addition to ECRIS, a register of third-country nationals who have been convicted by the courts of the Member States.

The European Council recalls the need for ensuring consistency with the strategy for the protection of personal data and the business plan for setting up large scale IT systems in Chapter 2 of the Programme, and calls on the Commission to:

- make a feasibility study on the need for, and the added value of, setting up a European Police Records Index system (EPRIS) and to make a report to the Council in the course of 2012 on the issue, and
- to reflect on how to further develop the use of existing databases for law enforcement purposes, while fully respecting data protection rules, so as to make full use of new technologies with a view to protecting the citizens,
- examine how best to promote that Member States' competent authorities can exchange information on travelling violent offenders.

### **4.3 Effective policies**

#### **4.3.1 More effective European law enforcement cooperation**

The prime objective of EU law enforcement cooperation is to combat forms of crime that are typically cross-border in their dimension. Focus should not only be placed on combating terrorism and organised crime but also cross-border wide-spread crime that have a significant impact on the daily life of the citizens of the EU. Europol should become a hub for information exchange between the law enforcement authorities of the Member States, a service provider and a platform for law enforcement services.

The European Council encourages Member States' competent authorities to use the investigative tool of Joint Investigative Teams as much as possible in appropriate cases. Europol and Eurojust should be systematically involved in major cross-border operations and informed when joint investigative teams are set up. The model agreement for setting up JITs should be updated. Europol

and Eurojust should step up their cooperation further. Eurojust should ensure that its work is followed up at judicial level. Europol and Eurojust should expand their work with third countries especially by forging closer links with the regions and countries neighbouring the Union; Europol should work more closely with European Security and Defence Policy (ESDP) police missions and help promote standards and good practice for European law enforcement cooperation in countries outside the EU. Cooperation with Interpol should be stepped up with a view to creating synergies and avoiding duplication.

The European Council invites the Commission, and, where appropriate, the High Representative, to

- examine how it could be ensured that Europol receives information from Member States law enforcement authorities so that the Member States can make full use of Europol capacities,
- examine how operational police cooperation could be stepped up, e. g. as regards incompatibility of communication systems and other equipment, use of undercover agents, and, where necessary, make proposals to that end,
- issue as soon as possible a reflection document on how best to ensure that the activities of Europol may be scrutinised and evaluated by the European Parliament, together with national parliaments in line with Articles 85 and 88 TFUE,
- consider developing a Police Cooperation Code which would consolidate existing instruments and, where necessary, amend and simplify them,
- make a proposal to the Council and the European Parliament to adopt a decision on the modalities of cooperation, including on exchange of information between EU agencies, in particular Europol, Eurojust and Frontex, which ensures data protection and security,
- propose measures on how EU agencies in this area could conclude operational arrangements between themselves and how they should develop their participation in regional initiatives conducted by Member States and in regional bodies that further law enforcement cooperation,
- agree on common quality standards within the forensic field, inter alia to develop best practice for crime scene investigations,
- examine whether there are obstacles to cooperation between ESDP police missions and Europol and make appropriate proposals to eliminate such obstacles,

Pilot projects in cross-border regional cooperation dealing with joint operational activities and/or cross-border risk assessments, such as Joint Police and Customs Centres, should be promoted by the Union, inter alia through financing programmes.

The development of ad hoc law enforcement cooperation at sporting events or large public gatherings (e.g. the 2012 Olympics, Euro 2012) should be implemented.

#### **4.3.2 More effective crime prevention**

The best way to reduce the level of crime is to take effective measures to prevent them from ever occurring, including promoting social inclusion, by using a multidisciplinary approach which also includes taking administrative measures and promoting cooperation between administrative authorities, European citizens have similar experiences and are affected in similar ways by crime and related insecurity in their everyday lives.

The awareness of the links between local crime and organised crime and its complex cross-border dimensions is increasing. Member States have developed different methods to prevent crime and should be encouraged to share experiences and best practice and, in so doing, add to general knowledge and its respective effectiveness and efficiency, thereby avoiding the duplication of work.

In addition, the cross-border dimension underlines the importance of enhancing and developing knowledge at European level on how crime and criminality in the Member States is interconnected, to support Member States when taking individual or joint action, and to call for action by EU institutions when deemed necessary. With the Lisbon Treaty, cooperation within the area of crime prevention will be further recognized with a new legal basis.

The European Council invites Member States and the Commission to actively promote and support crime prevention measures focusing on prevention of mass criminality and cross-border crime affecting the daily life of our citizens in accordance with Article 84 TFEU.

The European Council invites the Commission to submit a proposal building on the evaluation of the work carried out within the European Union Crime Prevention Network with a view to setting up an Observatory for the Prevention of Crime (OPC), the tasks of which will be to collect, analyse and disseminate knowledge on crime (including statistics) and crime prevention, to support and promote Member States and EU institutions when they take preventive measures and to exchange best practice. The OPC should build on the work carried out within the framework of the European Crime Prevention Network (EUCPN) and the evaluation of it. It should include or replace the

EUCPN, with a secretariat located within an existing EU agency. The European Council invites the Commission to

- submit a proposal on setting up the OPC by 2013 at the latest.

### **4.3.3 Statistics**

Adequate, reliable and comparable statistics (both over time and between Member States and regions) are a necessary prerequisite *inter alia* for evidence-based decisions on the need for action, on the implementation of decisions and on the effectiveness of action.

The European Council invites the Commission to

- continue developing statistical tools to measure crime and criminal activities and reflect on how to further develop, after 2010, the actions outlined and partly implemented in the EU Action plan 2006-2010 on developing a comprehensive and coherent EU strategy to measure crime and criminal justice, in view of the increased need for such statistics in a number of areas within the field of freedom, security and justice.

## **4.4 Protection against serious and organised crime**

### **4.4.1 Combating serious and organised crime**

As organised crime continues to become more globalised, it is increasingly important that law enforcement has the ability to work effectively across borders and jurisdictions. The Union can bring real added value to the fight against certain types of threat that require a high level of coordinated action. The fight against these criminal phenomena will involve systematic exchange of information, widespread use of European agencies and investigative tools and, where necessary, the development of common investigative and prevention techniques and increased cooperation with third countries.

The European Council therefore calls upon the Council and the Commission

- to adopt an organised crime strategy, within the framework of the Internal Security Strategy, and
- set its priorities in crime policy by identifying the types of crime against which it will deploy the tools it has developed, while continuing to use the Organised Crime Threat Assessment



Report (OCTA) and its regional versions.

Criminal phenomena to be tackled as a priority at European level should be selected. The European Council considers that the following types of crime deserve special priority in the years to come.

#### **4.4.2 Trafficking in human beings**

Trafficking and smuggling of human beings is a very serious crime involving violations of human rights and human dignity that the EU cannot condone. The European Council finds it necessary to strengthen and enhance the prevention and combating of trafficking and smuggling. This calls for a coordinated and coherent policy response which goes beyond the area of freedom, security and justice and, while taking account of new forms of exploitation, includes external relations, development cooperation, social affairs and employment, education and health, gender equality and non-discrimination. It should also benefit from a broad dialogue between all stakeholders, not least including civil society, and be guided by an improved understanding and research of trafficking and smuggling at EU and international levels.

In this context, cooperation and coordination with third countries is of crucial importance. The Action Oriented Paper on trafficking in human beings, [adopted] by the Council on 30 November 2009 should be used to its fullest extent.

The European Council invites the Council to

- establish an EU Anti-Trafficking Coordinator (ATC) and to determine the modalities therefore in such a way that all competences of the Union can be used in the most optimal way in order to reach a well coordinated and consolidated EU policy against trafficking.

