



**COUNCIL OF
THE EUROPEAN UNION**



15966/07 (Presse 275)

PROVISIONAL VERSION

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2838th Council meeting

Justice and Home Affairs

Brussels, 6-7 December 2007

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Minister for the Interior of Portugal

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P R E S S

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15966/07 (Presse 275)

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Main results of the Council

The Council adopted a decision on the full application of the provisions of the Schengen acquis in the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

In the margins of the Council, Justice and Home Affairs Ministers and Employment Ministers met for a policy debate on migration, employment and the Lisbon Strategy.

In addition, the Council proceeded to a broad stocktaking on the state of the EU Counter-Terrorism Strategy implementation. It adopted strategic orientations and priority actions on the security of explosives and gave a new impetus to several strands of relevant work such as on critical infrastructure protection and the prevention of radicalization. It did also set guidelines for future work in new areas such as on addressing CBRN Risks and, specifically on Bio-Preparedness.

Furthermore, it adopted a joint declaration with the Council of Europe establishing a European Day against the Death Penalty.

Finally, the Council reached a general approach on a draft Framework Decision on the recognition and supervision of suspended sentences, alternative sanctions and conditional sentences.

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PARTICIPANTS

The governments of the Member States and the European Commission were represented as follows:

Belgium:

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Mr Patrick DEWAELE

Deputy Prime Minister and Minister for Justice
Deputy Prime Minister and Minister for the Interior

Bulgaria:

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Mr Goran YONOV

Minister for Justice
Deputy Minister for the Interior

Czech Republic:

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Mr Ivan LANGER

Minister for Justice
Minister for the Interior

Denmark:

Ms Lene ESPERSEN
Ms Birthe RØNN HORNBECH

Minister for Justice
Minister for Refugees, Immigration and Integration

Germany:

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Mr Wolfgang SCHÄUBLE

Federal Minister for Justice
Federal Minister for the Interior

Estonia:

Mr Rein LANG
Mr Jüri PIHL

Minister for Justice
Minister for Internal Affairs

Ireland:

Mr Seán POWER

Minister of State at the Department of Justice, Equality
and Law Reform with special responsibility for Equality
Issues

Greece:

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Minister for the Interior

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Mr Jesús CALDERA SÁNCHEZ-CAPITÁN

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Minister for Labour and Social Affairs

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Keeper of the Seals, Minister for Justice
Minister for the Interior, Overseas Territories and Local
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Minister for the Interior

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State Secretary, Ministry of Justice

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Mr Raimondas ŠUKYS

Minister for Justice
Minister for the Interior

Luxembourg:

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Mr Nicolas SCHMIT

Minister for Justice, Minister for the Treasury and the
Budget
Minister with responsibility for Foreign Affairs and
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Hungary:

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Minister for Justice and Law Enforcement

Malta:

Mr Tonio BORG

Deputy Prime Minister, Minister for Justice and Home Affairs

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Ms Guusje ter HORST

Minister for Justice

Minister for the Interior and Kingdom Relations

Austria:

Ms Maria BERGER

Mr Günther PLATTER

Federal Minister for Justice

Federal Minister for the Interior

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Mr Zbigniew CŹWIĄKALSKI

Deputy Prime Minister, Minister for the Interior and Administration

Minister for Justice

Portugal:

Mr Alberto COSTA

Mr Rui PEREIRA

Mr José MAGALHÃES

Minister for Justice

Minister for the Interior

State Secretary for the Interior, attached to the Minister for the Interior

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Mr Tudor CHIUARIU

Mr Cristian DAVID

Minister for Justice

Minister for the Interior and for Administrative Reform

Slovenia:

Mr Lovro ŠTURM

Mr Dragutin MATE

Minister for Justice

Minister for the Interior

Slovakia:

Mr Štefan HARABIN

Mr Robert KALIŇÁK

Deputy Prime Minister and Minister for Justice

Deputy Prime Minister and Minister for the Interior

Finland:

Ms Tuija BRAX

Ms Astrid THORS

Minister for Justice

Minister for Migration and European Affairs

Sweden:

Ms Beatrice ASK

Mr Tobias BILLSTRÖM

Minister for Justice

Minister for Migration

United Kingdom:

Mr Jack STRAW

Ms Meg HILLIER

Mr Frank MULHOLLAND

Secretary of State for Justice and Lord Chancellor

Parliamentary Under Secretary of State, Home Office

Solicitor General Scottish Government

Commission:

Mr Franco FRATTINI

Vice-President

ITEMS DEBATED

MIGRATION, EMPLOYMENT AND LISBON STRATEGY

In the margins of the Council, Justice and Home Affairs Ministers met Employment Ministers met for a policy debate on migration, employment and the Lisbon Strategy.

The debate focused on two main subjects:

- Labour migration, integration into the labour market and the link to the Lisbon Strategy for Growth and Jobs, and
- Undeclared work and illegal employment as a pull factor for illegal immigration.

In the light of the debate, the Presidency concluded that:

- there is a close link between migration, employment and the Lisbon Strategy for Growth and Jobs. Well managed legal migration can continue to contribute to the realisation of the Lisbon Goals and should be aligned with skills shortages and labour market requirements;
- work should now be taken forward on the proposed Directives on the admission of third country nationals for the purpose of highly qualified employment and on the single application procedure and a common set of rights for legally residing third country workers;
- measures to promote integration are important, including in the area of skills and education and employment and social policies, as are the efforts of migrants themselves to integrate;
- combating illegal employment of third country nationals and undeclared work is equally important and dissuasive sanctions and effective enforcement can contribute to this. Work should therefore also be taken forward on the Directive on sanctions against employers of illegally staying third country nationals and on the follow-up to the Commission's Communication on undeclared work.

