



Brussels, 8 April 2011

BACKGROUND¹
JUSTICE AND HOME AFFAIRS COUNCIL
Luxembourg, 11 and 12 April 2011

*The Justice and Home Affairs Council (JHA) will hold a two-day meeting on Monday, 11 and Tuesday, 12 February 2011 under the chair of **Mr Sándor PINTÉR**, Minister for the Interior, and **Mr Tibor NAVRACSICS**, Minister for Justice, in the Conference Centre - FIL, 5, rue Carlo Hemmer, Luxembourg.*

*On Monday, home affairs ministers will discuss migration and border related issues concerning the situation in the **Southern neighbourhood region**, in follow-up to European Council declarations of 11 March and 24-25 March 2011. The Council is expected to adopt conclusions on the subject.*

*Ministers will also have in a public session a first exchange of views on a proposed **EU PNR system**, i.e. on the use of Passenger Name Record data (PNR) for the prevention, detection, investigation and prosecution of terrorist offenses and serious crime. Still in public, the Council will discuss the state-of-play on the establishment of a **European agency for the operational management of large-scale IT systems**.*

*Among the other items on the agenda of the first day, ministers will take note of a Commission report and presentation on the joint EU-US review of the first six months of the implementation of the **EU-US TFTP agreement**. They will also have an exchange of view on the state-of-play concerning the **Common European Asylum System (CEAS)** and get an update on **Greece's national action plan on migration management and asylum reform**.*

*In the margins of the Council on Monday, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) will discuss migration and border related issues concerning the situation in the **Southern neighbourhood region**, as stated above. It will also look at the state-of-play regarding the revised rules for the **European external borders agency Frontex**. The committee will then examine the state of play regarding the development of the **Visa Information System (VIS)**, the **Schengen Information System II (SIS II)** as well as the above mentioned dossier concerning the establishment of a **European agency for the operational management of large-scale IT systems**.*

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

*On Tuesday, justice ministers will discuss the recent Commission communication on the **EU Framework on National Roma Integration Strategies**. They will also try to reach a general approach on the directive regarding **attacks against information systems** which would allow the presidency to start negotiations with the European Parliament.*

*The Council will then be briefed by the Presidency on the already ongoing negotiations with the European Parliament concerning the directive on the **right to information in criminal proceedings** and the directive on combating the sexual abuse, **sexual exploitation of children** and child pornography. Another information item concerns the proposed regulation to simplify the **rules on successions with an international dimension in the EU**.*

*The Commission will then present its **roadmap on victim protection** as well as its most recent proposals concerning rules on **property rights in international marriages or registered partnerships**. Another Commission presentation concerns a **report on the implementation of the Charter of Fundamental Rights**.*

*Other subjects on the agenda include the **European Investigation Order** in criminal matters, the **EU agenda for the rights of the child** and a regulation on the possibility of attributing **legal value to the electronic edition of the Official Journal**.*

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*The presidency intends to organise three **press conferences**: two on 11 April (around 13.00 and at the end of the proceedings), one on 12 April (around 13.00).*

Press conferences and public deliberations can be followed by video streaming:
<http://video.consilium.europa.eu/>

Video coverage of the event will be available for preview and download in broadcast quality (MPEG4) on <http://tvnewsroom.consilium.europa.eu>

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Southern Neighbourhood Region

The Council will discuss developments in the Southern neighbourhood region, in the follow-up to the European Council declaration of 11 March 2011 ([EUCO 7/11](#), points 10-12) and to the 24-25 March 2011 conclusions ([EUCO 10/11](#), points 18-26). Both texts identified a number of priorities for EU action which required to be taken forward in the short, medium and long term.

Ministers are expected to adopt conclusions on the subject.

The EU and its member states have mobilised humanitarian aid and are committed to further assist people in Libya and at its borders mainly to Tunisia and Egypt, in close cooperation with the United Nations High Commissioner for Refugees (UNHCR) and other international and non-governmental organisations.

The Hungarian EU Presidency and the European Commission have also visited Egypt and Tunisia over the past weeks in order to explore concrete elements of cooperation in the area of migration, return, border control and mobility. The talks included possible technical and financial support to the countries of the region. In view of the June European Council, the European Commission has been requested to present proposals for a comprehensive approach to migration with the countries of the Southern Neighbourhood region, particularly in the following three areas:

- migration (consistent with the EU's Global Approach to Migration),
- mobility partnerships (with a special focus on exchanges between European and South Mediterranean youths), and
- the development of capacities to manage migration and refugee flows.