Without prejudice to the role of the Commission, and inspired by the role and functioning of the CTC, the ATC should contribute to the development of a consolidated EU policy against trafficking aiming at further strengthening the commitment of, and efforts made, by the EU and the Member States to prevent and combat trafficking. This includes building up and strengthening partnerships with third countries, improving coordination and cooperation within the Union and with the mechanisms of the EU external dimension as an integral part of such a policy. The ATC should monitor progress made and report regularly to COSI. The fight against human trafficking must

mobilise all means of action, bringing together prevention, law enforcement, and victim protection, and be tailored to combating trafficking into, within and out of the EU.

The European Council calls for :

- the adoption of new legislation on combating trafficking and protecting victims,
- the Commission to examine whether ad hoc cooperation agreements with specific third countries to be identified by the Council could be a way to enhance fight against trafficking and to make proposals to that end. In particular, such agreements could involve full use of all leverage available to the Union, including use of financing programmes, cooperation for the exchange of information, judicial cooperation and migration tools,
- Europol, with the support of the Member States, to step up support for information gathering and strategic analysis, to be carried out in cooperation with the countries of origin and transit,
- Eurojust to step up its efforts to coordinate investigations conducted by Member States' authorities into trafficking in human beings,
- the Commission:
  - to propose further measures to protect and assist victims through an array of measures including the development of compensation schemes, safe return and assistance with reintegration into society in their country of origin if they return voluntarily and those relating to their stay; the EU should establish partnerships with the main countries of origin,
  - to propose cooperative measures to mobilise consular services in the countries of origin with a view to preventing the fraudulent issuing of visas. Information campaigns aimed at potential victims, especially women and children, could be conducted in the countries of origin in cooperation with the authorities there,
  - to propose measures to make border checks more efficient in order to prevent human trafficking, in particular the trafficking of children.

#### **4.4.3 Sexual exploitation of children and child pornography**

Protecting children against the danger of sexual abuse is an important element in the strategy of children's rights.

The European Council invites:

- the Council and the European Parliament to adopt new legislation on combating sexual abuse, sexual exploitation of children and child pornography,

- the Commission to accompany this legislation, once adopted, by measures supported under the Safer Internet Programme 2009-2013.
- The Commission to examine how Member States' competent authorities could exchange information on best practices,
- the Commission to explore how the EU could promote partnerships with the private sector on this subject and expand such public private partnerships to the financial sector in order to disrupt the money transfers related to websites with child abuse content,
- the Commission to build on the child alert mechanism and explore the creation of an EU-wide child abduction Network in order to promote cooperation between the competent authorities of the Member States, with a view to ensuring interoperability,
- the Commission, in order to prevent child abuse, to explore ways to enhance cooperation between Member States' competent authorities in response to the movement of child sex offenders known to be an ongoing threat.

#### 4.4.4 Cyber-crime

The Internet has considerably facilitated communication and promoted global development and interaction. At the same time, new, modern challenges have emerged in the form of cyber crime as criminal groups have taken effectively advantage of technologies, This in turn makes investigations more complicated for law enforcement authorities. The Union should therefore promote policies and legislation that ensure a very high level of network security and allow faster reactions in the event of cyber disruptions or cyber attacks.

As soon as possible, Member States should ratify the 2001 Council of Europe Cyber-crime Convention. This Convention should become the legal framework of reference for fighting cyber-crime at global level. Europol could play a role as a European resource centre by creating a European platform for identifying offences which should also assist Member States national alert platforms to exchange best practices.

The European Council also calls upon the Member States to

- give their full support to the national alert platforms in charge of the fight against cyber-crime and emphasizes the need for cooperation with countries outside the European Union.

The European Council invites

- the Commission to take measures for enhancing/improving public private partnerships,

- Europol to step up strategic analysis on cyber crime.

The Union should also clarify the rules on jurisdiction and the legal framework applicable to cyberspace within the Union, including how to obtain evidence in order to promote cross-border investigations.

The European Council

- calls upon the Member States to improve judicial cooperation in cyber crime cases,
- and requests the Commission to make proposals for clarifying, where needed, the legal framework on investigations in cyber space within the Union.

Cooperation should also become more efficient in relation to the sale of fake pharmaceuticals on the Internet.

#### **4.4.5 Economic crime and corruption**

The Union must reduce the number of opportunities available to organised crime as a result of a globalised economy, in particular during a crisis that is exacerbating the vulnerability of the financial system, and allocate appropriate resources to meet these challenges effectively.

The European Council calls upon the Member States and, where appropriate, the Commission to:

- enhance the capacity for financial investigations and combine all available instruments in fiscal, civil and criminal law. Forensic financial analysis must be developed by pooling resources, in particular for training; the confiscation of assets of criminals should be made more efficient and cooperation between Asset Recovery Offices made stronger,
- to identify assets of criminals more effectively and seize them and, whenever possible, consider re-using them wherever they are found in the EU common space,
- further develop information exchange between the Financial Intelligence Units (FIUs), in the fight against money laundering. Within the framework of the European Information Management System, their analyses could feed a database on suspicious transactions, for example within Europol,
- mobilise and coordinate sources of information to identify suspicious cash transactions and to confiscate the proceeds of crime, for instance through legislation on whether proceeds are legitimate or not,

- improve the prosecution of tax evasion and private corruption and the early detection of fraudulent market abuse (such as insider dealing and market manipulation), as well as the misappropriation of funds,
- facilitate the exchange of best practice in prevention and law enforcement, in particular within the framework of the Asset Recovery Office Network and the Anti-Corruption Network.

The European Council invites the Commission to

- develop indicators, on the basis of existing systems and common criteria, to measure efforts in the fight against corruption, in particular in the areas of the *acquis* (public procurement, financial control, etc) and to develop a comprehensive anti-corruption policy, in close cooperation with the Council of Europe Group of States against Corruption (GRECO); The Commission should submit a report in 2010 to the Council on the modalities for the Union to accede to GRECO,
- with a view to preventing financial crime, consider measures to facilitate identification of beneficial owners behind assets and increase transparency of legal persons and legal arrangements,
- increase coordination between Member States in the framework of UNCAC (United Nation Convention against Corruption), GRECO and OECD work in the field of combating corruption,
- to reflect on how to improve prevention of financial crime.

Counterfeiting is a serious danger for consumers and economies. The Union must improve studies of this phenomenon and ensure that greater account is taken of law enforcement aspects in the work of the future European Observatory on Counterfeiting and Piracy. The European Council calls upon the Council and the European Parliament to consider as soon as possible legislation on criminal measures aimed at ensuring the enforcement of intellectual property rights.

#### **4.4.6 Drugs**

The EU Drugs Strategy (2005-2012) advocates a global, balanced approach, based on the simultaneous reduction of supply and demand. This strategy will expire during the Stockholm Programme. It must be renewed on the basis of a detailed evaluation of the Drugs Action Plan 2009-2012, carried out by the Commission with the support of the European Monitoring Centre for

Drugs and Drug Addiction and Europol.

This Strategy should be founded on three principles:

- improving coordination and cooperation by using all available means under the Lisbon Treaty, and in particular in the Western Balkans, Latin America, Eastern Partnership countries, West Africa, Russia, Central Asia including Afghanistan and the United States,
- the mobilisation of civil society, in particular by reinforcing initiatives such as the European Action on Drugs,
- contributing to research and comparability of information in order to obtain access to reliable data.

The European Council invites the Council and the Commission to ensure that the new Drugs Strategy supports the EU's Internal Security Strategy and dovetails with other related policy products such as the OCTA, the future Organised Crime Strategy and the Council's conclusions on the fight against serious and organised crime.