Background

Since the 1990s, positive net migration has become the largest component of population change in most Member States, reaching – over the last 5 years – a total of close to 2 million net migrants per annum across the EU.

Immigration flows towards Europe are not likely to diminish in the foreseeable future. The overall socio-economic context of the EU is increasingly characterised by skill and labour shortages (already noticeable in a number of sectors), competition for the highly skilled in an ever-more-globalising economy and accelerating demographic ageing of the European population, resulting in just a few years in the shrinking of the EU workforce.

As a follow-up to the 2005 Policy Plan on Legal Migration, the Commission submitted two legislative proposals on 23 October 2007: a Directive on the conditions of admission to the EU for highly-skilled workers and a Directive on the rights of legal immigrants in employment. These proposals are aimed respectively at making the EU attractive for an increasingly-needed category of workers and at ensuring that all third-country workers enjoy a comparable level of rights throughout the EU. The latter proposal also provides for a single application procedure with a view to obtaining a single permit encompassing both a residence and work permit. Three further proposals will be submitted in autumn 2008 and will cover the admission of seasonal workers, intra-corporate transferees and paid trainees.

The Commission also submitted a proposal for a Directive providing for sanctions against employers of illegally resident third-country nationals in May 2007. The aim is to ensure that all Member States introduce similar penalties for employers of such third-country nationals and enforce them effectively. It is proposed to require employers to undertake checks before recruiting a third-country national and to require Member States to conduct a minimum number of inspections of companies established in each Member State.

MOBILITY PARTNERSHIPS AND CIRCULAR MIGRATION - Council conclusions

The Council adopted the following conclusions:

1. In its conclusions of 14-15 December 2006, the European Council agreed on strengthening and deepening international cooperation and dialogue with third countries of origin and transit in a comprehensive and balanced manner. In particular, it stated that while respecting the competences of Member States in this area, consideration had to be given to how legal migration opportunities can be incorporated into the Union's external policies, in order to develop a balanced partnership with third countries adapted to specific EU Member States' labour market needs. In this context, ways and means to facilitate circular and temporary migration had to be explored.
2. The European Council, in the light of the Commission Communication of 16 May 2007 "On Circular Migration and Mobility Partnerships between the European Union and third countries" underlined on 21-22 June 2007 the importance of closer cooperation with third countries in managing migration flows.

It stated that specific partnerships on migration with third countries could contribute to a coherent migration policy which combines measures aimed at facilitating well-managed legal migration opportunities and their benefits - while respecting Member States' competences and the specific needs of their labour markets - with those fighting illegal migration, protecting refugees and tackling the root causes of migration while at the same time impacting positively on development in countries of origin.

3. In this context, the European Council endorsed the Council conclusions of 18 June 2007 in which the Council stated that the concept of mobility partnerships between the European Union, Member States and third countries could be tested by way of a limited number of pilot partnerships. The Council therefore invited the Commission to consult Member States on the further development of this concept, including, in particular, on the terms of reference, and with a view to exploratory talks with interested third countries on pilot partnerships in close cooperation with the Presidency and interested Member States. The Commission was invited to report back to the Council on the outcome of these consultations in order to enable the Council to decide by the end of 2007 whether to invite the Commission to launch pilot partnerships.

4. The Council also agreed that legal migration opportunities, including well-managed circular migration can potentially benefit all partners involved. All possibilities for a well-managed circular migration should therefore be explored in close cooperation with all relevant stakeholders with a view to the adoption of Council Conclusions not later than the end of 2007.
5. The Council recalls the Conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council on Coherence between EU Migration and Development Policies of 20-21 November 2007.
6. The Council underlines that mobility partnerships should be broad, tailor-made and balanced and should include elements of mutual interest, for example, legal migration, the fight against illegal migration, migration and development including circular migration. The Council also recalls that migration to the EU should be based on the respect for the basic values of the EU and its Member States.
7. In view of the above, the Council approves the following conclusions:

A. Mobility Partnerships

8. The Council underlines the importance of close cooperation and political dialogue with third countries in managing migration, building, where appropriate, on existing frameworks and possibilities for the purpose of taking forward a comprehensive approach to migration. The Council considers that mobility partnerships could represent a novel approach capable of bringing added value in implementing different aspects of the Global Approach to Migration. The Council recalls that the purpose and parameters of such mobility partnerships were set out in paragraph 10 of the Council Conclusions of 18 June 2007 "On extending and enhancing the Global Approach to Migration". The Council stresses, however, that the contents of individual mobility partnerships may vary considerably from one country to another, reflecting the specific characteristics of each situation and the respective objectives, priorities and security concerns of both the EU, its Member States and individual third countries.

9. The Council notes that the parties to a mobility partnership would, on the EU side, include both the European Community and Member States willing to participate in and contribute to it. Mobility partnerships would therefore represent an overall political framework, which take into account existing obligations and agreements, combining, as a counterpart to the commitments taken by the third country, in particular in relation to the fight against illegal immigration, elements within Community competence and elements falling within the competences of the Member States, as provided by the Treaty. The Council stresses the fact that mobility partnerships will need to strictly respect the division of competences between the EU and the Member States.
10. The Council welcomes the results of the preliminary discussions held between the Commission and Member States on the added value, possible content and structures of mobility partnerships. On the basis of these discussions, the Council invites the Commission, in close liaison with Member States and/or the Presidency, in order to ensure a close involvement of the Council, to open dialogue with Cape Verde and Moldova, with a view to launching pilot mobility partnerships.
11. Exploratory discussions will be taken forward with a number of other interested third countries with a view to the possibility of launching additional pilot mobility partnerships, in accordance with paragraph 11 of the Council Conclusions of 18 June 2007. In this respect, special consideration will be given to those third countries that have indicated their willingness to open such dialogue and are willing to work with the EU and its Member States on effective migration management.
12. The Commission is invited to report back to the Council on progress not later than June 2008. The development of future mobility partnerships should take account of the experience gained from the pilot projects. On the basis of these further exploratory discussions, the Council may request that dialogue be opened with a view to launching pilot mobility partnerships.

