



**COUNCIL OF
THE EUROPEAN UNION**



14390/05 (Presse 296)

PROVISIONAL VERSION

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2696th Council Meeting

Justice and Home Affairs

Brussels, 1-2 December 2005

President

Mr Charles Clarke

Secretary of State for the Home Department, Home Secretary
of the United Kingdom

P R E S S

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14390/05 (Presse 296)

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Main Results of the Council

The Council agreed on a new EU strategy for terrorism and on a strategy and a plan of action for combating radicalisation and recruitment. It also agreed on:

- *a report on implementation of the action plan,*
- *an evaluation of national arrangements,*
- *policy recommendations on counter-terrorism,*
- *a report on combating terrorism financing, and*
- *EU emergency and crisis-coordination arrangements.*

The Council had an exchange of views on migration on the basis of a Commission Communication: "priority actions for responding to the challenges of migration" and decided to prepare a follow-up paper on the issue for the next European Council on 15-16 December.

It agreed to reach a "first reading deal" with the European Parliament on a Directive on data retention by the end of the year, on the basis of a text agreed today.

Other agreements reached by the Council concerned a Framework Decision for improving information exchange between law enforcement across the EU, a European order for payment procedure, a procedure for small claims and a draft Directive on mediation in civil and commercial matters.

The Council also adopted, without debate, a directive introducing a minimum standards on procedures in member states for granting and withdrawing refugee status as well as an action plan with a view to preventing and combating trafficking in human beings.

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- The documents whose references are given in the text are available on the Council's Internet site <http://ue.eu.int>.
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the abovementioned Council Internet site or may be obtained from the Press Office.

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PARTICIPANTS

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

Belgium:

Mr Patrick DEWAELE
Ms Laurette ONKELINX

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

Czech Republic:

Mr František BUBLAN
Mr Roman POLÁŠEK

Minister for the Interior
Deputy Minister for Justice

Denmark:

Ms Lene ESPERSEN
Ms Rikke HVILSHØJ

Ministry for Justice
Minister for Refugees, Immigration and Integration

Germany:

Mr Wolfgang SCHÄUBLE
Ms Brigitte ZYPRIES
Mr Günther BECKSTEIN

Federal Minister for the Interior
Federal Minister for Justice
Minister for the Interior, Bavaria

Estonia:

Mr Kalle LAANET
Mr Rein LANG

Minister for the Interior
Minister for Justice

Greece:

Mr Anastasis PAPALIGOURAS
Mr Giorgios VOULGARAKIS

Minister for Justice
Minister for Public Order

Spain:

Mr Juan Fernando LÓPEZ AGUILAR
Mr José Antonio ALONSO SUÁREZ

Minister for Justice
Minister for the Interior

France:

Mr Christian ESTROSI

Minister with responsibility for Regional Planning

Ireland:

Mr Michael McDOWELL

Minister for Justice, Equality and Law Reform

Italy:

Mr Giuseppe PISANU
Mr Roberto CASTELLI

Minister for the Interior
Minister for Justice

Cyprus:

Mr Andreas CHRISTOU
Mr Doros THEODOROU

Minister for the Interior
Minister for Justice and Public Order

Latvia:

Mr Dzintars JAUNDŽEIKARS
Ms Solvita ĀBOLTIŅA

Minister for the Interior
Minister for Justice

Lithuania:

Mr Gintautas BUŽINSKAS
Mr Virgilijus Vladislovas BULOVAS

Minister for Justice
Deputy Minister for the Interior

Luxembourg:

Mr Luc FREIDEN

Minister for Justice, Minister for the Treasury and the Budget, Minister for Defence

Hungary:

Mr József PETRÉTEI

Minister for Justice

Malta:

Mr Tonio BORG

Deputy Prime Minister, Minister for Justice and Home Affairs

Netherlands:

Mr Piet Hein DONNER

Minister for Justice

Austria:

Ms Liese PROKOP
Ms Karin GASTINGER

Federal Minister for the Interior
Federal Minister for Justice

Poland:

Mr Ludwik DORN

Deputy Prime Minister, Minister for the Interior and
Administration
State Secretary, Ministry of Justice

Mr Andrzej GRZELAK

Portugal:

Mr António COSTA
Mr Alberto COSTA

Minister for the Interior
Minister for Justice

Slovenia:

Mr Dragutin MATE
Mr Robert MAROLT

Minister for the Interior
State Secretary at the Ministry of Justice

Slovakia:

Mr Daniel LIPŠIČ
Mr Vladimír PALKO

Deputy Prime Minister and Minister for Justice
Minister for the Interior

Finland:

Mr Kari RAJAMÄKI
Ms Leena LUHTANEN

Minister for the Interior
Minister for Justice

Sweden:

Mr Thomas BODSTRÖM
Ms Barbro HOLMBERG

Minister for Justice
Minister at the Ministry of Foreign Affairs with
responsibility for Migration Policy

United Kingdom:

Mr Charles CLARKE

Secretary of State for the Home Department,
Home Secretary

Mr Lord FALCONER OF THOROTON

Secretary of State for Constitutional Affairs and Lord
Chancellor

Ms Baroness ASHTON of UPHOLLAND

Parliamentary Under-Secretary of State, Department for
Constitutional Affairs

.....
Commission:

Mr Franco FRATTINI

Vice-President

.....
General Secretariat of the Council:

Mr Gijs de VRIES

EU Counter-terrorism Co-ordinator

.....
The Governments of the Acceding States were represented as follows:

Bulgaria:

Mr Rumen PETKOV
Mr Georgi PETKANOV

Minister for the Interior
Minister for Justice

Romania:

Mr Vasile BLAGA
Ms Monica MACOVEI

Minister for Administration and for the Interior
Minister for Justice

ITEMS DEBATED

COUNTER-TERRORISM

The Council held an exchange of views on the EU Counter-terrorism strategy and agreed on a series of documents including among others:

- a new EU Strategy on terrorism,
- a report on implementation of the action plan,
- a strategy for combating radicalisation and recruitment,
- an evaluation of national arrangements,
- policy recommendations on counter-terrorism,
- a report on combating terrorism financing, and
- EU emergency and crisis-coordination arrangements.