#### **4.5 Terrorism**

The European Council considers that the threat from terrorists remains significant and is constantly evolving in response to both the international community's attempts at combating it and new opportunities that present themselves. We must not lower our guard against these heinous criminals.

Respect for the Rule of Law, fundamental rights and freedoms is one of the bases for the Union's overall counter-terrorism work. Measures in the fight against terrorism must be undertaken within the framework of full respect for fundamental rights so that they do not give rise to challenge. Moreover, all the parties concerned should avoid stigmatising any particular group of people, and should develop intercultural dialogue in order to promote mutual awareness and understanding.

The Union must ensure that all tools are deployed in the fight against terrorism while fully respecting fundamental rights. The European Council reaffirms its counter-terrorism strategy consisting of four strands of work - prevent, pursue, protect and respond- and calls for a reinforcement of the prevention strand.

The European Council reaffirms the importance of the role of the EU Counter Terrorism Coordinator in ensuring implementation and evaluation of the Counter Terrorist strategy,

coordinating Counter Terrorist work within the Union, and fostering better communication between the EU and third Countries.

The European Council calls upon:

- Member States to develop prevention mechanisms, in particular to allow the early detection of signs of radicalisation or threats, including threats from violent, militant extremism,
- the Commission, the Council and Member States to improve initiatives to counter radicalisation in all vulnerable populations on the basis of an evaluation of the effectiveness of national policies; Member States should identify best practices and specific operational tools to be shared with other Member States; new areas of work could include integration and the fight against discrimination,
- Member States, government institutions and the Commission, together with the civil society, to enhance their efforts and cooperate even more closely, especially at local level, in order to understand all the factors underlying the phenomenon and to promote strategies that encourage people to give up terrorism. To that end, a network of local professionals should be set up,
- and calls for the development of networks for exchanging practices on prevention.

The European Council stresses the importance of better understanding the methods used for dissemination of terrorist propaganda, including on the Internet. This will require better technical resources and know how. Work on aviation and maritime security need to be developed, in step with threat analysis, in close cooperation with transport operators in order to mitigate the impact on the travelling public. Greater attention should be paid to potential targets such as urban mass transit and high speed rail networks, as well as energy and water infrastructures.

The European Council considers that the instruments for combating the financing of terrorism must be adapted to the new potential vulnerabilities of the financial system, as well as cash smuggling and abuse of money services, and to new payment methods used by terrorists.

The European Council calls upon the Commission to:

- promote increased transparency and responsibility for charitable organisations with a view to ensuring compatibility with Special Recommendation (SR) VIII of the Financial Action Task Force (FATF),

- take into account new payment methods in the elaboration/update of Counter Terrorist Financing measures,
- examine the possibilities to track terrorist financing within the Union,
- present measures to improve feedback to financial institutions regarding the outcome of their cooperation in the fight against terrorism financing.

The Union must ensure that its policies are in full compliance with international law, in particular human rights law. It will play an active role in the fight against terrorism in different multilateral forums, and in particular in the United Nations, where it will continue to work with partners towards a Comprehensive Convention on International Terrorism and work towards enhancing the design, implementation and effectiveness of sanctions by the UN Security Council with a view to safeguarding fundamental rights and ensuring fair and clear procedures. Cooperation with third countries in general and within international organisations need to be strengthened.

In order to be able to analyse the threats at European level, a methodology based on common parameters should be established. Full use should be made of Europol, SitCen and Eurojust in the fight against terrorism.

The European Union Action Plan on Explosives should be implemented and better information on the safety of explosives provided. A legislative framework to address the dangers associated with precursors should be developed.

#### **4.6 Comprehensive and effective EU Disaster Management: reinforcing the EU's capacities to prevent, prepare for and respond to all kinds of disasters**

Natural and man-made disasters such as forest fires, earthquakes, floods and storms, as well as terrorist attacks, increasingly affect the safety and security of citizens and call for the further development of EU action in disaster management.

EU disaster management should be based on an integrated approach, covering the whole disaster cycle encompassing prevention, preparedness, response and recovery for actions both inside and outside the Union.



EU disaster management is built on two main principles: the responsibility of Member States for providing their citizens with the necessary protection in view of the existing risks and threats, and solidarity amongst the Member States to assist each other both before, during and after disasters, if catastrophes overwhelm national capacities or affect more than one Member State. The European Council considers that future EU action should be guided by the objectives of reducing vulnerability to disasters by developing a strategic approach to disaster prevention and by further improving preparedness and response while recognising national responsibility. Guidelines for hazard and risk-mapping methods, assessments and analyses should be developed as well as an overview of the natural and man-made risks that the EU may face in the future. Continued efforts are necessary to strengthen the Union Civil Protection Mechanism and to improve the civil protection instruments, including the availability, interoperability and use of and support for the coordination of assistance also outside the EU territory on occasions of serious emergencies involving EU citizens abroad. The Monitoring and Information Centre (MIC) should be reinforced in order to improve the coordination of Member States' assistance, provide mapping and analytical support to the Member States for the further identification and registration of national and multinational civil protection modules and develop training and exercises in order to contribute to an efficient EU disaster response.

Reducing vulnerability to attacks is one of the major objectives pursued with EU action concerning the protection of EU Critical Infrastructure. The Directive on Critical Infrastructure, when implemented, should be analysed and reviewed in due course in order to consider the possible inclusion of additional policy sectors.

The CBRN (chemical, biological, radiological and nuclear) risk, and in particular the threat of terrorist groups using CBRN materials, has led to action at national and EU levels. The overall goal of the policy on CBRN security is to present a prioritised, relevant and effective European strategy to enhance the protection of EU citizens from incidents involving CBRN materials. In order to achieve this goal, the implementation of the EU CBRN Action Plan based on an all-hazards approach, including actions to prevent, detect, prepare and respond to larger incidents with high risk CBRN materials, is vital.

Increasingly research will be of importance to support all areas of disaster management. Possibilities for research within the seventh research Framework programme and within the following framework programmes need to be analysed and appropriate proposals should be made to support that goal.

Close cooperation with international organisations, in particular the United Nations, which has an overall co-ordinating role in international humanitarian response should continue to be a priority for interventions in third countries, both on the ground and in terms of preparedness (training, joint exercises). In accordance with the 2007 European Consensus on Humanitarian Aid a strong EU coordination and role will enhance the overall international humanitarian response, including concerted efforts to improve the humanitarian system, and would also reinforce the EU ambition of working closely with other humanitarian actors. The safety and security of the EU requires continuous dialogue and cooperation with third countries, and in particular neighbouring countries and countries with a Member State perspective. The Union's increasing initiatives for strengthening regional cooperation, e.g. for the Mediterranean, the Baltic Sea area and the Black Sea, as well as the Eastern partnership, are designed to contribute to this.

## **6. Access to Europe in a globalised world**

### **6.1 Integrated management of the external borders**

The Union must continue to facilitate legal access to the territory of the Member States while in parallel taking measures to counteract illegal immigration and cross-border crime and maintaining a high level of security. The strengthening of border controls should not prevent access to protection systems by those people entitled to benefit under them. The European Council calls for the further development of integrated border management, including the reinforcement of the role of Frontex in order to increase its capacity to respond more effectively to changing migration flows.

