



Brussels, 18 September 2009

BACKGROUND¹
JUSTICE AND HOME AFFAIRS COUNCIL
Brussels, 21 September 2009

*The Justice and Home Affairs Council (JHA) will hold a one-day meeting on Monday 21 September (under the chair of **Tobias BILLSTRÖM, Minister for Migration**) in the Justus Lipsius building in Brussels.*

*The ministers' work will be almost entirely devoted to **immigration and asylum matters**.*

*The Council session will be preceded by a meeting of the **Mixed Committee** (the EU plus Norway, Iceland, Liechtenstein and Switzerland), starting at 10.00 h. It will examine the state of play of the **Visa Information System (VIS)**.*

*After that, the Council will start with a public exchange of views regarding two documents: the Commission communication on the establishment of a voluntary **Joint EU Resettlement Programme** for refugees in third countries and a related proposal amending the existing rules on the **European Refugee Fund** for the period 2008 to 2013.*

*Still in public debate, ministers will have a general discussion on the outstanding second-wave proposals on **asylum** as well as, more specifically, on the subject of **unaccompanied minors** coming to and seeking asylum within the EU.*

*Over lunch, ministers will meet **António Guterres**, the United Nations High Commissioner for Refugees (UNHCR), to follow-up on the morning discussions. Also at lunch and in the light of the upcoming Commission report on the subject, Commission Vice-President **Jacques Barrot** will brief ministers on the state-of-play regarding **visa reciprocity**.*

*After lunch, the Council will focus discussions on a report by the Commission on the follow-up to the **European Council conclusions** of 18/19 June 2009. This debate will include the proposed **pilot project for Malta on the internal reallocation** of beneficiaries of international protection as well as the role and development of **Frontex operations**, especially in the Mediterranean region.*

*Finally, ministers will touch on the Commission guidelines for the better transposition and application of the directive on the **free movement of EU citizens** with a view to adopt conclusions.*

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

*The presidency intends to organise a **press conference** at the end of the morning and at the end of the afternoon session (tbc).*

Press conferences and public deliberations can be followed by video streaming:

<http://video.consilium.europa.eu/>

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IMMIGRATION ITEMS

Visa Information System (VIS)

In the margins of the Council, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) will be informed by the Presidency and the Commission about the state-of-play regarding the deployment of the Visa Information System (VIS).

Joint EU Resettlement Programme

In public deliberation, the Council will have a first exchange of views regarding the Commission communication on the establishment of a joint EU resettlement programme ([12986/09](#)) and a related proposal amending Council decision No [573/2007/EC](#) on the European Refugee Fund for the period 2008 to 2013. Both will be presented by the Commission.

Resettlement is the transfer of refugees, who have provisional protection, from the first country of asylum to another country, where they can find permanent protection.

The programme proposed by the Commission concerns only the resettlement of refugees from third countries to an EU member state and will be applied on a strictly voluntary basis. It aims at closer political and practical cooperation among the member states, so as to improve the effectiveness and cost-efficiency as well as the humanitarian and strategic impact of their resettlement activities.

The Commission suggests to set common annual priorities on resettlement which could apply to geographic regions and nationalities as well as to specific categories of refugees. Member States which resettle according to these priorities would receive financial assistance of EUR 4.000 per resettled person from the European Refugee Fund. To that end, the existing rules on the European Refugee Fund would need to be amended.

The United Nations High Commissioner for Refugees (UNHCR) estimates that for 2010 alone, out of approximately 10 million refugees worldwide, 203.000 refugees are in need of resettlement. The large majority of the refugees worldwide find themselves outside of the EU, in developing countries in Asia and Africa. Return to their country of origin is the preferred option but often resettlement is the only solution. In 2008, countries around the world offered to resettle some 65,000 refugees. Of these, 4.378, or 6,7 %, were resettled to one of the EU countries.

There are currently 10 Member States which have established annual resettlement programmes, while others have provided resettlement on an ad-hoc basis.

Asylum issues

At the request of Germany, the Council will have a general discussion on two forthcoming proposals in the area of asylum. The Commission is expected to table in October its proposals on:

- qualification and status as a refugee or a person otherwise in need of international protection and
- procedural standards for granting and withdrawing asylum.

These two proposals will complement five other legislative acts in the area of asylum which are already under negotiation: the Dublin regulation, the EURODAC regulation, the reception conditions directive, the European asylum support office and the amendment of the European Refugee Fund.

This package of measures stems from the commitments undertaken in the European Pact on Immigration and Asylum adopted by the European Council in October 2008, with the purpose to complete the Common European Asylum System provided for in the Hague Programme.

Unaccompanied minors

The Council will discuss the subject of unaccompanied minors coming to and seeking asylum within the EU.

Unaccompanied minors represent a particular vulnerable category of migrants which require special attention and dedicated responses. Already today, several community instruments in the field of asylum and migration contain reinforced protection provisions for children as well as specific provision for unaccompanied minors. The specific challenges raised by unaccompanied minors are also the subject of detailed study. The Swedish presidency is currently collating information on the nature and scale of the problem. Another study on the issue is being conducted by the European Migration Network.

The Commission proposed in its communication "An area of freedom, security and justice serving the citizen" ([11060/09](#)) that an action plan should be developed. The goal of this action plan should be to supplement the relevant legislative and financial instruments and strengthen forms of cooperation with countries of origin, including cooperation to facilitate minors' return to their countries of origin.

The question of unaccompanied minors has also been discussed at the informal meeting of ministers on 16 July when the importance of the issue for many member states was underlined.

Visa reciprocity

After a presentation by Commission Vice-President **Jacques Barrot**, ministers will exchange views on the state-of-play regarding visa reciprocity in the light of the upcoming Commission report on the subject.

According to article 1 of regulation [851/2005/EC](#), the Commission shall report every two years on the situation of non-reciprocity relating to those third countries whose nationals enjoy visa-free travel to the EU for stays of up to three months. In the case that such a third country introduces visa requirements for citizens of one or several EU member states, the regulation allows the EU to take reciprocity measures.

The Commission is expected to present its next visa reciprocity report in October 2009.

Follow-up to European Council conclusions

Ministers will exchange views on a report by the Commission on the actions taken in the area of illegal immigration since the European Council adopted its conclusions on 18/19 June 2009 ([11225/09](#)).

This debate will include the proposed pilot project for Malta on the internal reallocation of beneficiaries of international protection as well as the role and development of Frontex operations, notably in the Mediterranean region.

On Malta, the European Council conclusions call "for the coordination of voluntary measures for internal reallocation of beneficiaries of international protection present in the Member States exposed to specific and disproportionate pressures and highly vulnerable persons". In this respect, heads of state and government welcomed the intention of the Commission to start with a pilot project for Malta.

Regarding Frontex, the European Council conclusions underline "a need for strengthened border control operations" as well as "clear rules of engagement for joint patrolling and the disembarkation of rescued persons". It also mentions the increased use of joint return flights.

Free movement of EU citizens within the Community

The Council will exchange views and adopt conclusions on the Commission guidelines for the better transposition and application of directive [2004/38/EC](#) on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

The guidelines, presented on 2 July 2009 ([11815/09](#)), try to clarify a number of issues, such as expulsions and the fight against abuse, in order to facilitate effective application of the directive.

In February already, the Council took note of a Commission report ([5553/09](#)) presenting an overview of how directive 2004/38/EC is transposed into national law and how it is applied in everyday life. The report showed that transposition and application differed substantially from one member state to another.

Article 39 of directive 2004/38/EC requires the Commission to monitor application of the provisions of the directive and to report to the European Parliament and the Council.