The situation of those EU member states most directly concerned by migratory movements resulting from the political changes and turmoil in North Africa (so far mainly Italy, but also Greece and Malta), has triggered concrete solidarity from the EU and its member states.

In the central Mediterranean area, for example, Italy and the EU border control agency Frontex are conducting a joint operation called Hermes 2011. A total of ten member states have committed resources, in the form of either personnel or technical equipment. For this operation, as well as for the Frontex operation Poseidon 2011 at the sea and land borders in the Eastern Mediterranean, the Commission is requested to make additional resources available from the various European funds. Member states are invited to provide the necessary support as the situation evolves.

Negotiations on the regulation enhancing the capabilities of Frontex should be accelerated, with a possible agreement by June 2011.

EU PNR system

Ministers will examine a Commission proposal for a directive on the use of flight passenger data for the protection against terrorist offences and serious crime ([6007/11](#)).

The purpose of the proposed directive is to set up a coherent EU-wide system on flight passenger data, by creating a single EU model for all member states participating in the new rules and ensuring cooperation between the relevant authorities within the Union. As a consequence, all air carriers flying to or from the participating member states will need to provide the so called Passenger Name Record (PNR) data to member states' law enforcement authorities. They will, however, only be allowed to use the data - that is already today collected by air carriers - for the prevention, detection, investigation and prosecution of terrorist offences and serious (transnational) crime.

24 EU member states will certainly participate in the adoption of the new directive, while Denmark will not be bound by the new rules. As far as the UK and Ireland is concerned, they will need to notify whether they want to opt-in or not.

The main question that will be addressed at the Council meeting is the scope of the directive. The Commission proposal does not cover flights inside the EU, i.e. it restricts the obligation to collect PNR data to flights coming from and going to non-EU countries. There are several alternatives to this aiming at the possibility to include intra-EU flights into the system, which would increase the operational added value of such system. One would make it possible for each member state to designate those intra-EU routes starting from or landing on its territory for which PNR data should be transmitted to law enforcement authorities. Another alternative would make the inclusion of all intra EU-flights mandatory.

The proposed rules also aim to create an EU standard for the use of such data and include provisions on:

- the purposes for which PNR data can be processed (pre-arrival assessment of passengers against pre-determined risk criteria or in order to identify specific persons; the use in specific investigations/prosecutions; input in the development of risk assessment criteria);
- the exchange of such data between the member states and third countries;
- storage (data will initially be stored for 30 days, after which they will be rendered anonymous and stored for another period of five years, with strongly circumscribed possibilities to access the data);
- common protocols and data formats for transferring the PNR data from the air carriers to the Passenger Information Units; and
- strong safeguards as regards protection of privacy and personal data, including the role of national supervisory authorities.

PNR data are already today stored in the carriers' reservation systems. They concern the information provided by passengers to carriers when booking a flight and when checking in on flights. PNR data includes the name, travel dates, travel itinerary, ticket information, contact details, travel agent at which the flight was booked, means of payment used, seat number and baggage information.

The use of these data by member states' law enforcement bodies in specific cases is nothing new: Various member states already use PNR data for law enforcement purposes, either on the basis of specific legislation or on the basis of general legal powers. The collection and use of PNR data has been essential in fighting certain cross-border crimes, such as drug trafficking in human beings or children trafficking. However, there is as yet no common approach across the EU.

Moreover, the U.S., Canada and Australia oblige EU air carriers to make these data available for the passengers flying to or from their territory. As a consequence, PNR agreements exist between the EU and these countries. These agreements are currently being renegotiated.

EU-US TFTP agreement review

Ministers will take note of a Commission report and presentation on the joint EU-US review of the first six months of the implementation of the EU-US TFTP agreement ([8142/11](#)). Article 13 of the EU-US TFTP agreement ([OJ L 195, 27.7.2010](#)) provides for a joint EU-US review six months after the agreement entered into force.

The EU review team has reached the conclusion that all of the relevant elements of the agreement have been implemented in accordance with its provisions, including the data protection provisions. The measures which have been taken to ensure such implementation by the US authorities are convincing, and in some cases go beyond what is required under the agreement. In addition, the review team has been presented with convincing indications of the added value of the TFTP to efforts to combat terrorism and its financing.