– ***EU Counter- Terrorism Strategy***

The new EU strategy (14469/4/05) is made up of a series of powerpoint slides followed by anarrative. The strategy serves two principal functions: (a) To create a clear and coherent framework for the EU's work on Counter Terrorism, and set out concrete objectives for action, and (b) to make Europe's work on Counter Terrorism more comprehensible and transparent for the general public. The visual layout of the slides will help with this second function in particular.

The EU set out a strategic commitment and will cover four strands of work: prevent, protect, pursue and respond:

- PREVENT: to prevent people turning to terrorism by tackling the factors or root causes which can lead to radicalisation and recruitment, in Europe and Internationally;
- PROTECT: to protect citizens and infrastructure and reduce our vulnerability to attack, including through improved security of borders, transport and critical infrastructure;

- PURSUE: to pursue and investigate terrorists across our borders and globally; to impede planning, travel, and communications; to disrupt support networks; to cut off funding and access to attack materials, and bring terrorists to justice; and
- RESPOND: to prepare ourselves, in a spirit of solidarity, to manage and minimise the consequences of a terrorist attack, by improving capabilities to deal with: the aftermath; the co-ordination of the response; and the needs of victims.

Across the four areas of work the Strategy emphasises the importance of work by member States at national level, the need for collective action at European level and crucially, the role that the EU plays globally.

In addition the Strategy will set out how the EU adds value over and above the work done by Member States domestically, and will set out clear governance arrangements involving the three EU Institutions (Council, Commission, Parliament) working closely together, and the role of the Counter Terrorism Co-ordinator in following up and monitoring progress.

The narrative which fits underneath the slides will set out in more detail the EU's objectives and setting some specific priorities for action across the four areas of work.

– ***Implementation of the Action plan to combat terrorism***

The six-monthly report presented by the EU Counter-terrorism co-ordinator, Gijs de Vries, on implementation of the Action plan to combat terrorism (14734/1/05) summarizes good progress made in the last six months and in particular includes an update on all the key dossiers highlighted by the 13 July JHA Council¹ following the London bombings.

The addendum to the report shows the state of implementation by Member States of agreed legislation (14734/1/05 ADD 1).

– ***EU strategy for combating radicalisation and recruitment to terrorism***

The strategy adopted today (14781/1/05) builds on the considerable work since the 25 March 2004 European Council Declaration on Combating Terrorism, including the Commission Communication on Terrorist Recruitment: addressing the factors contributing to violent radicalisation.

It outlines how the Union and Member States will combat radicalisation and recruitment into terrorism.

¹ 11158/05.

While other types of terrorism continue to pose a serious threat to EU citizens, the Union's response to radicalisation and recruitment focuses on this type of extremist terrorism.

Building on an analysis of the issues developed under the Luxembourg Presidency, the Strategy sets out work to combat radicalisation and recruitment under three key headings:

- disrupt the activities of the networks and individuals who draw people into terrorism (addressing 'facilitational' factors which provide for recruitment);
- ensure that voices of mainstream opinion prevail over those of extremism (addressing 'motivational' factors which can lead individuals to become radicalised);
- promote yet more vigorously security, justice, democracy and opportunity for all (addressing 'structural' factors which create the socio-economic environment in which the radical message becomes appealing).

Throughout the EU will ensure that we do not undermine respect for fundamental rights. To ensure the EU responses remain effective and appropriate, it will work to develop the understanding of the problem. In doing this, the EU will engage in dialogue with governments which have faced this problem, academic experts and Muslim communities in Europe and beyond.

Member States will work, individually and together, with the support of the European Commission and other European Union bodies to deliver the strategy.

GLOBAL APPROACH TO MIGRATION

As a follow up to the Hampton Court informal summit held on 27 October, the Council had an exchange of views on the basis of a Commission Communication: "priority actions for responding to the challenges of migration".

The Council addressed in particular the following three questions :

1. Why, in concrete terms, has migration become increasingly important in the EU's relations with third countries?
2. Do Ministers believe that the three key areas of action with respect to migration should be:
 - i) Increasing dialogue and co-operation with key countries of origin?
 - ii) Increasing dialogue and co-operation with neighbouring countries?
 - iii) Strengthening co-operation and action between Member States?
3. To which particular issues and priority actions do Ministers attach importance?

The Council asked the Permanent Representatives Committee to prepare a follow-up paper which will be forwarded to the European Council for discussion at its next meeting on 15-16 December.

EXTERNAL DIMENSION OF THE AREA OF FREEDOM, SECURITY AND JUSTICE

The Council agreed on a Strategy for the External Dimension of the area of Global Freedom, Security and Justice (14366/3/05) and decided to forward it to the General Affairs and External Relations Council for adoption.

The strategy identifies the key thematic priorities as the threat of terrorism, organised crime and the challenge of managing migration flows. The EU's efforts to create an area of freedom, security and justice can only be successful if they are underpinned by a strategic and co-ordinated approach. This work has to be done in partnership with third countries and with an aim to strengthen the rule of law and promote human rights and the respect for international obligations.

The draft strategy describes underlying principles for the EU's engagement with third countries on JHA issues, and sets out the mechanisms which the EU can use to deliver an effective response to the challenge it is confronted. Finally, the Strategy sets out some specific priority issues for action in 2006, including counter-terrorism co-operation with North Africa; drugs work with Afghanistan and countries on the trafficking route to Europe; migration work with Africa; and work with the Western Balkans and neighbouring countries on organised crime and corruption, and with Russia on security and migration issues.

EU ASSISTANCE TO COMBATING DRUGS IN AFGHANISTAN - Council conclusions

As an example of the EU's engagement on a JHA issue outside the EU, the Council agreed Council Conclusions welcoming an increase of over 250m euro in the EU's assistance to Afghanistan in the fight against drugs. The assistance is set out in a detailed matrix which sets out all contributions from Member States and the Commission.