B. Circular Migration

13. The Council welcomes the work undertaken by the Commission to explore possibilities for well-managed circular migration in close cooperation with all relevant stakeholders.
14. Circular migration can be useful in promoting the development of countries of origin or mitigating the adverse effect of brain drain. In further developing policies and launching initiatives to this end, circular migration could be understood as the temporary, legal movement of people between one or more Member States and particular third countries, whereby third country nationals take up legal employment opportunities in the EU or persons legally residing in the EU go to their country of origin. Where this meets the identified labour needs of countries of origin and destination, this can be beneficial to all involved and can contribute to co-development. This may include, for example, voluntary service, periods of study or training in the EU, and exchanges of different kinds. Well managed, incentive-based movements between countries of origin and destination can foster the positive effects of the contribution to development provided by migrants and members of settled diaspora when they visit or return to their country of origin, on a temporary basis. Safeguards which prevent overstaying and ensure return are key elements in order, as a rule, to prevent temporary stay from becoming permanent. Circular migration can be facilitated by a legal framework that promotes mobility and voluntary return.
15. Where circular migration is facilitated in order to meet labour market demands, this should fully respect the Community acquis, Member States competences and the principle of Community preference for EU citizens. Having regard to the conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council on Coherence between EU Migration and Development Policies of 20-21 November 2007, Member States should, in managing circular migration, have due regard to the possible consequences of their policies on the development objectives of countries of origin and strive to maximise the development impact of such policies, particularly with a view to mitigating brain drain.

16. The Council, on the basis of the first discussions on the concept of circular migration and its possible content, takes note of the following possible elements which could be addressed when facilitating circular migration:
- (a) pre-departure information on labour market opportunities, language and skills training and other integration and accompanying measures available to migrants prior to their arrival in the EU;
 - (b) partnerships between labour market agencies of partner countries and Member States to better match supply and demand;
 - (c) improved mutual recognition of qualifications;
 - (d) student exchange programmes, including continuation of scholarships for a number of years following return;
 - (e) measures to ensure ethical recruitment and also to ensure that 'brain drain' is mitigated in sectors suffering from a lack of human resources;
 - (f) advice and assistance on managing remittances for enhanced development benefits as well as enhancing the impact of migrants savings/investments in the countries of origin;
 - (g) support to returning researchers to continue a research project in their home country;
 - (h) reintegration support to those, legally residing in the EU, wishing to return to their countries of origin which is accessible in those countries;
 - (i) measures to ensure return and readmission, including commitments by individual migrants to return and assisted voluntary return;
 - (j) an adequate legal framework to promote circular migration.

The Council underlines that these and further elements must be discussed by the competent Council bodies.

17. The Council recalls that bilateral programmes regarding circular migration could also form part of the broader concept of mobility partnerships between the EU and third countries concerned.
18. The Council invites the Commission to take the necessary steps to facilitate financial support for the setting up of circular migration projects and programmes within the existing financial framework.
19. The Council, underlining the need to establish mechanisms to meet the challenges of an increasingly globalised labour market, invites the Commission and Member States to ensure that Community legislation on legal migration does not impede circular migration.
20. The Council invites the Commission to regularly report back to Council, with due regard to Member States and third countries competences, about projects and national legislation that facilitate circular migration, with a view to identifying good practices and further developing policies."

IMPLEMENTATION OF THE EU COUNTER-TERRORISM STRATEGY

The Council proceeded to a broad stocktaking on the state of the EU Counter-Terrorism Strategy implementation.

It adopted strategic orientations and priority actions on the security of explosives (15618/07) and gave a new impetus to several strands of relevant work such as on critical infrastructure protection (15522/07) and the prevention of radicalization (15443/07). It did also set guidelines for future work in new areas such as on addressing CBRN Risks and, specifically on Bio-Preparedness (15902/07 and 15127/07).

The new EU Counter-Terrorism Coordinator, Mr. Gilles de Kerchove, presented his first set of reports

- on the implementation of the EU Counter-Terrorism strategy and Action plan to combat terrorism (15411/1/07 + *ADD 1 REV 1*),
- on the EU strategy for combating radicalisation and recruitment (15443/07), and
- on the media communication strategy.

In particular, he drew the Council's attention to five subjects:

- information sharing and special investigative methods;
- radicalisation and recruitment;
- financing of technical assistance to third countries;
- organisation of work within the Council; and
- implementation of EU instruments.

Background

The EU Counter-Terrorism Strategy, adopted in December 2005, groups all EU actions in the field of counter-terrorism, under four headings - PREVENT, PROTECT, PURSUE, RESPOND, with the objective of setting out clearly what the EU is trying to achieve and the means by which it intends to do so.

The first objective of the Counter-terrorism Strategy is to prevent people from turning to terrorism by tackling the factors or root causes which can lead to radicalisation and recruitment, in Europe and internationally. To attain this objective, in December 2005 the Council adopted a Strategy and an Action Plan to counter radicalisation and recruitment (see implementation report in *15443/07*).

The second objective of the Counter-terrorism Strategy is to protect citizens and infrastructure and reduce vulnerability to attacks, inter alia through improved security of borders, transport and critical infrastructure.

