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PRESS RELEASE

2979th Council meeting

Justice and Home Affairs

Brussels, 30 November and 1 December 2009

President **Mrs Beatrice ASK**
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P R E S S

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Main results of the Council

Both justice and home affairs ministers discussed the multi-annual strategic work programme in the area of freedom, security and justice, the ***Stockholm Programme****.*

On home affairs matters, the Council adopted the following three legislative acts;

- an agreement between the ***EU and Japan on mutual legal assistance*** *in criminal matters,*

- amendments to regulation No 539/2001 granting ***visa free travel*** *to and throughout the Schengen area for citizens of three* ***Western Balkan*** *countries (the* ***Former Yugoslav Republic of Macedonia, Montenegro and Serbia****);*

- an ***EU-US agreement on the processing and transfer of financial messaging data*** *for the purposes of the US Terrorist Finance Tracking Programme (TFTP) including two political declarations on the subject.*

The Council also discussed the state-of-play of the ***Common European Asylum System*** *and took note of the agreement reached between Council and Parliament on the establishment of the* ***European Asylum Support Office (EASO)****. In the same context, ministers held a first exchange of views on two recent Commission proposals on* ***asylum procedures*** *and on the* ***qualification and status of refugees****.*

The Council debated a report by the ***EU counter-terrorism coordinator*** *and discussed, under external relations, three* ***ministerial meetings*** *between the EU and the* ***US, Russia and the Western Balkans****.*

On justice matters, the Council held orientation debates on two legislative proposals aimed at common rules facilitating the ***transfer of criminal proceedings*** *and strengthening the fight against* ***trafficking in human beings*** *and the protection of victims. In this area, it also adopted an action oriented paper focusing on the EU's external actions.*

Ministers also took note of the delays in the area of ***eJustice,*** *as regards the setting up of an eJustice-portal. Finally, they reviewed progress made concerning a legislative proposal to improve the fight against sexual abuse,* ***sexual exploitation of children*** *and child pornography.*

*In the margins of the Council, the **Mixed Committee** (the EU plus Norway, Iceland, Liechtenstein and Switzerland) agreed to the decision on **visa liberalisation for the Western Balkan** countries and examined the state of play concerning the development of the **Visa Information System (VIS)** and the **Schengen Information System II (SIS II)**. Ministers also held an orientation debate on the possibility of setting up an **agency for large-scale IT systems**.*

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PARTICIPANTS

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

Belgium:	
Mr Stefaan DE CLERCK	Minister for Justice
Ms Annemie TURTELBOOM	Minister for the Interior
Bulgaria:	
Mr Tsvetan TSVETANOV	Deputy Prime Minister and Minister for the Interior
Ms Margarita POPOVA	Minister for Justice
Czech Republic:	
Ms Daniela KOVÁŘOVÁ	Minister for Justice
Mr Martin PECINA	Minister for the Interior
Denmark:	
Mr Brian MIKKELSEN	Minister for Justice
Ms Birthe Rønn HORNBECH	Minister for Refugee, Immigration and Integration Affairs
Germany:	
Ms Sabine LEUTHEUSSER-SCHNARRENBERGER	Federal Minister for Justice
Mr Thomas de MAIZIERE	Federal Minister for the Interior
Estonia:	
Mr Rein LANG	Minister for Justice
Mr Marko POMERANTS	Minister for the Interior
Ireland:	
Mr Dermot AHERN	Minister for Justice, Equality and Law Reform
Greece:	
Mr Charalampos KASTANIDIS	Minister for Justice, Transparency and Human Rights
Mr Spyros VOUGIAS	Deputy Minister, Ministry of the Citizen's Protection
Spain:	
Mr Francisco CAAMAÑO DOMÍNGUEZ	Minister for Justice
Mr Alfredo PÉREZ RUBALCABA	Minister for the Interior
Mr Celestino CORBACHO CHAVES	Minister for Labour and Immigration
France:	
Mr Brice HORTEFEUX	Minister for the Interior, Overseas Territories and Local and Regional Authorities
Mr Eric BESSON	Minister for Immigration, Integration, National Identity and Development Solidarity
Mr Jean-Marie BOCKEL	Minister of State, attached to the Ministre d'Etat, Minister for Justice and Freedoms
Italy:	
Mr Angelino ALFANO	Minister for Justice
Mr Roberto MARONI	Minister for the Interior
Cyprus:	
Mr Loucas LOUCA	Minister for Justice
Mr Neoklis SYLIKIOTIS	Minister for the Interior
Latvia:	
Mr Mareks SEGLIŅŠ	Minister for Justice
Ms Ilze PĒTERSONE	Deputy State Secretary; Ministry of Interior
Lithuania:	
Mr Remigijus ŠIMAŠIUS	Minister for Justice