Despite successfully reducing by 21% the cultivation of opium in Afghanistan this year, the drug problem in Afghanistan remains huge. Over 90% of the heroin consumed in the EU originates from Afghanistan. The EU's Drugs Action Plan 2005-12 agreed that the EU would aim to "increase its assistance to Afghanistan and her neighbours" and this objective has been a key Presidency priority as a result.

The campaign to increase the EU's assistance included an appearance by the Counter-Narcotics Minister of Afghanistan (Mr Qaderi) at the Informal meeting of Justice and Home Affairs Ministers in Newcastle in September, as well as holding of the first ever EU-Afghanistan Drugs Troika meeting which Mr Qaderi himself attended.

The United Kingdom is the lead country in coordinating all international anti-drug efforts in Afghanistan.

"THE COUNCIL OF THE EUROPEAN UNION,

Recalling that Afghanistan is the source of approximately 90% of the heroin consumed in the European Union;

Recalling that organised crime, including cross-border trafficking in drugs, is identified as one of the key threats to the security of the EU in the European security strategy;

Recalling the importance of regional and international cooperation for Afghanistan to face successfully the challenges posed by drug cultivation, manufacturing, trafficking and abuse;

Recalling that one of the priorities in external relations of the EU Drugs Strategy (2005-2012), which complements the Hague Programme on strengthening freedom, security and justice in the European Union, is assisting third countries, including key drug producing and transit countries to be more effective in both drugs demand and drugs supply reduction. Particular attention should be paid to the co-operation with, among others, Afghanistan and its neighbours;

Recalling that the EU Drugs Strategy further calls for intensifying law enforcement efforts directed at non-EU countries, especially producer countries and regions along trafficking routes;

Recalling the commitment from the EU Drugs Action Plan (2005-2008) to provide assistance to and co-operate with Afghanistan (particularly in the context of the delivery of its 2005 Counter-Narcotics Implementation Plan and future implementation plans) and its neighbours; the EU and Member States should aim to increase their assistance; and provide assistance to the law enforcement agencies of these countries in the field of counteracting the production and trafficking of drugs and diversion of precursors, including assistance in the field of training;

Recalling the first ever EU Drugs Troika with Afghanistan that took place on 6 September 2005 in Brussels in the presence of the Afghan Minister for Counter Narcotics;

Recalling its recognition of the importance of working with Afghanistan to tackle the supply of heroin to the EU made at the informal meeting of EU Ministers of Justice and Home Affairs on 8-9 September 2005 in Newcastle;

Recalling the need for a balanced approach to the drug problem and thus recognizing the growing problem of drug abuse in Afghanistan;

ADOPTS THE FOLLOWING CONCLUSIONS:

1. The Council welcomes the important progress made by the Afghan Government in combating drugs. The Council congratulates the Government of Afghanistan on achieving a 21% reduction in cultivation in 2005, notes that production fell by much less and welcomes its commitment to reducing cultivation and production further. The publication by the Afghan Government of the 2005 Counter-Narcotics Implementation Plan is also an important step forward. The Council welcomes the balanced and holistic approach set out in the 2005 Counter Narcotics Implementation Plan, and in particular, the Government of Afghanistan's focus on developing licit alternatives to the cultivation of opium poppy while increasing the risk to those involved in drug trafficking and the sale of opiates, as well as reducing the consumption of drugs. The Council also welcomes the establishment of a Ministry of Counter Narcotics charged with developing counter-narcotics policy and co-ordinating the CN activities of related Ministries and Government actors. In this context, the Council looks forward to the publication of the Government of Afghanistan's updated National Drugs Control Strategy.

2. The Council underlines the important steps made in 2005 to increase the EU's assistance to Afghanistan in combating drugs, including the provision of assistance through the UNODC. This work has resulted in an increase of EU commitments of over 250m euro in 2005 and the provision of additional trainers, mentors and other personnel to support the development of Afghan capacity. The Council welcomes the decision by the European Commission to commit euro 15m to Afghanistan's Counter Narcotics Trust Fund (CNTF), which provides an efficient and effective avenue for donor contributions and allows Afghan ownership of the allocation of resources, supported by accounting and scrutiny by the United Nations. The Council welcomes contributions made by Member States, as set out in the annex ('Matrix of increased EU assistance') to these Conclusions.
3. The Council reaffirms that the EU and its Member States will continue to aim to increase their assistance to Afghanistan and her neighbours, in support of the objective set out in the EU Drugs Action Plan 2005-8. For the long-term political and economic stability of Afghanistan, a strong and continued commitment on behalf of the EU is essential. As set out in the EU-Afghanistan Joint Declaration –Committing to a new EU-Afghan Partnership, counter-narcotics work will continue to be a key pillar of activity in the EU-Afghanistan relationship.

The Council therefore welcomes the opportunity to commit resources through the CNTF, and recognises the need to spread assistance across the eight pillars of the Counter Narcotics Implementation Plan. The Council recognises also the importance of making both financial contributions, as well as contributions of police trainers, prosecutors, and other relevant mentoring personnel.

4. The Council underlines the importance of the regional dimension of the EU's approach in supporting Afghanistan in combating drugs. Working closely with Afghanistan's neighbours to strengthen their borders and to promote cross-border co-operation with Afghanistan is a key element of the EU's approach. The EU is determined to support the efforts of Afghanistan and her neighbours to develop this co-operation in the framework of the Good Neighbourly Relations Declaration on drugs and welcomes the Commission's initiatives in this regard. The Council also supports work being undertaken by the Paris Pact Mechanism to co-ordinate assistance to countries on the heroin trafficking routes. The Council also welcomes UNODC's CARICC initiative as a means of enhancing regional cooperation between Afghanistan and Central Asia.
5. The Council underlines the importance of the Matrix of Increased EU Drug Assistance to Afghanistan that is in Addendum and which should continue to be updated, and reviewed, in the context of yearly EU-Afghanistan Drugs Troika meetings, building on the inaugural such meeting held in September 2005."