The third objective of the European strategy against terrorism is to pursue and investigate terrorists across EU borders as well as globally; to impede planning, travel and communications; to disrupt support networks; to cut off funding and access to attack materials and to bring terrorists to justice. The Counter-terrorism Coordinator reported separately on the implementation of the strategy against terrorist financing in October 2007 (*11948/2/07*).

The fourth priority of the EU's Counter-terrorism strategy is to prepare the EU, in a spirit of solidarity, to manage and minimize the consequences of a terrorist attack, by improving capabilities to deal with the aftermath, the coordination of the response, and the needs of victims.

EUROPOL

The Council, pending the overall issue of decisions procedures and the lifting of some parliamentary reservations, reached a general approach on Chapters VI ("Organisation"), VII ("Confidentiality Issues") and IX ("Miscellaneous Provisions") of a draft Council Decision establishing the European Police Office.

On 22 December 2006 the Commission submitted a proposal to the Council for a Council Decision establishing the European Police Office (EUROPOL). This Council Decision will replace the Europol Convention and will constitute a real improvement of the operational and administrative functioning of Europol. The Council Decision is expected to be finalised at the latest by June 2008.

The Council already reached a general approach on Chapter I ("Establishment and Tasks") at its meeting in June 2007, as well as on Chapter II (Information Progressing Systems") and Chapter III ("Common Provisions on Information Processing") at its meeting in November 2007.

EUROPEAN DAY AGAINST THE DEATH PENALTY

"JOINT EUROPEAN UNION/COUNCIL OF EUROPE DECLARATION

ESTABLISHING A "EUROPEAN DAY AGAINST THE DEATH PENALTY"

10 October 2007

Recalling that the death penalty is contrary to the fundamental rights on which the European Union and the Council of Europe are founded; that the abolition of the death penalty is enshrined in Protocols Nos 6 and 13 to the *European Convention on Human Rights and Fundamental Freedoms* and reflected in Article 2 of the *European Union Charter of Fundamental Rights*;

Recalling that since 1997 there has been no instance of capital execution in any part of the geographical area made up by the 47 Member States of the Council of Europe, including the 27 European Union Member States;

Emphasizing that abolition of the death penalty is a condition which States are required to meet in order to become members of the Council of Europe or the European Union;

Inviting Member States of the Council of Europe and the European Union to continue to explain the importance of abolishing the death penalty in Europe for the respect of human dignity;

Recalling the central place held in the European system of human rights by Protocols Nos 6 and 13 to the European Convention on Human Rights and Fundamental Freedoms, which respectively abolish the death penalty in peacetime and in all circumstances, and stressing the importance of their ratification by all the Member States of the Council of Europe;

Recalling the importance of the ratification and promotion by the Member States of the Council of Europe and the European Union of the Second Optional Protocol to the International Covenant on Civil and Political Rights, which is the principal universal instrument aimed at abolishing the death penalty;

Stressing the importance of persevering in the pursuit of actions aimed at abolishing the death penalty in the world, by making representations to third countries, acting within multilateral arenas and supporting the action of civil society towards this end ;

Inviting European citizens to support the abolition of the death penalty in the world and thereby contribute to the development of fundamental rights and human dignity;

Recognizing the importance of the "*World Day against the Death Penalty*", which has taken place on 10 October every year since 2003, and to strengthen this initiative of non-governmental organizations by the involvement of the European Institutions:

The European Union and the Council of Europe,

approve the establishment of the "European Day against the Death Penalty" on 10 October each year."

FRAMEWORK DECISION ON COMBATING TERRORISM

The Council had a first exchange of views concerning a proposal amending the Framework Decision on combating terrorism.

The objective of this proposal is to update the existing Framework Decision with a view to including public provocation to commit terrorist offences, recruitment for terrorism and training for terrorism, e.g. through the intentional distribution of information on the manufacture of explosives and other terrorist weapons.

It is important to include these offences, already addressed e.g. in the Council of Europe Convention on the Prevention of Terrorism, in the Framework Decision because it entails the advantages of the more integrated institutional framework of the EU but also because the legal regime of the Framework Decision in respect of the type and level of criminal penalties and compulsory rules on jurisdiction will be applicable to these offences.

The proposal is part of a wide "terrorism package" which includes an Action plan on explosives, a Framework Decision on a European PNR and an evaluation report on the Framework Decision.

The Presidency indicated that

- the text struck the right balance with fundamental rights and freedoms such as freedom of expression, assembly or of association and the right to respect for family life,
- the text of the Framework Decision should be agreed as regards the incriminations (Article 3 of the Commission proposal) with the objective of avoiding any contradiction with the Council of Europe Convention, and without jeopardising the process of ratification of the Council of Europe Convention,
- to make it absolutely clear that the principle of proportionality applied in the implementation of the Framework Decision, a preamble paragraph should be added with a similar content as Article 12, paragraph 2 of the Convention, and that
- in order to enhance cooperation, especially with other countries, member states should seek to accelerate ratification procedures of the Council of Europe Convention.

In the light of the debate, the Presidency concluded that delegations broadly welcomed this commission proposal.

E-JUSTICE

The Council had an exchange of views regarding "e-Justice".

The Council agreed in June 2007 that work should be carried out in the field of e-justice with a view to creating a decentralised EU e-justice system giving access to the existing or future electronic systems at national or Community level. The Council defined at that time certain priorities for such work.

The Council stated in its conclusions in June 2007 that work should be carried on in the area of e-justice with a view to creating at European level a technical platform giving access, in the sphere of justice, to existing or future electronic systems at national, Community and, where appropriate, international level in some areas.