The review team also makes a number of recommendations to address perceived shortcomings. They focus on the desirability of providing more publicly accessible information on the way the program functions, in as far as this is possible, without endangering the effectiveness of the program. This concerns, in particular, the overall volume of data provided to the US authorities, and the number of financial payment messages accessed. The EU review team also suggests further enhancing the Europol verification procedure referred to in Article 4 of the agreement. In addition, the EU review team would welcome more verifiable statistical information on the added value of TFTP derived information to efforts to combat terrorism and its financing in order to further substantiate the added value of the program. It also recommends improving some aspects of the provision of information to the general public on the rights accorded to them under the agreement. Finally, the EU review team provides a recommendation on the preparation of future reviews, and suggests that the implementation of the recommendations should be the subject of future review efforts.

The agreement between the EU and the USA on the processing and transfer of financial messaging data for the purposes of the Terrorist Finance Tracking Program (TFTP) was concluded in July 2010 and entered into force on 1 August 2010. It allows the US Department of the Treasury to receive financial payment messaging data stored in the EU by a designated provider in order to allow targeted searches for counter-terrorism investigations, while ensuring an adequate level of data protection. The agreement runs for five years. It will automatically extend for subsequent periods of one year unless one of the parties notifies the other of its intention not to extend the agreement.

Under the TFTP, the US Department of the Treasury seeks to identify, track and pursue suspected terrorists and their providers of finance. It was set up shortly after the terrorist attacks of 11 September 2001. Relevant results of the US analysis have been shared with EU member states and have contributed to effective investigation and prevention of terrorist attacks, including attacks on EU citizens.

Common European Asylum System (CEAS)

Ministers will examine the state of play concerning the legislative proposals making up the Common European Asylum System (CEAS).

Four proposals were identified as priority instruments: the directives on Qualification and on Long Term Residents and the regulations on Dublin II and Eurodac. Regarding the other two legislative files that are part of the overall package, namely the Reception and Procedures directives, the Commission intends to submit amended proposals during the course of 2011.

Important steps have already been taken over the past months:

- First of all, the European Asylum Support Office started operations, including assistance to the asylum system in Greece. In so doing, the Support Office is already contributing to practical cooperation in the field of asylum significantly in advance of the date set out in its establishing regulation (19 June 2011).
- Secondly, the Council is expected to adopt on the same day an amendment to the Long Term Residents' Directive which extends all the rights provided in the text for third country nationals legally residing in an EU member states to beneficiaries of international protection. One of the most important rights granted by this directive - always after having lived in a member states for at least five years - is the right to become a resident in another EU member state.
- Significant progress has also been made in relation to the proposal amending the Qualification Directive. In February and March 2011 the European Parliament and the Council agreed on their respective positions which allowed them to start negotiations.

- Continued efforts have resulted in a further clarification of the views in Council concerning the proposal amending the Dublin Regulation. The key issue outstanding is a proposed mechanism which would allow to suspend the current principle that an application for international protection must be processed in the country where the asylum seeker first entered the EU. The suggested mechanism would be triggered for member states already subject to strong and disproportionate pressure on their asylum systems.
- Potential progress on the negotiations for an emergency mechanism seems to be inextricably related to the proposal amending the Eurodac Regulation. Most delegations await proposals of the Commission allowing access of law enforcement agencies to the Eurodac database.
- Finally, as announced at the Justice and Home Affairs Council in November 2010, the Commission is in the process of preparing revised proposals on the Reception Conditions Directive and the Asylum Procedures Directive. In preparing the two revised proposals, the Commission is expected to take account of the views expressed in Council and the position of the European Parliament.

Greece's National Action Plan on Migration Management and Asylum Reform

The Council will hear from the Greek delegation and the Commission on the progress made concerning Greece's National Action Plan on Migration Management and Asylum Reform.

The Greek authorities set this plan up at the end of 2010 as a consequence of the substantial migratory pressure on their external borders and the subsequent increased pressure on their asylum system.

Acknowledging the European dimension of the Greek situation, the Commission and a large number of member states are assisting Greece in its efforts. The EU border agency Frontex launched in November 2010 a RABIT operation at parts of the Greek-Turkish border. In March 2011, the temporary RABIT operation was succeeded by the enlarged 2011 POSEIDON operation.