The European Council therefore

- requests the Commission to put forward proposals in early 2010 to clarify the mandate and enhance the role of FRONTEX, taking account of the results of the evaluation of the Agency and the role and responsibilities of the Member States in the area of border control. Elements of these proposals can contain preparation of clear common operational procedures containing clear rules of engagement for joint operations at sea, with due regard to ensuring protection for those in need who travel in mixed flows, in accordance with international law; increased operational cooperation between Frontex and countries of origin and transit and examination of the possibility of regular chartering financed by Frontex In order to promote the proper enforcement of the applicable statutory framework for Frontex operations, the

Commission should consider including a mechanism for reporting and recording incidents that can be satisfactorily followed up by the relevant authorities,

- invites FRONTEX itself to consider, within its mandate, establishing regional and/or specialised offices to take account of the diversity of situations, particularly for the land border to the East and the sea border to the South; creating such offices should on no account undermine the unity of the Frontex agency; before creating such offices, Frontex should report to the Council on its intentions,
- invites the Commission to initiate a debate on the long-term development of FRONTEX. This debate should include, as was envisaged in the Hague programme, the feasibility of the creation of a European system of border guards,
- invites the EASO to develop methods to better identify those who are in need of international protection in mixed flows, and to cooperate with Frontex wherever possible,
- considers that the evaluation of the Schengen area will continue to be of key importance and that it therefore should be improved.

The European Council looks forward to the continued phased development of the European Border Surveillance System (Eurosur) in the Southern and Eastern borders, with a view to putting in place a system using modern technologies and supporting Member States, promoting interoperability and uniform border surveillance standards and to ensuring that the necessary cooperation is established between the Member States and with FRONTEX to share necessary surveillance data without delay. This development should take into account the work in other relevant areas of the Integrated Maritime Policy for the European Union as well as being able in the medium term to allow for cooperation with third countries. The European Council invites the Commission to make the necessary proposals to achieve these objectives.

The European Council takes note of the ongoing studies of Member States and Frontex in the field of automated border control and encourages them to continue their work in order to establish best practice with a view to improving border controls at the external borders.

The European Council also invites Member States and the Commission to explore how the different types of checks carried out at the external border can be better coordinated, integrated and rationalised with a view to the twin objective of facilitating access and improving security. Moreover, the potential of enhanced information exchange and closer cooperation between border guard authorities and other

law enforcement authorities working inside the territory should be explored, in order to increase efficiency for all the parties involved and fight cross-border crime more effectively.

The European Council considers that technology can play a key role in improving and reinforcing the system of external border controls. The roll-out of the SIS II and VIS systems therefore remains a key objective and the European Council calls on the Commission and Member States to ensure that they now become fully operational in keeping with the timetables to be established for that purpose. Before creating new systems, an evaluation of already existing systems should be made and the difficulties encountered when they were set up should be taken into account. The setting up of an Agency for large-scale IT systems could play a central role in the possible development of IT systems in the future.

The European Council is of the opinion that an electronic system for recording entry to and exit from Member States could complement the existing systems, in order to allow Member States to share data effectively while guaranteeing data protection rules. The introduction of the system at land borders deserves special attention and the implications to infrastructure and border lines should be analysed before implementation.

The possibilities of new and interoperable technologies hold great potential for rendering border management more efficient as well as more secure but should not lead to discrimination or unequal treatment of passengers. This includes *inter alia* the use of gates for automated border control.

The European Council invites the Commission to

- present proposals for an entry/exit system alongside a fast track registered traveller programme with a view to such a system becoming operational as soon as possible,
- to prepare a study on the possibility and usefulness of developing a European system of travel authorisation and, where appropriate, to make the necessary proposals,
- to continue to examine the issue of automated border controls and other issues connected to rendering border management more efficient.

## **6.2 Visa policy**

The European Council believes that the entry into force of the Visa Code and the gradual roll-out of the VIS will create important new opportunities for further developing the common visa policy. That

visa policy must also be part of a broader vision that takes account of relevant internal and external policy concerns. The European Council therefore encourages the Commission and Member States to take advantage of these developments in order to intensify regional consular cooperation by means of regional consular cooperation programmes which could include, in particular, the establishment of common visa application centres where necessary.

The European Council also invites

- the Commission and Council to continue to explore the possibilities created by the conclusion of visa facilitation agreements with third countries in appropriate cases,
- the Commission to keep the list of third countries whose nationals are or are not subject to a visa requirement under regular review in accordance with appropriate criteria relating e.g. to illegal immigration, public policy and security, which take account of the Union's internal and external policy objectives,
- the Commission to strengthen its efforts to ensure the principle of visa reciprocity and prevent the (re)introduction of visa requirements by third countries towards any Member State and to identify measures which could be used prior to imposing the visa reciprocity mechanism towards those third countries.

The European Council, with a view to creating the possibility of moving to a new stage in the development of the common visa policy, while taking account of Member States competences in this area, invites the Commission to present a study on the possibility of establishing a common European issuing mechanism for short term visas. That study should also examine the possibility of supplementing the presumption of risk associated with the applicant's nationality with an assessment of individual risk.

## **6. A Europe of responsibility, solidarity and partnership in migration and asylum matters**

The European Council recognises both the opportunities and challenges posed by increased mobility of persons, and underlines that well-managed migration can be beneficial to all stakeholders. The European Council equally recognises that, in the context of the important demographic challenges that will face the Union in the future with an increased demand for labour, flexible immigration policies will make an important contribution to the Union's economic development and performance in the longer term. The European Council is of the opinion that the long-term consequences of migration, e.g. on the labour markets and the social situation of

migrants, have to be taken into account and that the interconnection between migration and integration remains crucial, inter alia with regard to the fundamental values of the Union. Furthermore, the European Council recalls that the establishment of a Common European Asylum System (CEAS) by 2012 remains a key policy objective for the EU.

The European Council calls for the development of a comprehensive and sustainable European migration and asylum policy framework, which in a spirit of solidarity can adequately and proactively manage fluctuations in migration flows and address situations such as the present one at the Southern external borders. Serious efforts are needed to build and strengthen dialogue and partnership between the EU and third countries, regions and organisations in order to achieve an enhanced and evidence-based response to these situations, taking into account that illegal immigration enters the Union via other borders or through misuse of visa.

The European Council recognises the need to find practical solutions which increase coherence between migration policies and other policy areas such as foreign and development policy and policies for trade, employment, health and education at the European level. In particular, the European Council invites the Commission to explore procedures that to a greater extent link the development of migration policy to the development of the post-Lisbon Strategy. The European Council recognises the need to make financial resources within the EU increasingly flexible and coherent, both in terms of scope and of applicability, to support policy development in the field of asylum and migration.

The European Council reaffirms the principles set out in the Global Approach to Migration as well as the European Pact on Immigration and Asylum. The European Council also recalls its conclusions of the June and October 2009 European Councils on this subject. It underlines the need to implement all measures in a comprehensive manner and evaluate them as decided. It recalls the five basic commitments set out in the Pact :

- to organise legal immigration to take account of the priorities, needs and reception capacities determined by each Member State, and to encourage integration;
- to control illegal immigration by ensuring that illegal immigrants return to their countries of origin or to a country of transit;
- to make border controls more effective;
- to construct a Europe of asylum;
- to create a comprehensive partnership with the countries of origin and of transit in order to

encourage the synergy between migration and development.

## **6.1 A dynamic and comprehensive migration policy**

### **6.1.1 Consolidating, developing and implementing the EU Global Approach to Migration**

The European Council has consistently underlined the need for EU migration policy to be an integral part of EU external policy and recognises that the EU Global Approach to Migration has proven its relevance as the strategic framework for this purpose. Based on the original principles of solidarity, balance and true partnership with countries of origin and transit outside the Union and in line with what already has been accomplished, the European Council calls for the further development and consolidation of this integrated approach. The implementation of the Global Approach needs to be accelerated by the strategic use of all its existing instruments and improved by increased coordination. A balance between the three areas (promoting mobility and legal migration, optimising the link between migration and development, and preventing and combating illegal immigration) should be maintained. The principal focus should remain on cooperation with the most relevant countries in Africa and Eastern and South-Eastern Europe. Dialogue and cooperation should be further developed also with other countries and regions such as those in Asia and Latin America on the basis of the identification of common interests and challenges.

