



Brussels, 11 May 2011

BACKGROUND¹
JUSTICE AND HOME AFFAIRS COUNCIL
Brussels, 12 May 2011

*The Justice and Home Affairs Council (JHA) will hold a one-day meeting on Thursday, 12 May 2011 under the chair of **Mr Sándor PINTÉR**, Minister for the Interior, in the Justus Lipsius building in Brussels.*

*Ministers will discuss migration issues in relation to developments in the **Southern Neighbourhood Region**. They will address, in particular, the follow-up to the Council conclusions on the management of migration from the Southern Neighbourhood of 11-12 April 2011 and the Commission communication on migration of 4 May 2011.*

*The Council will also have a first exchange of views on the Commission's evaluation of and future strategy for **EU readmission agreements with third countries**, published in February 2011.*

*The Council will then hear a Commission presentation on its evaluation of the **EU data retention directive**, published in April 2011. At the request of Belgium and in light of the nuclear accident in Japan, the Council will be briefed by the Commission on the situation in Japan, and have an exchange of views on how to strengthen further the **Union's ability to respond to nuclear incidents**, mainly within the EU Civil Protection Mechanism.*

*Preceding the Council session, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) will look at the state-of-play of discussions on the revision of the **Frontex regulation**, the rules concerning the European external borders agency Frontex.*

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*The presidency intends to organise a **press conference** on 12 May (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>

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

Southern Neighbourhood Region

The Council will discuss the follow-up to the Council conclusions on the management of migration from the Southern Neighbourhood of 11-12 April 2011 ([8909/11](#)) and the Commission communication on migration of 4 May 2011 ([9731/11](#)).

Underlining that the situation in the Southern neighbourhood and its migratory consequences continues to be a cause of common concern, which requires measures to be taken as a matter of urgency, as well as responses in the medium and long term, the Council conclusions adopted in April set out a number of guidelines for further action. These guidelines concern legislative work and practical cooperation inside the EU as well as cooperation with third countries and international organisations.

The European Commission was requested to present proposals for a comprehensive approach to migration - including with the countries of the Southern neighbourhood region - to be endorsed by the European Council on 24 June 2011.

The Commission communication on migration is a first step in this regard. It presents a number of ideas and initiatives on various aspects of migration, including:

- strengthened border control and a revision of the Schengen governance to address irregular immigration, to ensure that each member state effectively controls its part of the EU's external borders, and to build trust in the effectiveness of the EU system of migration management;
- the completion of the Common European Asylum System (CEAS) by 2012;
- better targeted legal migration into the EU to facilitate the immigration of persons with skills needed in the EU so as to fill expected labour and skills shortages;
- exchange of best practices for successful integration of migrants; and
- a strategic approach for relations with third countries on issues related to migration, mobility and security.

These initiatives come in addition to the urgent short-term measures already taken by the Commission and supported by EU member states to deal with the migration situation in North Africa (technical and financial support to 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) as well as with the migration pressures on Southern EU member states, above all Italy and Malta (Frontex joint operation Hermes 2011, financial assistance through various European funds, relocation of asylum seekers).

The main next steps are:

- various Commission initiatives and proposals on migration, asylum and integration end May / early June (see Commission communication) in the light of the Council discussions;
- JHA Council on 9-10 June;
- European Council on 24 June.

The European Council addressed migration related developments in the Southern neighbourhood region already twice: in its declaration of 11 March 2011 ([EUCO 7/11](#), points 10-12) and its conclusions of 24-25 March 2011 ([EUCO 10/11](#), points 18-26).

EU readmission agreements: Commission evaluation

The Council will have a first exchange of views on the Commission's evaluation of and future strategy for EU readmission agreements with third countries, published in February 2011 ([7044/11](#)). The goal of the presidency is to adopt conclusions on the subject at the June Council meeting.

In the context of the Stockholm Programme, the European Council asked the Commission:

- to evaluate the implementation of the agreements in force;
- to suggest means for better monitoring them;
- to assess the progress or lack of progress of ongoing negotiations; and
- to draw conclusions and provide recommendations for a comprehensive future readmission policy.

Readmission agreements with key third countries of origin or transit constitute a cornerstone for an effective migration management and, in particular, for an efficient return policy of third-country nationals illegally present in the EU.

Since 2000 the Council has issued 19 negotiating directives for readmission agreements with third countries, out of which 13 have already entered into force.¹ The most recent agreement was concluded with Georgia. It entered into force on 1 March 2011.² There are also ongoing negotiations with Turkey³, Cape Verde and Morocco. In the cases of China and Algeria, formal negotiations have not yet started.