Furthermore, the European Asylum Support Office (EASO) will be assisting Greece in implementing the Action Plan, in particular through the deployment of asylum support teams. Important assistance is also provided by international organisations such as the UNHCR.

Among other things, the Greek authorities adopted in November 2010 the Asylum Presidential Decree aimed at addressing the current backlog of over 50000 asylum cases. In January 2011, a law was adopted on the establishment of a new asylum service, the setting up of screening centres and the transposition of the so-called EU return directive.

Attacks against information systems

The Council will hold an orientation debate concerning a directive on attacks against information systems which the Commission tabled on 30 September 2010 ([14436/10](#)). Once adopted, all EU member states but Denmark will need to transpose the text into national law.

Among the outstanding issues are the level of penalties as well as the criminalisation of attacks committed by misusing identity data of another person ('identity theft') included in the initial Commission proposal.

The purpose of the proposal is to update the existing rules dating from 2005 (Framework Decision 2005/222/JHA). The directive defines criminal offences in the area of attacks against information systems and is aimed at approximating the penalty levels for such offences. It also serves to facilitate the prevention of such attacks and to improve the cooperation between competent authorities at EU level in this field.

The Commission proposal retains most of the provisions currently in place - namely the penalisation of illegal access, illegal system interference and illegal data interference as well as instigation, aiding, abetting and attempting to commit those criminal offences - and includes the following new elements in order to address new threats posed by cybercrime:

- penalisation of the use of tools (such as malicious software – e.g. 'botnets'¹ – or unlawfully obtained computer passwords) for committing the offences, thus addressing the large scale cyber attacks, which could be especially damaging;
- attacks committed by misusing identity data of another person, i.e. by concealing the real identity of the perpetrator and thus gaining trust of a third party (such attacks should be considered as aggravating circumstances with higher penalty levels);
- illegal interception of computer data will become a criminal offence;
- improvement of European criminal justice/police cooperation by strengthening the existing structure of 24/7 contact points, including an obligation to provide feedback within 8 hours of an urgent request and;
- the obligation to collect basic statistical data on cybercrimes.

¹ The term botnet indicates a network of computers that have been infected by malicious software (computer virus). Such network of compromised computers ('zombies') may be activated to perform specific actions such as attacks against information systems (cyber attacks). These 'zombies' can be controlled – often without the knowledge of the users of the compromised computers – by another computer.

EU Framework on National Roma Integration Strategies

The Council will have a first exchange of view concerning the [communication](#) on the EU Framework on National Roma Integration Strategies which the Commission adopted on 5 April 2011.

The goal of the communication is to help guide national Roma policies and mobilise funds available at EU level to support the better inclusion of Europe's 10-12 million Roma. Most of them continue to face discrimination, marginalisation, social exclusion segregation, extreme poverty and the denial of their rights. Women and children are especially vulnerable.

The communication focuses on four pillars: access to education, jobs, healthcare and housing. Member states are encouraged to set individual national Roma integration goals in proportion to the population on their territory and depending on their starting point.

Taking into consideration the complexity of the issue of Roma integration the Hungarian Presidency intends to organise a series of discussions based on the Communication in the relevant Council formations up to the European Council on 24 June 2011:

- discussion at the Justice and Home Affairs Council (12 April);
- adoption of Council conclusions at the Employment, Social Policy, Health and Consumer Affairs Council (19 May);
- discussion at the Education, Youth, Culture and Sport Council (20 May);
- integration of these discussions into a Presidency Report which will be presented and debated at the General Affairs Council (23 May).

The Presidency Report will then be endorsed by the European Council on 24 June 2011.

Concerning the justice aspect of the issue, discussions among ministers will focus on questions such as: What are the barriers to the access to justice for marginalized communities, including the Roma? How could access to justice contribute more effectively to reducing poverty at EU and national level? Which are the legal, institutional and/or non-governmental tools in the various member states that could serve as examples for other member states?

Victim protection

The Council will discuss the issue of victim protection in the light of the conclusions of the conference “Protecting Victims in the EU: The Road Ahead” which took place in Budapest on 23-24 March 2011 (8657/11).

These conclusions stress that Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings should be revised. Its provisions need to be made clearer and its obligations made stricter. There has been a general consensus among participants on the need for the EU to take both legislative and non-legislative action in this field, in order to ensure a common minimum level of safeguard for victims.