To this end, the European Council emphasizes the following priorities:

- strategic, evidence based and systematic use of all available instruments of the EU Global Approach to Migration - migration profiles, migration missions, cooperation platforms on migration and development and Mobility partnerships - for long-term cooperation on all dimensions of this policy in close partnership with selected third countries along priority migratory routes,
- continued and expanded use of the Mobility partnership instrument as the main strategic, comprehensive and long-term cooperation framework for migration management with third countries, adding value to existing bilateral frameworks. Success in implementing these partnerships requires improved coordination and substantial capacity-building efforts in countries of origin, transit and destination. The European Council calls for further development of the Mobility partnership instrument, while respecting their voluntary nature. Partnerships should be flexible and responsive to the needs of both the EU and the partner countries, and should include cooperation on all areas of the Global Approach, and

- more efficient use of the Union's existing cooperation instruments to increase the capacity of partner countries, with a view to ensuring well-functioning infrastructures and sufficient administrative capacity to handle all aspects of migration, including improving their capacity to offer adequate protection and increasing the benefits and opportunities created by mobility.

The successful implementation of the Global Approach to Migration should be underpinned by regular evaluations, increased commitment and capacity as well as improved flexibility of the financial instruments of both the European Union and the Member States available in this field.

### **6.1.2 Migration and development**

The European Council underlines the need to take further steps to maximise the positive and minimise the negative effects of migration on development in line with the Global Approach on Migration. Effective policies can provide the framework needed to enable countries of destination and origin and migrants themselves to work in partnership to enhance the effects of international migration on development.

Efforts to promote concerted mobility and migration with countries of origin should be closely linked with efforts to promote the development of opportunities for decent and productive work and improved livelihood options in third countries in order to minimize the brain drain.

To that end, the European Council invites the Commission to submit proposals before 2012 on:

- how to further ensure efficient, secure and low-cost remittance transfers, and enhance the development impact of remittance transfers, as well as to evaluate the feasibility of creating a common EU portal on remittances to inform migrants about transfer costs and encourage competition among remittance service providers, and
- how diaspora groups may be further involved in EU development initiatives, and how EU Member States may support diaspora groups in their efforts to enhance development in their countries of origin,
- ways to further explore the concept of circular migration and study ways to facilitate orderly circulation of migrants, be it either managed or spontaneous, including a wide-ranging study on how relevant policy areas may contribute to and affect the preconditions for increased temporary and circular mobility.



The European Council recognises the need for increased policy coherence at European level in order to promote the positive development effects of migration within the scope of the EU's activities in the external dimension and to align international migration more closely to the achievement of the Millennium Development Goals. The European Council calls on the Council to ensure that it acts in a coordinated and coherent manner in this field.

The connection between climate change, migration and development needs to be further explored, and the European Council therefore invites the Commission to present an analysis of the effects of climate change on international migration, including its potential effects on immigration to the European Union.

### **6.1.3 A concerted policy in keeping with national labour-market requirements**

The European Council recognises that labour immigration can contribute to increased competitiveness and economic vitality. In this sense, the European Council is of the opinion that the Union should create flexible admission systems that are responsive to the priorities, needs, numbers and volumes determined by each Member State and enable migrants to take full advantage of their skills and competence. In order to facilitate better labour matching, coherent immigration policies as well as better integration assessments of the skills in demand on the European labour markets are carried out. These systems must have due regard for Member States' competences, especially for managing their labour markets, and the principle of Union preference.

The European Council invites:

- the Commission and Council to continue to implement the Policy Plan on Legal Migration,
- the Commission to consider how existing information sources and networks can be used more effectively to ensure the availability of the comparable data on migration issues with a view to better informing policy choices,
- the Commission and the Council to evaluate existing policies that should, *inter alia*, improve skills recognition and labour matching between the European Union and third countries and the capacity to analyze labour market needs, the transparency of European on-line employment and recruitment information, training, information dissemination, and skills matching in the country of origin, and

- the Commission to assess the impact and effectiveness of measures adopted in this area with a view to determining whether there is a need for consolidating existing legislation, including regarding categories of workers currently not covered by Union legislation.

#### **6.1.4 Proactive policies for migrants and their rights**

The European Council believes that the objective of granting third-country nationals legally resident in the Member States of the EU a level of rights comparable to those of EU citizens should remain an objective of a common immigration policy and should be implemented as soon as possible, and no later than 2014.

The European Council therefore invites the Commission to submit proposals for:

- consolidation of all legislation in the area of immigration, starting with legal migration, which would be based on an evaluation of the existing *acquis de l'Union* and include amendments needed to simplify and/or, where necessary, extend the existing provisions and improve their implementation and coherence, and
- evaluate and, where necessary, review the directive on family reunification, taking into account the importance of integration measures.

#### **6.1.5 Integration**

The successful integration of legally resident third-country nationals remains the key to maximising the benefits of immigration. European cooperation can contribute to more effective integration policies in Member States by providing incentives and support for the action of Member States. The objective of granting comparable rights, responsibilities, and opportunities for all is at the core of European cooperation in integration, taking into account the necessity of balancing migrants' rights and duties.

Integration is a dynamic, two-way process of mutual interaction, requiring not only efforts by national, regional and local authorities but also a greater commitment by the host community and immigrants.

Member States' integration policies should be supported through the further development of structures and tools for knowledge exchange and coordination with other relevant policy areas, such

as employment, education and social inclusion. Access to employment is central to successful integration.

The European Council also invites the Commission to support Member States' efforts:

- through the development of a coordination mechanism involving the Commission and the Member States using a common reference framework, which should improve structures and tools for European knowledge exchange,
- to incorporate integration issues in a comprehensive way in all relevant policy areas,
- towards the identification of joint practices and European modules to support the integration process, including essential elements such as introductory courses and language classes, a strong commitment by the host community and the active participation of immigrants in all aspects of collective life,
- towards the development of core indicators in a limited number of relevant policy areas (e.g. employment, education and social inclusion) for monitoring the results of integration policies, in order to increase the comparability of national experiences and reinforce the European learning process, and
- for improved consultation with and involvement of civil society, taking into account integration needs in various policy areas and making use of the European Integration Forum and the European website on Integration,
- to enhance democratic values and social cohesion in relation to immigration and integration of immigrants and to promote intercultural dialogue and contacts at all levels.

#### **6.1.6 Effective policies to combat illegal immigration**

The European Council is convinced that effective action against illegal immigration remains essential when developing a common immigration policy. The fight against trafficking in human beings and smuggling of persons, integrated border management and cooperation with countries of origin and transit, supported by police and judicial cooperation, in particular must remain a key priority for this purpose.

An effective and sustainable return policy is an essential element of a well-managed migration system within the Union. The European Union and the Member States should intensify the efforts to return illegally residing third-country nationals. Necessary financial means should be allocated for this purpose. Such a policy must be implemented with full respect for the principle of “non-

refoulement” and for the fundamental rights and dignity of the individual returnees. Voluntary return should be preferred, while acknowledging the inevitable need for efficient means to enforce returns where necessary.

In order to create a comprehensive approach on return and readmission, it is necessary to step up cooperation with the countries of origin and of transit within the framework of the Global Approach to Migration and in line with the Pact on Migration and Asylum, while recognising that all States are required to readmit their own nationals who are staying illegally on the territory of another State.

It is important to ensure that the implementation of the newly adopted instruments in the area of return and sanctions against employers, as well as the readmission agreements in force, is closely monitored in order to ensure their effective application.