DATA RETENTION

The Council agreed to reach a "first reading deal" with the European Parliament on a Directive on data retention by the end of the year, on the basis of a text agreed today.

Commission Vice-President Frattini announced that he could support the approach and the text agreed by the Council.

Ireland, Slovakia and Slovenia entered reservations.

Some of the elements agreed today are the following:

- **Serious criminal offences**
A reference to serious crime is included in the text of the Directive, as defined by each Member State in its national law. Member States shall have due regard to the crimes listed in article 2(2) of the Framework Decision on the European Arrest Warrant (2002/534/JHA) and crime involving telecommunication.
- **Retention periods**
Member States should ensure that the categories of data referred to in the draft Directive are retained for periods of not less than 6 months and for a maximum of two years from the date of the communication.
- **Internet data**
The Council is in favour of an obligation to retain data on Internet access, Internet e-mail and Internet telephony.
- **Unsuccessful calls**
The Council is in favour of including the retention of data in relation to unsuccessful call attempts where that data is generated or processed, and stored (as regards telephony data) or logged (as regards Internet data) by providers of publicly available electronic communications services or of a public communications network within their jurisdiction in the process of supplying the communication services concerned. This Directive shall not require the retention of data in relation to unconnected calls.

- Flexibility

Article 15(1) of Directive 2002/58/EC would continue to apply in relation to data, including data related to unsuccessful calls, which are not specifically required to be retained under the present Directive and therefore fall outside the scope of this Directive, and for retention for purposes, including judicial purposes, other than that covered by this Directive.

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* *

The EP's Civil Liberties Committee approved on 24 November 2005 a report on this draft directive in view of the EP's plenary meeting on 13-14 December.

The draft directive aims to facilitate judicial co-operation in criminal matters by approximating Member States' legislation on the retention of data processed by providers of telecommunications services. The text covers traffic and location data generated by telephony, SMS and internet, but not the content of the information communicated.

EUROPEAN EVIDENCE WARRANT

The Council held an exchange of views on a Framework Decision on the European Evidence Warrant (EEW) for obtaining objects, documents and data for use in proceedings in criminal matters.

The debate focused on grounds for refusal based on the principle of territoriality, definitions of offences and legal remedies, and on the question of which authorities should be competent for issuing, postponing and refusing EEW's.

The Council asked the Permanent Representatives Committee to continue negotiations on this file.

The aim of this Framework Decision is to establish a mechanism to facilitate the obtaining of evidence in cross-border cases based on mutual recognition principles. The underlying idea is that the EEW is an order that would be issued by a judicial authority in one Member State and which would be directly recognised and enforced by a judicial authority in another Member State. As compared to the existing mutual assistance procedures that it would replace, the EEW would bring benefits including faster procedures and clear safeguards for the issuing of a warrant and for its execution.

The text adopts the same approach to mutual recognition as the European arrest warrant. The EEW would thus be a single document translated by the issuing authority into an official language of the executing State. No further translation would be necessary. This means that the EEW could be executed immediately in the same way as a domestic procedural measure. It would lay down the objective to be achieved, while leaving it to the executing State to decide the most appropriate manner to obtain the evidence in accordance with its domestic law.

EUROPEAN ORDER FOR PAYMENT PROCEDURE

The Council reached a general approach on the text of this draft Regulation, on the basis of a Presidency compromise package.

The purpose of this proposal is to simplify, speed up and reduce the costs of litigation in cross-border cases concerning uncontested pecuniary claims and to permit the free circulation of European orders for payment throughout all Member States.

The speedy recovery of outstanding debts whose justification is not called into question is of paramount importance for economic operators in the European Union and for the proper functioning of the internal market. Most Member States have set up a special procedures to deal with the great number of uncontested money claims in a speedy and efficient manner.

Adoption of a Regulation creating a European order for payment procedure is listed as a priority for 2006 in the Council and Commission Action Plan implementing the Hague Programme on strengthening freedom, security and justice in the European Union.

SMALL CLAIMS PROCEDURE

The Council reached agreement on a number of specific issues on the draft Regulation establishing a European small claims procedure.

The purpose of this proposal is to simplify and speed up litigation concerning small claims in cross-border cases and to reduce costs by establishing a European procedure for small claims. The proposal also eliminates the intermediate measures necessary to enable recognition and enforcement of judgments given in one Member State in a European Small Claims Procedure in other Member States.

The Council agreed a way forward in relation to certain outstanding issues, such as:

- the written nature of the procedure, with the possibility of an oral hearing when necessary;
- applying time limits to specific stages of the procedure in order to ensure an accelerated and efficient procedure;
- the use of modern communications technology (e.g. video-conference) in the conduct of hearings and taking of evidence, in accordance with national law;
- legal representation shall not be mandatory;
- regarding the costs of the proceedings, as a general rule the unsuccessful party should bear the costs of the proceedings but the costs should be proportionate to the value of the claim; and
- review of implementation.

At the informal JHA Council in Newcastle in September 2005 Ministers unanimously re-affirmed their support for creating a simplified and accelerated European procedure for resolving small claims, based on the principle of proportionality. There was overwhelming support for the view that the proposal should be restricted to cross-border matters and should not cover cases which are purely internal to a Member State.

MEDIATION IN CIVIL AND COMMERCIAL MATTERS

The Council reached common understanding on the text of a draft Directive on mediation in civil and commercial matters, subject to the definition of cross-border crisis and the application of the principle of subsidiarity.

The purpose of this proposal is to facilitate access to dispute resolution and to promote the amicable settlement of disputes by encouraging the use of mediation and by ensuring a balanced relationship between mediation and judicial proceedings.

The Commission submitted this proposal on 22 October 2004 and is subject to the codecision procedure. The European Parliament has not yet delivered its opinion at first reading.