Key areas to be addressed include: the facilitation of the access to justice for victims; the setting up or strengthening of victim support structures, both public and private; the strengthening of the victim's position in the course of criminal proceedings; ensuring the recognition of the victim's status and protecting his fundamental rights, both in the criminal proceedings and outside; the need for training for professionals who are involved in treatment of victims of crime; the need to collect reliable data at the level of the EU in order to plan further action.

In the course of the conference, the Commission has confirmed its intention to table in the near future a legislative initiative for a package of measures aimed at enhancing the protection of victims in the EU. To support this initiative and complement it by other measures, the Council is working on a coordinated and integrated approach to the various issues at stake which will be presented in the forthcoming resolution "Roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings".

The aim of this resolution is to gather the necessary measures aimed at fostering the protection of victims in the EU, including those set out in the Commission proposal, in a single coherent document, setting out the guiding principles for EU action in this field. The resolution will ask the Commission to take the appropriate initiatives and commit the Council to examining them as matters of priority.

Sexual exploitation of children

The Council will look at the state-of-play regarding the directive on combating the sexual abuse, sexual exploitation of children and child pornography ([8155/10](#)) after the first negotiation meetings in trilogue with the European Parliament.

In December 2010, the Council reached a general approach on the dossier. The goal is a first reading agreement with the European Parliament before the end of the Hungarian presidency.

The main outstanding issues include:

- the issue of sex tourism and in particular the question of jurisdiction;
- the level of penalties;
- the disqualifications arising from convictions which aim to ensure that a person convicted may be temporarily or permanently prevented from exercising certain activities;
- the measures against websites containing or disseminating child.

After its adoption, the directive will not only establish minimum rules concerning criminal offences and sanctions. It will also strengthen the prevention of these crimes and the protection of their victims. All EU member states but Denmark will need to transpose the new rules into national law.

Right to information in criminal proceeding

The Council will discuss the state of play on EU-wide minimum standards as regards the right to information in criminal proceedings. The Council agreed on a general approach in December 2010 ([17503/10](#)). Negotiations with the European Parliament have started with a view to reach agreement by June 2011.

The directive was proposed by the Commission in July 2010 ([12564/10](#)). Its goal is to ensure that any person who is suspected or accused of having committed a criminal offence is provided with information concerning his or her fundamental procedural rights, as well as information on the accusation against him or her - including access to the material of the case. Once adopted, all member states but Denmark will need to transpose the new rules into national law.

The text currently under discussion stipulates that any person arrested has the right to receive upon arrest a so-called "Letter of Rights" in a language that he or she understands. It should be drafted in a simple and accessible language so as to be easily understood by a lay person without any knowledge of criminal procedural law.

This "Letter of Rights" contains information on at least the following procedural rights:

- the right to know how long you can be deprived of liberty in the country concerned before being brought before a judicial authority after arrest;
- the right of access to a lawyer;
- any entitlement to legal advice free of charge and the conditions for obtaining it;
- the right to interpretation and translation;
- the right to remain silent.

The Commission proposal also provides for an indicative model of such a "Letter of Rights". Member states would be free to use this model or draw up a similar document on the basis of that model.

Another important right provided for in the current text of the directive is the right to access the materials of the case. This right is intended to provide the suspect or accused person with detailed information about the charge in order to allow him or her to prepare a defence. This information or access must be provided free of charge. Access to certain materials may however be refused if it could seriously jeopardise the fundamental rights of another person or if refusal is necessary to safeguard an important public interest.

The proposal is a second step in a wider package of legislative and non-legislative initiatives that are aimed at strengthening the procedural rights of suspected or accused persons in criminal proceedings.

The Council unanimously agreed on this wider package, or roadmap, in October 2009 ([14552/1/09](#)). It comprises six main areas:

- translation and interpretation; a directive on this right has already been adopted (Directive 2010/64/EU of 20 October 2010, OJ L 26.10.2010 n. 280, p.1);
- information on rights and information about charges (as presented here);
- legal advice and legal aid (Commission proposal expected in June 2011);
- communication with relatives, employers and consular authorities;
- special safeguards for suspected or accused persons who are vulnerable; and
- a green paper on pre-trial detention.