The e-justice portal should provide a single point of access to European Union and national law. By integrating Member States' and EU's internet resources, the portal should offer access to legal information, judicial and administrative authorities, registers, databases, and other available services with the aim of facilitating the daily tasks of citizens and legal professionals in the context of the European judicial area.

The Council:

- a) took note of the work achieved during the Portuguese Presidency in the light of the conclusions of the Council in June 2007;
- b) noted that work on listing most of the existing projects was underway and was to be completed by the end of the first semester of 2008;

- c) noted that during the first semester of 2008 work would continue in order to implement the priorities defined by the Council. In particular, work would focus on:
- (i) making the e-justice portal as a pilot project operational between the representatives of Member States,
 - (ii) continuing the discussions on the content of the portal,
 - (iii) creating conditions for cross-border videoconferencing; and
 - (iv) continuing technical work in accordance with paragraph 8 of the Council conclusions of June 2007.

The Working Party on Legal Data Processing (e-justice) will submit a report to the Council in June 2008 on progress made in the area of e-justice.

CONTRACTUAL OBLIGATIONS (ROME I)

The Council welcomed a first reading agreement reached with the European Parliament on a Proposal for a Regulation of the law applicable to contractual obligations.

The text will be adopted once it has been revised by jurist-linguists of both institutions.

The purpose of this proposal is to replace the Rome Convention on the law applicable to contractual obligations with a Regulation and at the same time to modernise, where appropriate, its rules. The Regulation will apply in situations involving a conflict of laws, to contractual obligations in civil and commercial matters.

The aim is to harmonise the conflict-of-laws rules concerning contractual obligations within the Community. This harmonisation should make sure that even though the substantive law of the Member States is different, all courts of a Member State would always apply the same law - be it their own or that of another country - to the contract in question.

The proposal is based on the principle of party autonomy, i.e. in most cases the parties are free to choose the law to govern their contract. However, in the absence of choice, the proposal sets forth clear and foreseeable rules to determine the law applicable to a contract. Apart from the general regime, the proposal contains specific conflict-of-law rules for particular cases such as consumer contracts, contracts of carriage, individual employment contracts.

The proposal is an important step forward in order to complete the area of justice and to enhance the principle of mutual recognition of judgments. Numerous informal meetings have been held with the European Parliament with a view to reaching a first reading agreement in the framework of the co-decision procedure. The European Parliament adopted its report on 29 November 2007.

EUROJUST AND THE EUROPEAN JUDICIAL NETWORK ROLE IN THE FIGHT AGAINST ORGANISED CRIME AND TERRORISM

The Council adopted the following conclusions on the fight against organised crime and terrorism in the EU.

" The Council,

welcomes the Commission Communication¹,

considering the Seminar 'Eurojust, navigating the way forward' held in Lisbon on 29-30 October 2007, organised by Eurojust under the auspices of the Presidency,

1. recalls the recommendation of the Hague Programme for strengthening freedom, security and justice in the European Union of November 2004 inviting the Commission and the Council to consider further development of Eurojust;
2. expresses appreciation for the pragmatic analysis carried out in the Commission Communication on the basis of the positive impact that five years of application of the Eurojust Decision² have had on judicial cooperation within Europe;
3. fully endorses the Commission's approach to evaluate the implementation of the Eurojust Decision with a view to envisaging possible future developments for Eurojust, including its relationships with the European Judicial Network (EJN) and other counterparts within and outside the European Union;
4. underlines the importance of the practical and operational experience gained by Eurojust in these five years of existence and by the EJN, considers it to be a valuable basis that should be taken into account when evaluating the needs for further developments and improvements of Eurojust and of the EJN;

¹ 14253/07 EUROJUST 56 EJN 30 COPEN 145.

² Council Decision 2002/187/JHA of 28 February 2002, OJ L 63, 6.3.2002

5. notes that Member States have implemented the Eurojust Decision taking into account their different legal traditions, thus contributing to an objective lack of balance among national members as regards the capacity to perform their tasks in an equivalent manner. Both for Eurojust and the national members, this situation and the actual use of available powers, including any problems encountered, should be thoroughly assessed when examining any needs for improvements;
6. invites Member States to examine further ways of consolidating and strengthening Eurojust with a view to helping Eurojust achieve its potential to enhance practical cooperation, including Eurojust's capacity to provide assistance to national authorities .
7. invites Member States to examine the possibility of enabling national members to play a pro-active and effective role in facilitating co-operation and co-ordination of trans-national serious investigations, while respecting allocation of competences within national systems;
8. considers that further reflection should be undertaken as regards the question of whether there are grounds for enhancing the capacities of the College of Eurojust as a whole, in cooperation with national competent authorities with the aim of optimising their respective roles;
9. calls the attention on the importance of ensuring a more effective flow of information, compatible with national systems, between Member States and Eurojust and calls for the analysis of possible solutions that would enable an enhanced, systematic, structured and comprehensive transmission of information;
10. recommends that suitable solutions be envisaged to better rationalise and optimise the respective tasks of Eurojust and the EJM with a view to avoiding duplication and overlap of work and to strengthening links between Eurojust, the EJM and competent national authorities.

11. invites Member States to bring closer the work of Eurojust national members and national competent authorities, including the EJN and other network contact points with a view to facilitating the coordination of the work carried out by Eurojust, the EJN and other local contact points such as the national correspondent for terrorism;
12. shares the Commission's view that the relationship between Eurojust, Europol, OLAF and other relevant counterparts acting in the area of judicial co-operation should be improved;
13. will examine any proposals that may be presented that will achieve the above political orientations."

EUROPEAN SUPERVISION ORDER IN PRE-TRIAL PROCEDURES BETWEEN MEMBER STATES

The Council took note of information by the Presidency on the work on the proposal regarding the European supervision order in pre-trial procedures between member states of the EU.