The European Council believes that the focus should be placed on:

- encouraging of voluntary return, including through the development of incentive systems, training, reintegration and subsidies, and by using the possibilities offered by existing financial instruments,
- Member States to put into full effect the Union provisions pursuant to which a return decision issued by one Member State is applicable throughout the European Union and the effective application of the principle of mutual recognition of return decisions by recording entry bans in the SIS and facilitating exchange of information; improving the exchange of information on developments at national level in the area of regularisation, with a view to ensuring consistency with the principles of the Pact on Asylum and Migration,
- assistance by the Commission and Frontex and Member States on a voluntary basis, to Member States which face specific and disproportionate pressures, in order to ensure the effectiveness of their return policies towards certain third states,
- more effective action against illegal immigration and trafficking in human beings and smuggling of persons by developing information on migration routes, promoting cooperation on surveillance and border controls, and facilitating readmission by promoting support measures for return and reintegration.
- the conclusion of effective and operational readmission agreements, on a case-by-case basis at EU or bilateral level,
- ensuring that the objective of the EU’s efforts on readmission should add value and increase the efficiency of return policies, including existing bilateral agreements and practices,

- the presentation by the Commission of an evaluation, also of ongoing negotiations, during 2010 of the EC readmission agreements and propose a mechanism to monitor their implementation. The Council should define a renewed, coherent strategy on readmission on that basis, taking into account the overall relations with the country concerned, including a common approach towards third countries that do not cooperate in readmitting their own nationals;
- increased practical cooperation between Member States, for instance by regular chartering of joint return flights, financed by Frontex and the verification of the nationality of third-country nationals eligible for return,
- increased targeted training and equipment support,
- a coordinated approach by Member States by developing the network of liaison officers in countries of origin and transit.

### **6.1.7 Unaccompanied minors**

Unaccompanied minors arriving in the Member States from third countries represent a particularly vulnerable group which requires special attention and dedicated responses, especially in the case of minors at risk. This is a challenge for Member States and raises issues of common concern. Areas identified as requiring particular attention are the exchange of information and best practice, minor's smuggling, cooperation with countries of origin, the question of age assessment, identification and family tracing, and the need to pay particular attention to unaccompanied minors in the context of the fight against human trafficking. A comprehensive response at EU level should combine prevention, protection and assisted return measures while taking into account the best interests of the child.

The European Council therefore welcomes the Commission's initiative to:

- develop an action plan, to be adopted by the Council, on unaccompanied minors which underpins and supplements the relevant legislative and financial instruments and combines measures directed at prevention, protection and assisted return. The action plan should underline the need for cooperation with countries of origin, including cooperation to facilitate the return of minors, as well as to prevent further departures. The action plan should also examine practical measures to facilitate the return of the high number of unaccompanied minors that do not require international protection, while recognising that

the best interests for many may be their reunion with their families and development in their own social and cultural environment.

## **6.2 Asylum: a common area of protection and solidarity**

The European Council remains committed to the objective of establishing a common area of protection and solidarity based on a common asylum procedure and a uniform status for those granted international protection. While the Common European Asylum System (CEAS) should be based on high protection standards, due regard should also be given to fair and effective procedures capable of preventing abuse. It is crucial that individuals, regardless of the Member State in which their application for asylum is lodged, are offered an equivalent level of treatment as regards reception conditions, and the same level as regards procedural arrangements and status determination. The objective should be that similar cases should be treated alike and result in the same outcome.

### **6.2.1 A common area of protection**

There are still significant differences between national provisions and their application. In order to achieve a higher degree of harmonisation, the establishment of a Common European Asylum System (CEAS), should remain a key policy objective for the EU. Common rules, as well as a better and more coherent application of them, should prevent or reduce secondary movements within the EU, and increase mutual trust between Member States.

The development of a Common Asylum Policy should be based on a full and inclusive application of the Geneva Convention on the status of refugees and other relevant international treaties. Such a policy is necessary in order to maintain the long-term sustainability of the asylum system and to promote solidarity within the EU. To reinforce this, the European Union should seek accession to the Geneva Convention and its 1967 Protocol, after the Commission has submitted a report on the legal and practical consequences of an accession.

The European Asylum Support Office (EASO) will be an important tool in the development and implementation of the CEAS and should contribute to strengthening all forms of practical cooperation between the Member States. Therefore the Member States should play an active role in the work of the EASO. EASO should further develop a common educational platform for national

asylum officials, building on in particular the European Asylum Curriculum (EAC). Monitoring the convergence and ongoing quality with a view to reducing disparities of asylum decisions will be another important task.

The Dublin System remains a cornerstone in building the CEAS, as it clearly allocates responsibility for the examination of asylum application.

The European Council accordingly invites:

- the Council and the European Parliament to intensify the efforts to establish a common asylum procedure and a uniform status for those who are granted asylum or subsidiary protection by 2012 at the latest,
- the Commission to undertake a feasibility study on Eurodac as a supporting tool for the entire CEAS, while fully respecting data protection rules,
- the Commission to consider, if necessary, in order to achieve the CEAS, proposing new legislative instruments,
- the Commission to consider, once the CEAS has been established and on the basis of an evaluation of existing legislation and of the EASO, the possibilities for creating a mechanism for the mutual recognition of decisions granting protection,
- invites the Commission to finalise its study on the feasibility and legal and practical implications to establish joint processing of asylum applications.

### **6.2.2 Sharing of responsibilities and solidarity between the Member States**

Effective solidarity with the Member States facing particular pressures should be promoted. This should be achieved through a broad and balanced approach. Mechanisms for the voluntary and coordinated sharing of responsibility between the Member States should therefore be further analyzed and developed. In particular as one of the keys to a credible and sustainable CEAS is for Member States to build sufficient capacity in the national asylum systems, the European Council urges the Member States to support each other in building sufficient capacity in their national asylum systems. The European Asylum Support Office should have a central role in coordinating these capacity-building measures.

The European Council therefore invites the Commission to examine the possibilities for:

- developing the above mentioned mechanism for sharing responsibility between the Member States while assuring that asylum systems are not abused, and the principles of the CEAS are not undermined.
- creating instruments and coordinating mechanisms which will enable Member States to support each other in building capacity, building on Member States own efforts to increase their capacity with regard to their national asylum systems,
- using, in a more effective way, existing EU financial systems aiming at reinforcing internal solidarity, and
- the EASO to evaluate and develop procedures that will facilitate the secondment of officials in order to help those Member States facing particular pressures of asylum seekers.

### **6.2.3 The external dimension of asylum**

The EU should act in partnership and cooperate with third countries hosting large refugee populations. A common EU approach can be more strategic and thereby contribute more efficiently to solving protracted refugee situations. Any development in this area needs to be pursued in close cooperation with the UNHCR and other relevant actors. The European Asylum Support Office should be fully involved in the external dimension of the CEAS. In its dealings with third countries, the EU has the responsibility to actively convey the importance of acceding to, and implementing of, the 1951 Geneva Convention on Refugees and its Protocol.

Promoting solidarity within the EU is crucial but not sufficient to achieve a credible and sustainable common asylum policy. It is therefore important to further develop instruments to express solidarity with third countries in order to promote and help building capacity to handle migratory flows and protracted refugee situations in these countries.

The European Council invites

- the Council and the Commission to enhance capacity building in third countries, in particular their capacity to provide effective protection, and to further develop and expand the idea of Regional Protection Programmes, on the basis of the forthcoming evaluations. Such efforts should be incorporated into the Global Approach to Migration,
- the Council, the European Parliament and the Commission to encourage the voluntary participation of Member States in the joint EU resettlement scheme and increase the total



number of resettled refugees, taking into consideration the specific situation in each Member State,

- the Commission to report annually to the Council and the European Parliament on the resettlement efforts made within the EU, to carry out a mid-term evaluation during 2012 of the progress made, and to evaluate the joint EU resettlement programme in 2014 with a view to identifying necessary improvements,
- the Council and the Commission to find ways to strengthen EU support for the UNHCR,
- the Commission to explore, in that context, new approaches concerning access to asylum procedures targeting main transit countries, such as protection programmes for particular groups or certain procedures for examination of applications for asylum.