European Investigation Order

The Council will look at the state of play concerning the European Investigation Order (EIO) in criminal matters. This directive aims to allow one EU member state to carry out investigative measures at the request of another EU members state on the basis of mutual recognition.

The investigative measures would, for example, include the hearing of witnesses, searches and seizures as well as, with additional safeguards, interceptions of telecommunications, observation, infiltration and monitoring of bank accounts.

Currently, the examination of the proposal is focused on the following six issues:

- the scope of the proposal;
- the competent authorities in the issuing and executing state;
- the grounds for non-recognition or non-execution;
- the question of proportionality/legal remedies;
- time limits for the execution of the EIO; and
- the issue of costs.

The EIO is an initiative which was presented in April 2010 by seven member states ([9288/10](#))¹. The United Kingdom decided to participate in the EIO by using the opt-in option provided for in Protocol 21 of the Lisbon Treaty. Ireland and Denmark are not taking part.

Charter of Fundamental Rights

The Council will take note of a Commission report on the implementation of the Charter of Fundamental Rights of the European Union.

The Commission published – for the first time – an Annual Report on the Application of the Charter. The report monitors progress in the areas where the EU has powers to act: showing how the Charter has been taken into account in concrete cases. The report highlights how the fundamental rights enshrined in the Charter are relevant across a range of policies for which the EU is responsible and must always be taken into careful consideration when designing and implementing EU actions: from access to justice and transport policy to border management.

The report brings together for the first time a coherent overview of the most relevant information on the dynamic application of the Charter.

Property rights concerning international couples

The Council will hear a presentation by the Commission of its most recent proposals concerning rules on property rights in international marriages ([8160/11](#)) or registered partnerships ([8163/11](#)). As both proposals relate to family law, the adoption of the new rules require unanimity among EU member states, after consultation of the European Parliament.

¹ Austria, Belgium, Bulgaria, Estonia, Slovenia, Spain and Sweden.

The main goal of the proposals is to bring legal certainty to international couples as regards their property rights. The proposed rules concern couples made up of nationals of different member states or living in a member state other than their state of origin. Uncertainty in this area has been highlighted as one of the obstacles to free movement of persons¹, and the issue has been on the agenda of the EU for many years. Most recently, the Stockholm Programme called for measures on this.

The different proposals are very similar in nature. Nevertheless, it should be noted that across the EU marriage and registered partnership are different legal institutions. Marriage exists in all 27 member states, whereas registered partnership as a more recent institution only exists in 14 member states.

The proposed new rules concern three areas: They will make it possible to identify the relevant jurisdiction if a union comes to an end and the applicable law for the division of property. The free movement of decisions will also be ensured by their automatic recognition throughout the Union, and there will be a uniform simplified procedure for having decisions enforced.

Jurisdiction

The new rules will establish which court has jurisdiction to liquidate a matrimonial property regime or the property consequences of a registered partnership. The Commission proposes that a single court should be responsible:

- The courts with jurisdiction to rule on divorce or legal separation proceedings under the Brussels IIa regulation would have their jurisdiction extended to the liquidation of the matrimonial property regime as a result of a divorce or legal separation.
- Similarly, if one of the spouses or partners dies, the court with jurisdiction over the succession in accordance with the instrument under negotiation (see separate item on succession rules) would have its jurisdiction extended to matters of matrimonial property regimes and the property consequences of partnerships.

Applicable law

Different approaches are proposed for marriage and for registered partnerships because of the specific features of each institution:

- Married spouses are given the option of limited choice of law. The choice is between the law of their common habitual residence or that of their country of nationality. Where no agreement can be reached and, consequently, no law has been chosen, the proposal contains a list of connecting factors to identify the applicable law.
- The same freedom is not proposed for registered partners. Here the proposal provides that the law applicable is the one of the state where the partnership was registered.

¹ Most recently by the 2010 EU Citizenship Report: Dismantling the obstacles to EU citizens' rights, COM (2010) 603.

Recognition and enforcement

The proposed provisions on recognition and enforcement of decisions and instruments are the first measures proposed at EU level concerning the property relationships of international couples:

- Decisions made in one member state will be recognised before the courts of the Member State where enforcement is sought on the basis of *exequatur*. This is a procedure that basically consists of a formal verification of the documents submitted by the applicant, as happens presently in civil and commercial proceedings.
- These new provisions are a considerable step forward compared with the current situation where each member state applies its own procedural rules and has its own grounds for refusing enforcement of foreign decisions, something which seriously hampers the movement of decisions in this area.