PROCEDURAL RIGHTS IN CRIMINAL PROCEEDINGS THROUGHOUT THE EU

The Council took note of progress made with the negotiation of this Framework Decision.

The proposal was submitted by the Commission on 3 May 2004. It aims to set common minimum standards as regards certain procedural rights applying in criminal proceedings throughout the EU.

The areas where common minimum standards are proposed by the Commission are:

- access to legal advice,
- access to free interpretation and translation,
- ensuring that persons who are not capable of undertaking of following the proceedings receive appropriate attention,
- the right to communicate, inter alia, with consular authorities in the case of foreign suspects, and
- notifying suspected persons of their rights.

MIXED COMMITTEE

– *Improving information exchange between law enforcement across the EU*

The Mixed Committee agreed on a general approach on the Framework Decision on simplifying the exchange of information and intelligence between law enforcement authorities, in particular as regards serious offences including terrorist acts.

The Framework Decision will ensure that certain information vital for law enforcement authorities is exchanged in a rapid manner within the EU.

Therefore, information and intelligence shall be provided at the request of a competent law enforcement authority, acting within the limits conferred upon it by national law, conducting a crime investigation or a criminal intelligence operation.

Member States should respond within at most 8 hours to urgent requests for information and intelligence regarding offences referred to in Article 2(2) of the Framework Decision of 13 June 2002 on the European arrest warrant¹. For non-urgent cases, requests for information and intelligence should be responded to within one week.

In all other cases, Member States shall ensure that the information sought is communicated to the requesting competent law enforcement authority within 14 days.

So far, the legal framework for the exchange of information and intelligence between the law enforcement authorities of the Member States is contained in the 1990 Schengen Implementation Convention, articles 39 and 46. This Framework Decision repeats those articles. This instrument will further speed up such exchange of information.

In the declaration on combating terrorism as adopted by the European Council at its meeting on 25 March 2004, the European Council instructed the Council to examine measures regarding simplifying the exchange of information and intelligence between law enforcement authorities of the Member States and to finish that work by the end of 2005. This Framework Decision corresponds to that wish.

¹ Participation in a criminal organisation, terrorism, trafficking in human beings... A total of 32 offences are listed in Article 2(2) of the European Arrest Warrant (OJ L 190, 18.7.2002).

– ***SIS II Progress***

The Mixed Committee heard an oral update from the Commission concerning the technical development of the Schengen Information System (SIS) II.

The Commission announced more flexibility in the use of the Schengen facility financing.

Some Member States were preoccupied that the SIS II would lead to diminished security compared to the existing SIS.

The new Member States emphasised the importance of the political commitment to the timescales for lifting the internal borders.

– ***Commission proposals***

Commission Vice-President Frattini presented two Commission proposals on:

- consultation of the visa information system by the authorities responsible for internal security and by Europol (15142/05), and
- on improved effectiveness, enhanced interoperability and synergies among European databases in the area of JHA (15122/05).

– ***Other business***

Norway briefed the Mixed Committee about a Nordic agreement on a surrender procedure which will be signed next 17 December.

Commission Vice-President Frattini stressed the importance of a swift ratification by the Member States of the Schengen/Dublin agreement signed by Switzerland.

OTHER ITEMS APPROVED

JUSTICE AND HOME AFFAIRS

Minimum standards on procedures for granting and withdrawing refugee status *

The Council adopted a directive introducing a minimum standards on procedures in member states for granting and withdrawing refugee status (*12983/05 and 14579/05*).

The purpose of the directive is to set out equivalent procedures in member states for granting and withdrawing refugee status. It includes:

- basic principles and guarantees (e.g. guarantees and obligations of the applicants for asylum, right to personal interview, access to legal assistance and representation, detention);
- procedures at first instance (e.g. provision for an examination procedure, safe country of origin principles, border procedures);
- procedures for the withdrawal of refugee status; and
- appeal procedures.

The minimum standards laid down in this Directive are a first measure on asylum procedures.

Member States have the power to introduce or maintain more favourable provisions for third country nationals or stateless persons who ask for international protection from a Member State.

Trafficking in human beings - EU action plan

The Council adopted an action plan with a view to preventing and combating trafficking in human beings (*12402/3/05*).

The action plan is aimed at developing common standards, best practices and mechanisms to prevent and combat trafficking in human beings. It is also aimed at strengthening the commitment of the EU to prevent and fight trafficking in human beings, committed for the purpose of all forms of exploitation and to the protection, support and rehabilitation of its victims.

It is based on the recognition that an integrated approach is needed, having as its basis the respect of human rights and taking into account its global nature.

The table of actions contained in the plan details the objectives to be reached, a timetable and assessment tools.

The action plan, which will be updated regularly, incorporates the key recommendations and action points made in the Commissions' communication "Fighting trafficking in Human Beings – an integrated approach" and those coming out of the conference held in Brussels on 19 and 20 October, as well as comments made by member states.

EU emergency and crisis co-ordination arrangements

The Council endorsed a report by the Presidency and the EU Counter-Terrorism Co-ordinator, Gijs de Vries, on EU emergency and crisis co-ordination arrangements.

The report addresses arrangements that might be used to assist Member States during cross-border emergencies:

- having a direct effect on a number of Member States or engaging the entire Union;
- affecting more than one Member State simultaneously; or
- where interests of several Member States are engaged together with the responsibilities of EU institutions.

The arrangements indicated in the report would provide a generic arrangement applicable, not only to terrorist crises, but to other types of crises too, such as natural disasters, industrial accidents, or a flu pandemic. They are also designed to provide co-ordination capability across all areas of EU activity to be used in response to emergencies both inside and outside the Union.

The Hague programme called for the establishment of an integrated EU arrangement for crisis management with cross-border effects to be implemented at the latest by 1 July 2006.

Principle of availability of information

The Council took note of a report on technical modalities to implement the principle of availability of information on six areas: DNA, fingerprints, ballistics, vehicle registration, telephone numbers and identification of persons.