## **7. Europe in a globalised world – the external dimension of freedom, security and justice**

The European Council emphasizes the importance of the external dimension of the EU's policy in the area of freedom, security and justice and underlines the need for the increased integration of these policies into the general policies of the European Union. The external dimension is crucial to the successful implementation of the objectives of this programme and should in particular be fully coherent with all other aspects of EU foreign policy.

The European Union must continue to ensure effective implementation, and to conduct evaluations also in this area. All action should be based on transparency and accountability, in particular with regard to the financial instruments.

As reiterated by the 2008 European Security Strategy report, internal and external security are inseparable. Addressing threats, even far away from our continent, is essential to protecting Europe and its citizens.

The European Council invites the Council and the Commission to ensure that coherence and complementary are guaranteed between the political and the operational level of JLS activities. Priorities in external relations should inform and guide the prioritisation of the work of relevant EU agencies (Europol, Eurojust, Frontex, CEPOL, the Lisbon Drugs Observatory and the European Asylum Support Office ).

EU Member States' Liaison officers should be encouraged to further strengthen their cooperation, sharing of information and best practices.

The European Council underscores the need for complementarity between the EU and Member States' action. To that end, increased commitment from the Union and the Member States is required.

## **7.1 A reinforced external dimension**

The European Council has decided that the following principles will continue to guide European Union action in external relations in the area of freedom, security and justice in the future:

- The Union has a single external relations policy,
- The Union and the Member States must work in partnership with third countries,
- The Union and the Member States will actively develop and promote European and international standards,
- The Union and the Member States will cooperate closely with their neighbours,
- The Member States will increase further the exchange of information between themselves and within the Union on multilateral and bilateral activities,
- The Union and the Member States must act with solidarity, coherence and complementarity,
- The Union will make full use of all ranges of instruments available to it,
- The Member States should coordinate with the Union so as to optimise the effective use of resources,
- The Union will engage in information, monitoring and evaluation, inter alia in collaboration with the European Parliament,
- The Union will work with a proactive approach in its external relations.

The European Council considers that the JLS policies should be well integrated into the general policies of the Union. The adoption of the Lisbon Treaty offers new possibilities for the European Union to act more efficiently in external relations. The new High Representative, who is also a Vice President of the Commission, the European External Action Service and the Commission will ensure better coherence between traditional external policy instruments and internal instruments with significant external dimensions, such as freedom, security and justice. Consideration should be given to the added value that could be achieved by including specific JLS competence in EU delegations in strategic partner countries. Furthermore, the legal personality of the Union should enable the Union to act with increased strength in international organisations.

The Council recognises that ESDP and many JLS external actions have shared or complementary objectives. ESDP missions also make an important contribution to the EU's internal security in their efforts to support the fight against serious transnational crime in their host countries and to build respect for the rule of law. The European Council encourages greater cooperation between JLS and ESDP to further these shared objectives.

The new basis under the Treaty for concluding international agreements will ensure that the Union can negotiate more effectively with key partners. The European Council intends to capitalise on all these new instruments to the fullest extent.

The European Council underscores the need for complementary between the EU and Member States' action. This will require a further commitment from the Union and the Member States. The European Council therefore asks the High Representative to report on ways to ensure complementary by December 2011 at the latest.

## **7.2 Human rights**

The Lisbon Treaty offers the Union new instruments as regards the protection of fundamental rights both internally and externally. The values of the Union should be promoted and strict compliance with and development of international law should be respected. The European Council calls for the establishment of a Human Rights Action Plan to promote its values in the external dimension. This Plan should be examined by the European Council and should take into account that internal and external aspects of Human Rights are interlinked, for instance as regards the principle of non-refoulement or the use of death penalty by partners that the Union cooperate with. The Plan should contain specific measures in the short, medium and long term, and designate who is responsible for carrying out the actions.

## **7.3 Continued thematic priorities with new tools**

The European Council considers that the key thematic priorities identified in the previous strategy remain valid, i.e. the fight against terrorism, organised crime, corruption, drugs, the exchange of personal data in a secure environment and managing migration flows. The fight against trafficking in human beings and smuggling of persons needs to be stepped up.

Building on the Strategy for Justice, Home Affairs and External Relations adopted in 2005 and other relevant *acquis* in this field, such as the Global Approach to Migration, EU external cooperation should focus on areas where EU activity provides added value, in particular:

- *Migration and asylum*, with a view to increasing EU dialogue and cooperation with countries of origin and transit in order to improve their capacity to carry out border control, to fight against illegal immigration, to better manage migration flows and to ensure protection as well as to benefit from the positive effects of migration on development; return and readmission is a priority in the EU's external relations,
- *Security*, by engaging with third countries to combat serious and organised crime, terrorism, drugs, trafficking in human beings and smuggling of persons, inter alia by focusing the EU's counter-terrorism activities primarily on prevention and by protecting critical infrastructures, Internal and external security are inseparable. Addressing threats, even far away from our continent, is essential to protecting Europe and its citizens,
- *Information exchange* that flows securely, efficiently and with adequate data protection standards between the EU and third countries, and
- *Justice*, to promote the rule of law and human rights, good governance, fight against corruption, the civil law dimension, promote security and stability and create a safe and solid environment for business, trade and investment,
- *Civil protection and disaster management*, in particular to develop capacities of prevention and answers to major technological and natural catastrophes as well as to meet threats from terrorists.

The European Council invites the Commission to

- examine whether ad hoc cooperation agreements with specific third countries to be identified by the Council could be a way of enhancing the fight against trafficking and smuggling of persons and making proposals to that end. In particular, such agreements could involve full use of all leverage available to the Union, including the use of existing financing programmes, cooperation in the exchange of information, judicial cooperation and migration tools.

The threat of terrorism and organised crime remains high. It is therefore necessary to work with key strategic partners to exchange information while continuing to work on longer-term objectives such as measures to prevent radicalisation and recruitment, as well as the protection of critical infrastructures. Operational agreements by Eurojust, Europol, as well as working arrangements with Frontex, should be strengthened.

## 7.5 Agreements with third countries

The Lisbon Treaty provides for new and more efficient procedures for the conclusion of agreements with third countries. The European Council recommends that such agreements, in particular as regards judicial cooperation as well as in the field of civil law, should be considered to be used more frequently. It notes however that Member States will maintain the option of entering into bilateral agreements which comply with Union law, and that a legal framework has been created for certain bilateral agreements in civil law as well.

Protection of personal data is a core activity of the Union. There is a need for a coherent legislative framework for the Union for personal data transfers to third countries for law enforcement. A framework model agreement consisting of commonly applicable core elements of data protection could be created.

## 7.6 Geographical priorities and international organisations

EU action in external relations should focus on key partners, in particular:

- *Candidate countries and countries with a European Union membership perspective* for which the main objective would be to assist them in transposing the EU acquis,
- *European neighbourhood countries, and other key partners* with whom the EU should cooperate on all issues in the area of freedom, security and justice,
- *EEA/Schengen states* have a close relationship with the EU. This motivates closer cooperation, based on mutual trust and solidarity to enhance the positive effects of the internal market as well as to promote EU internal security,
- *the United States of America, the Russian Federation and other strategic partners* with which the EU should cooperate on all issues in the area of freedom, justice and security, and
- *Other countries or regions of priority*, in terms of their contribution to EU strategic or geographical priorities,
- International organisations such as the UN and the Council of Europe with whom the Union need to continue to work and within which the Union should coordinate its position.