Succession

The Council will hear an oral presentation on the state of play on proposed EU wide rules in matters of succession and the creation of a European certificate of succession. The draft regulation was presented by the Commission in October 2009 ([14722/09](#) + [14722/09 ADD 2](#)) and the Council adopted political guidelines for future work in June 2010.

Ministers underlined the importance of the proposed rules since they have the potential to make life easier for heirs, legatees and other interested parties. Not least, the new rules would take some of the stress out of succession planning by enabling people to choose the law that will govern the transmission of all their assets.

In this regard, the proposal provides for the application of a single criterion for determining both the jurisdiction of the authorities and the law applicable to a cross-border succession: the deceased's habitual place of residence. People living abroad will, however, be able to opt to have the law of their country of nationality apply to the entirety of their succession.

All assets making up a succession will thus be governed by one and the same law, thereby reducing the risk that different member states will issue contradictory decisions. Likewise, a single authority will be competent for settling the succession. Lastly, there will be full mutual recognition of decisions and authentic acts in succession matters.

Under the proposed regulation, a European Certificate of Succession would also be created to enable a person to prove their status as heir or their powers as administrator or executor of a succession without further formalities. At present, people sometimes have great difficulty exercising their rights. The result will be faster and cheaper procedures.

It is to be noted that Denmark, the United Kingdom and Ireland will not take part in the adoption and application of the proposed regulation.

Official Journal of the EU

The Council will hear an oral presentation by the Commission on its proposal concerning the electronic edition of the Official Journal of the European Union which was adopted on 4 April 2011 (8609/11).

The new proposal aims to allow everyone to rely on the electronic edition of the Official Journal of the EU as being official, authentic, up-to-date and complete.

The Official Journal of the EU ensures the official publication of the legislation and all other acts of the European Union. It has been published on paper since 1958 and since 1998 it has also been made available on the Internet. However, until now, only the paper version has legal value.

AOB

Under any other business, the Commission will present an EU agenda for the rights of the child and Romania intends to inform about a meeting of the ministers of interior of the member states of the Organization of the Black Sea Economic Cooperation (BSEC) where regional efforts on preventing and combating corruption were discussed.

Mixed Committee

In the margin of the Council session on Monday, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) will discuss the following subjects:

Southern Neighbourhood Region

The committee will discuss developments in the Southern neighbourhood region, in the follow-up to the European Council declaration of 11 March 2011 ([EUCO 7/11](#), points 10-12) and to the 24-25 March 2011 conclusions ([EUCO 10/11](#), points 18-26). Both texts identified a number of priorities for EU action which required to be taken forward in the short, medium and long term.

(see also separate item above)

Frontex Regulation

The committee will look at the state-of-play of discussions on the revision of the rules concerning the European external borders agency Frontex ([6898/10](#)). Some of the issues outstanding include:

- the monitoring in the context of return cooperation;
- the processing of personal data collected by member states for the purpose of risk analysis in the context of operational activities coordinated by the agency; and
- the involvement of third countries, EU agencies and international organisations in Frontex activities.

The presidency intends to start negotiations with the European Parliament in the coming weeks. The goal is to reach agreement before the summer in line with the conclusions of the European Council of 24 March 2011.

EU IT Agency

The Committee will also discuss the state-of-play on the establishment of a European agency for the operational management of large-scale IT systems (such as the second-generation Schengen Information System (SIS II), the Visa Information System (VIS) and EURODAC) ([11722/09](#)).

On this dossier, the Council aims to reach a first reading agreement with the European Parliament before the summer.

SIS II

The committee will discuss the state-of-play of the implementation of the Schengen Information System II (SIS II). The global schedule presented by the Commission at the Council meeting in October 2010 provides for entry into operation of the SIS II by the first quarter of 2013.

VIS

The committee will also look at the progress made regarding the preparations of the Visa Information System (VIS). For the VIS to go live, the central VIS, managed by the Commission, the national VIS of each individual member state as well as preparations at the external border crossing points and in the consulates of the first roll-out region (North Africa) must be ready. The central VIS is expected to be ready by the end of June 2011. The member states will then need to notify the readiness of their national systems as well as their consulates. The whole system should start operating in the autumn 2011.