Evaluation of National Anti-Terrorist Arrangements

The Council approved a final report on the evaluation of national anti-terrorist arrangements improving national machinery and capability for the fight against terrorism (12168/3/05).

The final report includes all 25 member states and the objectives of the evaluation were:

- to provide an analysis of Member States' structures and capabilities for the fight against terrorism;
- to highlight good practices and to give recommendations where national structures may be enhanced; and
- to identify practices likely to be possibly applied in other Member States in addition to recommendations at EU level.

The Justice and home affairs Council launched in September 2001 an assessment of national anti-terrorist arrangements on the basis of considerations of a legislative, administrative and technical nature¹. The interim report released in November 2004 was based on the evaluation of 15 member states.

Fight against terrorist financing

The Council took note of the Counter Terrorism Coordinator six monthly report on the fight against terrorist financing (14744/05).

2005 Organised crime report

The Council took note of the 2005 EU organised crime report and decided to forward its public version to the European Parliament for information (13788/1/05).

¹ Doc. 12156/01

Organised crime - Exchange of information

The Council took note of a report containing recommendations addressed to France, Ireland, Luxembourg, Netherlands and United Kingdom and Europol on exchange of information and intelligence relating to the fight against organised crime.

The document assesses the application and implementation of instruments dealing with law enforcement at national level and international cooperation.

The report is the second of a set of assessments to be carried out in all member states by December 2006. It will be forwarded to the European Parliament for information.

Evaluation of the second counter terrorism task force

The Council took note of the Europol management board report on the evaluation of the second counter terrorism task force.

The report covers activities of the second counter terrorism task force from the launch in October 2004 until June 2005 and specifically focuses on its project implementation/management, its progress in the five activity areas (terrorist financing, recruitment, modus operandi, strategic and operational analysis), its value as a counter terrorism tool, its relationship with other bodies and its future.

Europol - Protection of public figures

The Council took note of the second annual report of the European network for the protection of public figures and encouraged the further development of a working programme and supported the activities of the network for 2005/2006.

The network was set up by the Council in November 2002¹ and consists of national police services and other services responsible for the protection of public figures.

¹ OJ L 333, 10.12.2002, p.1

Agreement between Europol and Croatia

The Council authorised the director of Europol to conclude an agreement on operational and strategic cooperation between Europol and Croatia.

The purpose of this agreement is to establish the cooperation between Europol and Croatia in order to support the member states of the EU and Croatia in the combating of serious forms of international crime, in particular through the exchange of information and regular contacts between Europol and Croatia at all appropriate levels.

Eurojust - Cooperation with Romania and Iceland

The Council approved cooperation agreements between Eurojust and Romania and Iceland.

The purpose of these agreements is to enhance the cooperation in the combating of serious forms of international crime.

Visas - Members of the Olympic family taking part in the Winter Games

The Council adopted a regulation aimed at facilitating procedures for applying for and issuing visas to members of the Olympic family participating at the 2006 Olympic and Paralympic Winter Games in Italy (3656/05).

This special measure is intended for members of the Olympic family who are nationals of third countries subject to the visa requirement under EU regulation 539/2001. It introduces a temporary derogation from certain provisions of the Schengen *acquis*.

Customs cooperation

The Council took note of the mid-term review of the strategy and action plan for the 3rd pillar customs cooperation.

Critical infrastructure protection - Council conclusions

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION

- RECALLS the European Council Conclusions of 17-18 June 2004 asking the Commission to prepare an overall strategy to enhance the protection of critical infrastructures ¹;
- RECALLS the Commission Communication of 22 October 2004 on "Critical Infrastructure Protection in the Fight against Terrorism" ²;
- RECALLS the European Council Conclusions of 16-17 December 2004 ³ accepting the Commission's intention to propose a European Programme for Critical Infrastructure Protection;
- RECALLS the emergency JHA Council Declaration of 13 July 2005 on the EU response to the London bombings ⁴ reaffirming the intention to agree a European Programme on Critical Infrastructure Protection by the end of 2005.

AND ADOPTS THE FOLLOWING CONCLUSIONS

1. The Council welcomes the Commission's progress towards establishing a European Programme for Critical Infrastructure Protection (EPCIP) and in particular welcomes the publication of the Commission's Green Paper issued on 17 November 2005. Member States have responded positively to the seminars organised by the Commission, which have brought together the relevant experts and other stakeholders. The ongoing establishment of points of contact for Critical Infrastructure Protection (CIP) experts is valuable, and as such all Member States are invited to nominate official CIP contact points.
2. The Council recognises that Member States have ultimate responsibility for managing arrangements for protection of critical infrastructure within their national borders. The Council notes that many Member States have existing national and bilateral arrangements providing a high level of protection for their critical national infrastructure. However, the Council considers that action at EU level will add value by supporting and complementing Member States' activities, while respecting the principle of subsidiarity.

¹ 10679/2/04 REV 2, no. 19.

² 13979/04.

³ 16238/1/04 REV 1 sub 28, bullet 6.

⁴ 11158/1/05 REV 1, no. 6.

3. The protection afforded to critical infrastructure across Europe will be increased through EPCIP enabling Member States to improve their ability to identify and protect elements of their own infrastructures. The confidential nature of information on identified infrastructure needs to be maintained for security reasons. Access to sensitive information will be granted on a need-to-know basis.
4. Without precluding further discussion, European critical infrastructure could be defined as infrastructure the destruction or disruption of which would have a serious impact on the critical societal functions, including the supply chain, health, safety, security, economic or social well-being or the functions of government, of a number Member States which needs to be further defined.
5. While recognising the threat from terrorism as a priority, the Council agrees that the protection of critical infrastructure should be based on an all-hazards approach. The form and framework of EU-level work should be based on a comprehensive risk assessment by Member States, and where competent the Commission, and build on existing EU-level work. Where appropriate, use could be made of the Joint Situation Centre's counter-terrorism analysis capability.
6. Owner/operators of the infrastructure, including the private sector, must be actively involved at both the national and EU level, and have responsibilities for implementing necessary measures.
7. The Council invites the Commission to build on the results of its Green Paper consultation process and to continue work to establish EPCIP. EPCIP should, while respecting existing competences, provide support to Member States through an agreed framework for action by the Member States, the Commission and, while respecting existing relationships, the private sector and other relevant actors, in order to raise security standards. This should include, where appropriate, common objectives, methodologies, best practices and the identification of interdependencies. Given the differing characteristics of each sector, a sector-by-sector approach is appropriate, taking into account existing EU-level sectoral arrangements.
8. The Council underlines the important contribution of Community and EU-level research, which should support and complement Member States' activities and those of EPCIP.