On the basis of the mandate provided by the Justice and Home Affairs Council in September, the Portuguese Presidency, after consulting the Commission and the incoming Slovenian and French Presidencies, prepared a revised text of the proposal. This text will soon be discussed for a first time by the Council preparatory bodies.

The European supervision order will allow the suspect to benefit from a non-custodial pre-trial supervision measure in another member state than that where the criminal proceedings are taking place.

**RECOGNITION OF SUSPENDED SENTENCES, ALTERNATIVE SANCTIONS AND
CONDITIONAL SENTENCES**

The Council reached a general approach on a draft Framework Decision on the recognition and supervision of suspended sentences, alternative sanctions and conditional sentences.

This German and French initiative aims at setting rules under which a Member State, other than the Member State in which the person concerned has been sentenced, supervises probation measures imposed on the basis of a judgment, or alternative sanctions contained in such a judgment, and takes - unless otherwise provided - all other decisions relating to that judgment and, where applicable, a probation decision.

Based on the principle of mutual recognition, the draft Framework Decision aims at facilitating the social re-integration of sentenced persons, improving the protection of victims and of the general public, and fostering the application of suitable probation measures and alternative sanctions in case of offenders, who do not live in the State of conviction.

Portugal had designated the work on the draft Framework Decision as one of the main objectives of its Presidency in the field of judicial cooperation in criminal matters.

Building further on the preparatory work carried out by the German Presidency, the Portuguese Presidency, deploying considerable efforts, was able to reach a general approach on the Framework Decision within a period of only 11 months since the start of negotiations.

At the Council some Member States and the Commission regretted the concessions that had to be made on certain issues, such as on the issue of dual criminality, in order to reach agreement. It was however generally acknowledged that the current package constituted a balanced text which was carefully drafted so as to allow that all Member States could agree to the text.

The Council bodies will be invited to examine and finalise the recitals, as well as the certificate and the form.

EXTERNAL RELATIONS

The Council took note of:

- the outcome of the meeting of the seventh EU-Russia Permanent Partnership Council (Justice and Home Affairs) held in Brussels on 22-23 November 2007
- the preparation of the 2nd Conference of the Parties to the UN Convention against Corruption which will be held on 28 January and 1 February 2008,
- the outcome of the Diplomatic Conference at the Hague on the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and the Protocol on the Law Applicable to Maintenance Obligations, and
- the outcome of the First Euro-Mediterranean Ministerial Meeting on Migration which was held in Albufeira (Portugal) on 18 and 19 November 2007.

MIXED COMMITTEE

Enlargement of the Schengen area to nine Member States

The Mixed Committee welcomed the Council's decision on the full application of the provisions of the Schengen acquis in the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

The process of evaluation of these countries regarding the lifting of controls at internal borders has been accomplished and the European Parliament delivered its opinion on 15 November 2007.

It should be noted that, pending the opinion of the European Parliament, the Council had already concluded on 8 November 2007 that the Member States concerned had fulfilled all the necessary conditions for the application of the Schengen acquis (data protection, air, land and sea borders, police cooperation, the Schengen Information System and visas-issuance).

The entry into force of the decision will allow for the lifting of checks on persons at the internal borders on 21 December 2007 at land and sea borders between and with the nine Member States concerned and on 30 March 2008 at air borders.

People will be able to move freely, without checks, within an area expanded to 3.6 million km², the "Schengen area".

For more information see factsheet on the Enlargement of the Schengen area:

www.consilium.europa.eu/showPage.asp

Returning of illegally staying third-country nationals

The Presidency updated the members of the Mixed Committee on the latest developments concerning a proposal for a Directive on common standards and procedures in Member States for returning illegally staying third-country nationals, and in particular on the outcome of the recent discussion with the European Parliament.

This proposal was submitted by the Commission in 2005 and has been examined at length under successive Presidencies. It sets out common standards and procedures to be applied in Member States for returning illegally staying third-country nationals, in accordance with fundamental rights as general principles of Community law as well as international law, including refugee protection and human rights obligations.

The draft Directive deals with key issues in the policy of return such as the voluntary departure of the returnees, the execution of a return decision through a removal procedure, the postponement of removal, the imposition of entry bans as accompanying measure to a return decision, the form of the return decision, the remedies against a return decision and the safeguards for a returnee pending return, the possibility of accelerated procedure of return in certain cases and the detention of returnees and its conditions.

The Council had committed itself to pursuing work in close contact with the European Parliament with a view to reaching agreement for the draft Directive. The Portuguese Presidency has therefore prioritised work on the proposal at the level of the Council and continues to maintain close contact with the Parliament with a view to achieving agreement on the proposal.

Control of the acquisition and possession of weapons

The Mixed Committee welcomed the first reading agreement reached by the Council with the European Parliament concerning a Proposal for a Directive on control of the acquisition and possession of weapons.

On March 2006 the Commission presented the above mentioned Proposal, which seeks to adapt an existing from 1991 Directive on the matter to the provisions of the UN Protocol on the illicit manufacturing of and trafficking in firearms, their parts, components and ammunition to the UN Convention against Transnational Organised Crime of May 2001.

The Parliament voted on a text on 29 November 2007. The Council will proceed to the final adoption of this agreed text with the EP, once the text has been revised by the legal-linguists.

The new Directive will tackle the criminal use of firearms without inconveniencing legal users of weapons.

The legislation would introduce rules enhancing safety with respect to gun ownership, while not inconveniencing hunters, target shooters and other legitimate owners. The text includes control of the sale of guns over the internet, reinforcement of the marking system, computerisation and extension of the period of the record keeping to twenty years.