In the **Western Balkans**, Stabilisation and Association Agreements are progressively entering into force and notable progress has been made in the area of visa policy, with visa facilitation and

readmission agreements in place and a comprehensive visa liberalisation dialogue already achieved for some countries and still under way for others. Further efforts, including use of financial instruments, are needed to combat organised crime and corruption, to guarantee fundamental rights and to build administrative capacities in border management, law enforcement and the judiciary in order to make the European perspective a reality.

The EU and **Turkey** have agreed to intensify the cooperation to meet the common challenge of managing migration flows and to tackle illegal migration in particular. Taking into account geographical realities and Turkey's efforts in its negotiating process, this cooperation should focus on joint responsibility, solidarity, cooperation with all Member States and common understanding, and also take note of EU's existing financial assistance to candidate countries in relevant areas, including border control. Concluding the negotiations on the readmission agreement with Turkey is a priority; until then, already existing bilateral agreements should be adequately implemented.

The European Council emphasizes that the **European Neighbourhood Policy** offers future opportunities for the Union to act in a coordinated and efficient manner and contribute to strengthen capacity and institution-building for an independent and impartial judiciary, law enforcement authorities and anti-corruption efforts, as well as increasing and facilitating the mobility of citizens of the partner countries. As regards the Eastern Partnership countries, the EU is holding out the prospect of concluding Association Agreements (with substantial JLS parts) with those countries and supporting, the mobility of citizens and, as a long term perspective, visa liberalisation in a secure environment.

The European Council calls for the development before the end of 2010 a plan on how to take cooperation with the Eastern Partnership countries forward, comprising freedom, security and justice aspects of the Eastern Partnership as well as chapters on freedom, security and justice of the ENP Action Plans (or their successor documents) of the countries concerned. This plan should also list gradual steps towards full visa liberalisation as a long term goal for individual partner countries on a case-by-case basis, as well as describe the conditions for well-managed and secure mobility, mentioned in the Joint Declaration of the Prague Eastern Partnership Summit. The European Council will review the plan by the end of 2012, and in particular to assess its impact on the ground.

The EU should increase its efforts to support stability and security of **the Black Sea Region** as a whole and enhance further **the Black Sea Synergy** regional cooperation initiative. Activities should

in particular focus on border management, migration management, customs cooperation and the Rule of Law as well as fight against cross-border crime.

As regards the **Union for the Mediterranean**, it will be necessary to enhance the work started in the context of the Barcelona process and the Euro-Mediterranean Partnership, in particular regarding migration (maritime), border surveillance, preventing and fighting drug trafficking, law enforcement and judicial cooperation. The European Council invites the Commission in cooperation with the High Representative to submit such a plan in 2010 and asks Coreper to prepare as soon as possible the decisions to be taken by the Council. The European Council will review the Plan by the end of 2012, and in particular to assess its impact on the ground.

As regards the situation in the Mediterranean area, the European Council considers that a stronger partnership with third countries of transit and origin is necessary, based on reciprocal requirements and operational support, including border control, fight against organised crime, return and readmission. Rapid action to face the challenges in this region is a priority.

Cooperation has been intensified with the **USA** in the past 10 years including on all matters relating to the area of freedom, security and justice. Regular Ministerial Troika and Senior officials' meetings are held under each Presidency. In line with what has been laid down in the "Washington Statement" adopted at the Ministerial Troika meeting in October 2009, the dialogue should continue and be deepened.

Ongoing cooperation in the fight against terrorism and transnational crime, border security, visa policy, migration and judicial cooperation should be pursued. The agreement on the protection of personal data exchanged for law enforcement purposes needs to be negotiated and concluded rapidly. The EU and the USA will work together to complete visa-free travel between the US and the EU as soon as possible and increase security for travellers. Joint procedures should be set up for the implementation of the agreements on judicial cooperation, and regular consultations need to take place.

The Common Space for an area of freedom, security and justice and the new agreement currently under negotiation will provide the framework for intense and improved future cooperation with the **Russian Federation**. Building also on the outcomes of the bi-annual JLS Permanent Partnership Councils, the EU and Russia should continue to cooperate within the framework of the visa dialogue

and on legal migration, while tackling illegal migration, enhance common fight against organised crime and particularly operational cooperation, and improve and intensify judicial cooperation. An agreement, which should satisfy high standards of data protection, should be made with Eurojust as soon as possible. A framework agreement on information exchange should be concluded in that context. The visa dialogue must continue. The visa facilitation and readmission agreement should be implemented fully.

The European Council notes that the 2007 **EU-Africa** Joint Strategy and Action Plan define the scope of cooperation in the areas of counter-terrorism, transnational crime and drug trafficking. Both within the EU-Africa Partnership on Mobility, Migration and Employment (MME) and the EU Global Approach to Migration, and the follow up process of the Rabat and Tripoli conferences, the dialogue on migration should be deepened and intensified with African Partners, focussing on countries along the irregular migration routes to Europe, where Libya is particularly important, with a view to assisting those countries in their efforts to draw up migration policies and responding to illegal immigration at sea and on the borders. Efforts should be made to conclude agreements on re-admission with Algeria, Libya, Morocco and Egypt.

**West Africa** has recently developed into a major hub for drug trafficking from South America to Europe and will require enhanced attention and assistance to stem drug trafficking as well as other transnational crime and terrorism (within the Sahel).

The dialogues with **China** and **India** on counter-terrorism aspects should be broadened and cover other priority areas such as intellectual property rights, migration, including fight against illegal migration and judicial cooperation. When agreements on judicial cooperation are entered into, the Union will continue to require that the death penalty is an issue where no compromises can be made. The dialogue with India on migration should be intensified and cover all migration-related aspects. With regard to China, the dialogue on Human Rights must be continued. The dialogue with **Brazil** will have to become deeper and wider in the years to come. The Strategic Partnership and the Joint Action Plan should be implemented more efficiently and more specific measures should be considered.

With other countries and regions the EU will cooperate regionally or bilaterally as appropriate. The dialogue with Latin-American and Caribbean countries, on migration, drugs trafficking, money laundering and other fields of mutual interest should be pursued within the regional framework (EU-



LAC) and within the framework of the FATF. The implementation of the Action Oriented Paper on drug trafficking will have to be pursued with **Afghanistan**, and work will have to continue with the **Central Asian countries** along the trafficking routes to Europe. As regards **Afghanistan and Iraq**, focus should be kept on effectively addressing the refugee situation through a comprehensive approach.

## **7.7 International organisations and promotion of European and international standards**

The European Council reiterates its commitment to effective multilateralism that supplements the bilateral and regional partnership with third countries and regions.

The United Nations remains the most important international organisation for the Union. The Lisbon Treaty creates the basis for more coherent and efficient EU participation in the work of the UN and other international organisations.

The Union should continue to promote European and international standards and the ratification of international conventions, in particular those developed under the auspices of the United Nations and the Council of Europe.

The work of the Council of Europe is of particular importance. It is the hub of the European values of Democracy, Human Rights and the Rule of Law. The Union must continue to work together with the Council of Europe based on the Memorandum of Understanding signed in 2006 and support its important conventions such as the Trafficking Convention and the one on Protection of Children.

For law enforcement cooperation, Interpol is an important partner for the Union. Civil law cooperation is in particular made in the framework of the Hague Conference on Private International Law. The Union should continue to support the Conference and encourage its partners to ratify the conventions where the EU is or will become a Party or where all Member States are Parties.