9. The Council invites the Commission to report back following the consultation period on its Green Paper by March 2006. This would include reporting on a number of issues:
- definitions of key terms, including the definition of protection of critical infrastructure and the finalisation of the definition of EU level critical infrastructure;
 - an overall assessment of the costs and benefits of regulatory and voluntary approaches;
 - clarity on the respective roles of the Commission (respecting existing Community competences), Member States, and owner/operators;
 - development of the concept of operator security plans.
10. Following the consultation process and discussion of the issues in the Council, the Commission is invited to make a proposal for an EPCIP by June 2006."

Code of conduct: Non profit sector - Council conclusions

The Council adopted the following conclusions:

"The Justice and Home Affairs Council on 1 and 2 December 2005:

Reaffirms the Declaration (of 13 July 2005) that Member States will support the combating of terrorist financing by agreeing a Code of Conduct to prevent the misuse of the non-profit/charitable sector by terrorists;

Invites Member States to note the Commission's Communication on the Prevention of and Fight against Terrorist Financing through enhanced national level coordination and greater transparency of the non-profit sector, including a Recommendation to the Member States;

Welcomes the intention of the Commission to organise an expert Conference on this subject in the first half of 2006;

Notes the five principles, annexed to these Conclusions, which Member States have agreed should be taken into account when implementing measures aimed at preventing terrorist abuse of the non-profit sector; and

Invites Member States to commit themselves to implementing domestic measures to prevent terrorist abuse of the non-profit sector, taking account of these five principles and of those agreed by the members of the Financial Action Task Force (FATF) and set out as International Best Practices in the FATF paper of 11 October 2002 on Combating the Abuse of the Non-Profit Sector.

The non-profit sector is a vital component of the world economy and of many national economies and social systems that complements the activity of the government and business sectors in supplying a broad spectrum of public services and improving the quality of life. This practice and the strong and diversified community of institutions need to be safeguarded and maintained.

Member States should take the following principles into account when implementing measures aimed at preventing terrorist abuse of the non-profit sector:

- Safeguarding the integrity of the non-profit sector is a shared responsibility of states and non-profit organisations.
- Dialogue between Member States, the non-profit sector and other relevant stakeholders is essential to build robust defences against terrorist finance.
- Member States should continually develop their knowledge of their non-profit sector, its activities and vulnerabilities.
- Transparency, accountability and good governance lie at the heart of donor confidence and probity in the non-profit sector.
- Risks of terrorist finance are managed best where there are effective, proportionate measures for oversight."

Consular roll out for the Visa Information System (VIS) - Council conclusions

The Council adopted the following conclusions:

"RECALLING THAT

- The Visa Information System was established by virtue of the Council Decision 2004/512/EC of 8 June 2004¹.
- The Commission submitted a proposal to the European Parliament and the Council for a Regulation concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas².
- The Council in its Conclusions of 17 February 2005 set out the timetable for the development of the Central Part of the VIS and the efforts required by the Member States in the implementation phase³.
- The Council in its Declaration of 13 July 2005 stated that the roll out of biometrics to regions / countries of high risk would be prioritized⁴.

THE COUNCIL CONSIDERS THAT

- Without prejudice to the adoption of the proposal for the Visa Information System, Member States who will be implementing the VIS Regulation should plan for the collection of biometric data for the VIS, at consular posts, on a co-ordinated and coherent regional basis, that reflects the problems of illegal migration and threats to the internal security of the Member States and the feasibility of collecting biometric data from all locations.
- Those Member States should endeavour to be in a position to collect all the biometric data required for the VIS within 24 months of the commencement of the roll out.

¹ OJ L 213, 15.6.2004, p.5.

² 5093/05 VISA 1 CODEC 77 COMIX 5 (COM (2004) 835 final)

³ 6492/05 VISA 44 COMIX 127

⁴ 11158/1/05 JAI 255 ECOFIN 244 TRANS 147 RELEX 374 ECO 85 PESC 652 COTER 40 COSDP 491 PROCIV 100 ENER 119 ATO 74 REV 1

- Those Member States should endeavour to be in a position to commence the collection of biometric data for the VIS in early 2007, which should begin with consular posts in North Africa and the Near East regions.
- To facilitate the development of a collaborative approach and the completion of the roll out within the time table, every effort should be made to resolve outstanding issues, in particular, the methods of collection of biometric data.
- Those Member States should also plan to process biometric data at border crossing points in a co-ordinated and coherent manner that complements the collection of the data at consular posts."

Common minimum security standards for national identity cards - *Council conclusions*

The Council adopted the following conclusions:

"Recognising the mandate given to Member States by the Hague Programme and the 13 July 2005 Justice and Home Affairs Council;

Recognising the importance of ensuring the security of travel and other identity documents;

Recognising that the mandate relates only to security standards, not to any domestic uses of national identity cards and that no legally binding standards or timetables are being imposed;

Without prejudging the issue of the possible legal basis for a measure harmonising minimum security standards for national identity cards and without affecting the right of each Member State to decide whether or not to issue national identity cards and whether to use biometric identifiers;

Recognising the priority to be attached to compliance with the standards established by the European Union in Council Regulation (EC) 2252/2004 on passports, and the draft regulations amending legislation on visas and residence permits. These standards are a reference point for those to be developed for identity cards;

Building upon the work already done on security features for passports, and bearing in mind the need for interoperability based on ICAO standards;

The Member States of the European Union, working together on an intergovernmental basis:

1. Have decided to accept the following interim conclusions of the experts working in the Committee created by Article 6 of Council Regulation (EC) 1683/95, which will be followed by more detailed technical standards in due course:
 - as regards the security features other than biometric identifiers: to use the same minimum standards on materials to be used, ink, printing techniques, etc. as those established for passports, adapted to the card form of the identity card; and
 - as regards the biometric identifiers: to use as a starting point the technical specifications established for the integration of biometrics in the passport in accordance with Regulation (EC) 2252/2004.