The new directive will cover the possession and the acquisition of firearms but also of their parts and ammunition, including these imported from third countries. The Directive will as well apply to illicit manufacturing and trafficking of weapons and their essential components. Additionally, convertible weapons are brought within the new definition of 'firearm'. Such weapons have been identified by the police in many Member States as a growing source of firearms for criminals. The text also says that the directive should cover "selling by means of distance communications" (e.g. via the internet), which should be "strictly controlled" by those Member States who allow it at all.

In order to make weapons traceability more efficient, the text requires the use of alphanumeric symbols. The marking, affixed to an "essential component of the firearm", must include the name of manufacturer, the place and the year of fabrication and the serial number.

Member States, according with the subsidiarity principle, can go further than the directive and keep their stricter classification systems in the national gun law. In addition, the text also calls on Member States to simplify administrative procedure of authorisation to acquire and possess firearms.

OTHER ITEMS APPROVED

JUSTICE AND HOME AFFAIRS

Early Warning System for tsunamis in the North East Atlantic and the Mediterranean region - *Council conclusions*

See the following [link](#).

Early Warning System in the EU - *Council conclusions*

See the following [link](#).

Enhancing the Security of Explosives - *Council conclusions*

See the following [link](#).

Minimising Safety, Security and Public Order Risks in Connection with Football Matches with an International Dimension - *Council conclusions*

See the following [link](#).

Drug trafficking along the cocaine route - *Council conclusions*

See the following [link](#).

Chemical, biological Radiological and Nuclear Risks and Bio preparedness - *Council conclusions*

The Council adopted conclusions on addressing Chemical, Biological, Radiological and Nuclear Risks and on Bio-preparedness (CBRN) which show the way forward for meeting CBRN risks of natural, man-made (accidents, terrorism) origin for 2008 and 2009 (15127/07).

These conclusions were established in the light of the Commission Green Paper on bio-preparedness of July 2007 (11951/07) which launched a process of consultation at European level on how to reduce biological risks and to enhance preparedness and response in the context of an all-hazards approach.

They prolong, regarding the terrorist threat, the CBRN Programme of 2002 (14627/02). The CBRN Programme was integrated into the EU Solidarity Programme adopted by the Council on 2 December 2004 which widened the CBRN Programme to all terrorist threats and attacks (15480/04). Finally, the Solidarity Programme was integrated in the EU Action Plan on Combating Terrorism which is a running Action Plan that was created shortly after the attacks of 11 September 2001 and is updated every year.

In addition the Council took note of a document containing a draft inventory of the EU-instruments in the area of bio-preparedness that are relevant for the draft Council conclusions.

[Link](#) to Council conclusions.

European Programme for Critical Infrastructure Protection

The Council took note of a draft progress report on work on a European Programme for Critical Infrastructure Protection. The report takes stock of the progress achieved and gives indications on the way ahead.

Following the Madrid terrorist attack, the European Council of June 2004 asked for the preparation of an overall strategy to enhance the protection of critical infrastructures (10679/2/04, point 19). In December 2005, the Council called on the Commission to submit a proposal in this area while laying down some general principles to be taken into account in future work (14689/05).

In December 2006, the Commission submitted a Communication on a European Programme for Critical Infrastructure Protection (EPCIP) (16932/06) which set out an overall policy approach and framework for EPCIP, as well as a proposal for a Directive on the identification and designation of European Critical Infrastructure and the assessment of the need to improve their protection (16933/06). In addition, in February 2007, the Commission issued a Communication on Protecting Europe's Critical Energy and Transport Infrastructure.

Cooperation between asset recovery offices

The Council adopted a decision concerning arrangements for cooperation between asset recovery offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime (6262/07).

It should be noted that the main motive for cross-border organised crime is financial gain. This financial gain is a stimulus for committing further crime to achieve even more profit. Accordingly law enforcement services should have the necessary skills to investigate and analyse financial trails of criminal activity. In order to combat organised crime effectively, information that can lead to the tracing and seizure of proceeds from crime and other property belonging to criminals has to be exchanged rapidly between the Member States of the EU.

It is therefore necessary that close cooperation takes place between the relevant authorities of the Member States involved in the tracing of illicit proceeds and other property that may become liable to confiscation and that provision be made for direct communication between those authorities.

To that end, this decision will allow Member States to put in place national asset recovery offices with competences in these fields and will ensure that these offices can rapidly exchange information.

Organised crime - Exchange of information and intelligence

The Council took note of the final report on the evaluation visits of all 27 Member States concerning exchange of information and intelligence relating to the fight against organised crime between Europol and the Member States and Member States respectively.

Member States are invited to report by the end of 2008 on how they have implemented the recommendations made by experts to them.

Handbook for police and security authorities

The Council adopted a recommendation concerning a handbook for police and security authorities concerning cooperation at major events with an international dimension ([14143/2/07](#)).

European Police College - Work Programme 2008

The Council approved the European Police College (CEPOL) Work Programme for 2008, which will be forwarded to the European Parliament and the Commission for information ([13481/07+COR 1](#)).

European Migration Network

The Council reached a general approach on a draft Decision establishing a European Migration Network.

The decision will be adopted after consideration the European Parliament's opinion.

The Commission presented the above proposal in August 2007. Its purpose is formally to establish the European Migration Network - which has already been launched as a pilot project - and to give it a proper legal basis which describes its objectives, tasks and structure, as well as other elements important for its operation, such as its funding and the setting up of an information exchange system open to the public.

The specific objective of this network will be to meet the information needs of Community institutions and of Member States' authorities and institutions on migration and asylum, by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policy-making in the European Union in these areas. It will also serve to provide the general public with information on these subjects.