Greater cooperation in the area of mobility, for example aiming at visa facilitation for the nationals of the third country concerned, constitute an important incentive during the negotiation phase of readmission agreements. Therefore, readmission agreements often go hand-in-hand with visa facilitation agreements which make it easier and cheaper for third country nationals, in particular those who travel most, to acquire short stay visas for travels to and throughout the EU. A short stay visa is a visa for an intended stay of no more than 90 days per period of 180 days.

So far, the EU has concluded visa facilitation agreements with eight countries, all of which also have concluded readmission agreements with the EU.⁴ Besides that, negotiations on visa facilitation are ongoing with Cape Verde.

¹ In chronological order: Hong Kong, Macao, Sri Lanka, Albania, Russia, Ukraine, FYROM, Bosnia and Herzegovina, Montenegro, Serbia, Moldova, Pakistan, Georgia.

² See this [press release](#).

³ In February, the Council reached political agreement on a draft EU-Turkey readmission agreement which now awaits signature by both parties and also adopted Council conclusions (see the [press release](#) of the February Council, p. 7).

⁴ Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia (FYROM), the Republic of Moldova, Montenegro, Russia, Serbia and Ukraine.

Data retention directive: Commission evaluation

The Council will hear a Commission presentation on its evaluation of the EU data retention directive, published in April 2011 ([9324/11](#)).

The directive was adopted in 2006 and established data retention as a response to urgent security challenges, following major terrorist attacks in Madrid in 2004 and in London in 2005. The report concludes that retained telecommunications data play an important role in the protection of the public against the harm caused by serious crime. They provide vital evidence in solving crimes and ensuring justice. As criminal investigation tools, the use of data related to telephone numbers, IP address or mobile phone identifiers has, for example, resulted in convictions of offenders and acquittals of innocent persons.

The Commission, however, also underlines a number of shortcomings:

- Transposition of the directive has been uneven. As allowed by the directive, retention periods vary between six months and two years. In addition, the purposes for which data may be accessed and used, and the legal procedures for accessing the data, vary sometimes considerably between member states.
- As a consequence, a unified approach at EU level has not emerged,. This can create difficulties for telecommunication service providers, and in particular smaller operators. Operators are, for example, reimbursed differently across the EU for the cost of retaining and giving access to data.
- According to the Commission, the directive also does not in itself guarantee that data are stored, retrieved and used in full compliance with the right to privacy and protection of personal data, and this has led courts to annul the legislation transposing the directive in some member states. Whilst there are no concrete examples of serious breaches of privacy, the risk of data security breaches will remain, according to the Commission, unless further safeguards are put in place.

To remedy these shortcomings, the Commission intends to review the directive, in consultation with the police and the judiciary, industry, data protection authorities, and civil society with a view to proposing amendments to the existing rules.

Nuclear accident in Japan: Consequences for the EU Civil Protection Mechanism

At the request of Belgium and in light of the nuclear accident in Japan, the Council will be briefed by the Commission on the situation in Japan, and have an exchange of views on how to strengthen further the Union's ability to respond to nuclear incidents , mainly within the EU Civil Protection Mechanism.

With a view to improving civil protection operations, the Commission proposed already last year the development of so-called reference scenarios for the main types of disasters, including CBRN (Chemical, Biological, Radiological and Nuclear) and cross-border terrorist attacks, inside and out the EU (see the Commission communication "Towards a stronger European disaster response: the role of civil protection and humanitarian assistance" ([15614/10](#))).

In addition, the existing Civil Protection legislation is currently subject to a review. A legislative proposal is expected to be presented by the Commission later this year.

Mixed Committee - Frontex regulation

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

Southern Neighbourhood Region

The committee will discuss the issue as described in the separate item above.

It will also be informed by the Cypriot delegation on a ministerial meeting on the subject in Nicosia on 19 April 2011. Participants included ministers and ministerial representatives from Cyprus, Greece, Italy, Malta and Spain.

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. Negotiations with the European Parliament started in April. The goal is to reach agreement before the summer in line with the conclusions of the European Council of 24 March 2011.

The main issues outstanding include:

- the exact provisions concerning the financing of technical equipment;
- the involvement of third countries, EU agencies and international organisations in Frontex activities;
- specifications concerning a fundamental rights strategy of Frontex.