2. Have decided to work towards putting in place the following minimum standards relating to the security of issuing processes:
 - applicants should appear in person at least once during the issuing procedure for identity cards;
 - applications should be verified by authorised personnel against existing databases which should be regularly updated, for example, civil registers, passport and identity cards databases or driving licence registers;
 - monitoring of the issuing process is recommended, including where processes are carried out by sub-contractors, and this should include regular audits;
 - in principle, no single member of staff should carry out every part of the issuing process for an individual; and
 - secure storage, transport and transmitting of data and components of documents should be ensured.

3. Have decided to further their co-operation by exchanging information on a regular basis on their national practices, taking into account the experiences of Member States regarding electronic identity cards."

Common agenda for integration - *Council conclusions*

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

- recall the European Council Conclusions of Tampere of 15 and 16 October 1999 which stressed that the European Union must ensure fair treatment of third-country nationals who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting them rights and obligations comparable to those of EU citizens.
- recall the European Council Conclusions of Thessaloniki of 19 and 20 June 2003 which deemed it necessary to elaborate a comprehensive and multidimensional policy on the integration of legally residing third-country nationals. Whilst responsibility for the elaboration and implementation of integration policies remains primarily with the Member States, such policies should be developed within a coherent European Union framework, taking into account the legal, political, economic, social and cultural diversity of Member States.
- recall the Hague Programme of 5 November 2004, which underlined the need for greater co-ordination of national integration policies and EU initiatives in this field. It further stated that a framework, based on common principles, should form the foundation for future initiatives in the EU, relying on clear goals and means of evaluation.
- recall the Common Basic Principles for Immigrant Integration Policy in the European Union adopted by the Council and the Representatives of the Member States on 19 November 2004. Developing a set of EU common basic principles on integration was considered essential, given the shared interest that Member States have in agreeing upon goals on integration and the fact that it is clearly in the common interest of all Member States of the Union that each Member State pursues effective integration strategies. The failure of an individual Member State to develop and implement a successful integration policy can have in different ways adverse implications for other Member States and the European Union.
- recall that the timely transposition and implementation of legislative instruments on the admission and stay of legally residing third-country nationals is an essential component of any credible and successful integration policy.

AND ADOPT THE FOLLOWING CONCLUSIONS:

1. The Council and the Representatives of the Governments of the Member States underline the need to strengthen the integration policies of the Member States. In this respect, the Council welcomes the presentation of the Commission's Communication of 1 September 2005, A Common Agenda for Integration: Framework for the integration of third-country nationals in the European Union. It acknowledges the importance of defining a framework at European level for the integration of legally residing third-country nationals in all aspects of society and, in particular, concrete measures for implementing the Common Basic Principles.
2. The Council acknowledges the results of successful co-operation and exchange of best practice at EU level, in particular through the network of Member States' National Contact Points on Integration, supported by the Commission, and the 'Handbook on integration for policy-makers and practitioners'. The Council and the Representatives of the Governments of the Member States underline the need to further enhance a coherent approach to integration policies and measures, based on common goals, through the continuous strengthening and development of instruments for co-operation and exchange of information. In particular, without prejudice to other possible measures which might be taken in this area:
 - The Council invites the Commission to continue to support the activities of the Network of National Contact Points on Integration. The Network's activities should be informed by the Common Basic Principles as well as the Council's priorities concerning integration so that it continues to help realise the integration objectives both of the EU and of the Member States. Its activities and their impact, and its improved analysis of issues common to Member States, should be regularly brought to the attention of the relevant bodies of the Council, so that the Network's role in providing expertise to the decision-making bodies of the EU is enhanced.
 - The Council invites the Network of National Contact Points on Integration, supported by the Commission, to continue to develop the 'Handbook on integration for policy-makers and practitioners'. In order to utilise fully the successful exchange of experience and best practice, the Council calls for a wide and accessible dissemination of this Handbook, adapted to the intended audience.
 - The Council reiterates the importance of a widely accessible Internet website on integration, and invites the Commission to develop its first phase by the end of 2006.

- The Council and the Representatives of the Governments of the Member States emphasise the importance of sharing expertise at EU level among a broad range of stakeholders. The Commission's intention to convene regularly a European Integration Forum could provide added value as a complementary source of information and consultation. In this respect, due consideration shall be given to how the Forum could complement the work of the National Contact Points on Integration.
3. The Council and the Representatives of the Governments of the Member States believe that in order to pursue effectively a *Common agenda for integration*, the Presidency Troika, in cooperation with the Commission, should agree arrangements on the organisation and timing of Ministerial discussions and/or Conferences. These should be held regularly, ideally on an annual basis and, with a view to continuing the political debate initiated at the Conference of Groningen on 9-11 November 2004, should consider pertinent and thematic issues on the integration of third-country nationals in the EU and assess the need for further action. The Annual Report on Migration and Integration, enhanced as necessary to aid analysis and comparative learning, could provide a useful basis for such discussions."

EXTERNAL RELATIONS

Arms exports - Report on application of the EU code of conduct

The Council took note of the 7th annual report on application of the EU code of conduct on arms exports (14053/05).

The code of conduct, introduced in 1998, sets criteria for the export of conventional arms with a view to harmonising national arms export control policies.