Bulgaria and Romania - Accession to Conventions - Enlargement

The Council adopted decisions concerning the accession of Bulgaria and Romania to the Convention on mutual assistance and cooperation between customs administrations (14546/07) and to the Convention on the protection of the European Communities' financial interests (14549/07), in order to make the necessary adjustments to these conventions required by reason of the accession of both countries to the EU.

EU/US troika ministerial meeting

The Council took note of a draft agenda for the justice and home affairs ministerial meeting between the EU and the United States, to be held in Washington DC on 10 and 11 December 2007.

EU drugs assistance projects in third countries

The Council endorsed a note concerning the level of funding and the geographic and thematic distribution of EU drug projects (15998/07).

The note provides an overview aimed at improving coordination and avoiding duplication and gaps in EU drugs assistance projects to candidate countries and third countries.

SCHENGEN

Schengen Information System - Budget

The representatives of the Member States concerned, meeting within the Council, approved the management report concerning the implementation of the C.SIS installation and operation budget for 2006 (15014/07).

Schengen consultation network

The Council adopted a decision updating the technical specifications of the Schengen Consultation Network (15202/07).

EXTERNAL RELATIONS

EU Special Representative to the African Union

The Council adopted a Joint Action appointing a European Union Special Representative (EUSR) to the African Union (AU) (13814/07).

The Joint Action appoints Koen Vervaeke as EUSR. The EUSR will be based in Addis Ababa. The appointment will run for the period from today, 6 December 2007, to 31 December 2008.

The AU has over the past years become a strategic continental actor and a key international partner for the EU. The European Council in December 2006 identified enhancing the EU presence with the AU in Addis Ababa as a concrete measure in the framework of strengthening the EU's strategic partnership with Africa.

The EUSR to the AU is appointed as part of the establishment of a functionally integrated EU delegation to the AU in Addis Ababa. The EUSR will be at the same time EC Head of Delegation.

The mandate of the EUSR will be based on the EU's comprehensive policy objectives in support of African efforts to build a peaceful, democratic and prosperous future as set out in the joint EU-Africa Strategy, which is due to be adopted at the EU-Africa summit in Lisbon on 8-9 December. The African Union will be the EU's key partner in implementing the joint Strategy.

(See also press release S355/07 on HR Solana and Commissioner Michel welcoming the appointment.)

EUSR for Sudan - Amendment of the mandate

The Council adopted a joint action amending joint action 2007/108/CFSP extending the mandate of the EU Special Representative for Sudan, Mr Torben BRYLLE (15327/07).

The mandate of the EUSR for Sudan is amended in order to reflect his new tasks in accordance with the Joint action 2007/677/CFSP on the EU military operation in Chad and Central African republic (EUFOR Tchad/RCA), adopted on 15 October, which defines also a role for the EUSR for Sudan in relation to this military operation.

According to Joint Action 2007/108/CFSP, the policy objectives for the mandate of the EUSR for Sudan take into due account regional ramifications of the conflict in Darfur for Chad and the Central African Republic. The EUSR for Sudan is therefore mandated to provide political guidance to the EU Force Commander, *inter alia*, in order to ensure overall coherence with the EU's actions towards Sudan/Darfur.

Work plan EU-USA on cooperation in crisis management and conflict prevention

The Council approved a draft work plan between the EU and the USA on technical dialogue and increased cooperation in the field of crisis management and conflict prevention.

The EU and the US have already established a dialogue on crisis management and propose to develop it further through close collaboration, consistent with and building upon cooperation with other nations and multilateral organizations with a view to improving responses to regional and international crisis.

COMMON FOREIGN AND SECURITY POLICY

Palestinian Territories - EU missions - Command and control structure

- EUPOL COPPS

The Council adopted a joint action amending joint action 2005/797/CFSP on the EU police mission for the Palestinian Territories (EUPOL COPPS) so as to align the mandate of the mission with the new guidelines on command and control structure for EU civilian operations in crisis management approved by the Council last June (14628/07).

The Council also adopted a decision in order to cover the expenditure of the mission for January and February 2008 within the budget allocated for 2007 (15028/07).

In November 2005, the Council adopted joint action 2005/797/CFSP on the EU police mission for the Palestinian Territories for a period of three years. The operational phase of EUPOL COPPS started on 1 January 2006.

- EU BAM Rafah

The Council adopted a joint action amending joint action 2005/889/CFSP on establishing a EU Border Assistance Mission for the Rafah Crossing Point so as to align the mandate of the mission with the new guidelines on command and control structure for EU civilian operations in crisis management (14805/07).

In November 2005 the Council adopted joint action 2005/889/CFSP establishing a EU Border Assistance Mission for the Rafah Crossing Point (EUBAM Rafah) for a period of 12 months. Subsequently the mission was extended in November 2006 and in May 2007.

APPOINTMENTS

Committee of the Regions

The Council adopted decisions appointing:

(a) as member:

- as proposed by the Belgian government:
Mr Johan SAUWENS, Member of the Flemish Parliament;

for the remainder of the current term of office, which runs until 25 January 2010.

(b) as alternate member:

- as proposed by the Finnish government:
Ms Martina MALMBERG, chair of the municipal council of Inkoo;

- as proposed by the Spanish government:
Ms Elsa CASAS CABELLO, Comisionada de Acción Exterior, Comunidad Autónoma de Canarias;
- as proposed by the Belgian government:
Mr Ludwig CALUWE, Member of the Flemish Parliament;
- as proposed by the French government:
Mr Jean-Jacques FRITZ, conseiller régional de la région Alsace;

for the remainder of the current term of office, which runs until 25 January 2010.