Luxembourg:	
Mr Jean-Marie HALSDORF	Minister for the Interior and the Greater Region, Minister for Defence
Mr François BILTGEN	Minister for Justice
Mr Nicolas SCHMIT	Minister for Labour, Employment and Immigration
Hungary:	
Mr Tibor DRASKOVICS	Minister for Justice and Law Enforcement
Malta:	
Mr Carmelo MIFSUD BONNICI	Minister for Justice and Home Affairs
Netherlands:	
Mr Ernst HIRSCH BALLIN	Minister for Justice
Ms Guus ter HORST	Minister for the Interior and Kingdom Relations
Austria:	
Ms Claudia BANDION-ORTNER	Federal Minister for Justice
Ms Maria FEKTER	Federal Minister for the Interior
Poland:	
Mr Krzysztof KWIATKOWSKI	Minister of Justice
Mr Piotr STACHAŃCZYK	Deputy State Secretary, Ministry of the Interior and Administration
Portugal:	
Mr Rui PEREIRA	Minister for the Interior
Romania:	
Ms Alina Mihaela BICA	State Secretary, Ministry of Justice and Civil Liberties
Mr Marian Grigore TUTILESCU	State Secretary, Ministry of the Interior
Slovenia:	
Mr Aleš ZALAR	Minister for Justice
Mr Goran KLEMENČIČ	State Secretary at the Ministry of the Interior
Slovakia:	
Mr Robert KALIŇÁK	Deputy Prime Minister and Minister for the Interior
Mr Daniel HUDÁK	State Secretary at the Ministry of Justice
Finland:	
Ms Tuija BRAX	Minister for Justice
Ms Anne HOLMLUND	Minister for the Interior
Ms Astrid THORS	Minister for Migration and European Affairs
Sweden:	
Ms Beatrice ASK	Minister for Justice
Mr Tobias BILLSTRÖM	Minister for Migration
United Kingdom:	
Mr Alan JOHNSON	Secretary of State for the Home Department
Mr Jack STRAW	Secretary of State for Justice and Lord Chancellor

Commission:	
Mr Jacques BARROT	Vice-President

ITEMS DEBATED

JUSTICE AND HOME AFFAIRS

The Stockholm programme (2010-14)

In public debate and in their respective sessions on both days, home affairs and justice ministers discussed the multi-annual strategic work programme in the area of freedom, security and justice, the so-called Stockholm Programme (2010-14).

The discussion showed a broad consensus on most of the text with some final changes to be made in the coming days. It is the aim of the Swedish EU presidency to adopt the Stockholm Programme at the European Council on 10-11 December 2009.

The Stockholm Programme will set out the priorities for EU action in the area of freedom, security and justice for the next five years (2010-14). It will put the citizen at the heart of EU action and deal, among other things, with questions of citizenship, justice and security as well as asylum, migration and the external dimension of justice and home affairs.

It is ten years since the EU set itself the target of creating an area of freedom, justice and security. The Stockholm Programme will build on the progress made during the implementation of the Tampere Programme (2000-2004) and the Hague Programme (2005-2010).

On 10 June 2009, the Commission adopted two communications: an evaluation of the Hague Programme and a blueprint for the Stockholm Programme.

HOME AFFAIRS

SIS II - *Council conclusions*

The Council adopted the following conclusions concerning the Schengen Information System II (SIS II):

"The Council of the European Union,

1. *Recalls and reaffirms* the Conclusions of its meeting in June 2009 on the further direction of SIS II, including the Annex thereto (*10708/09*);

2. *Is willing* to accept a final delay with regard to the accomplishment of the first milestone test referred to in paragraph 9 and the Annex to the aforementioned Council Conclusions until 29 January 2010 at the latest;

3. *Has decided* to regard the first milestone test as demonstrating non-compliance according to paragraph 9(d) of the aforementioned Council Conclusions in the event that this test is not successfully accomplished by 29 January 2010 and resolves that the two months period referred to in paragraph 9(d) *in fine* of the aforementioned Council conclusions will commence on 30 January 2010."

EU-Japan agreement on mutual legal assistance

The Council adopted a decision on an agreement between the EU and Japan on mutual legal assistance in criminal matters (*15915/09*).

It is the first such agreement between the two parties providing a solid basis for mutual legal assistance between all 27 Member States and Japan, while at the same time ensuring respect for the fundamental values of the EU. Hitherto, no member states had any bilateral mutual legal assistance treaty with Japan.

The agreement provides for a wide range of measures, including taking of evidence, seizing objects, obtaining bank information and conducting hearings by videoconferencing.

EU-US agreement on financial messaging data for counter-terrorism investigations

The Council adopted an EU-US agreement on the processing and transfer of financial messaging data for the purposes of the US Terrorist Finance Tracking Programme (TFTP *16110/09*). It also adopted two political declarations on the subject.

The agreement aims to continue to allow the US Department of the Treasury to receive European financial messaging data for counter-terrorism investigations, while ensuring an adequate level of data protection. Requests by the US have to be verified by the competent authority of the relevant EU member states, they have to substantiate the need for the data and they have to be tailored as narrowly as possible. The agreement also provides for a joint review procedure, redress possibilities and a suspension clause.

The agreement is temporary. It will be provisionally applied as from 1 February 2010 and expire on 31 October 2010, at the latest. The European Parliament's consent to the formal conclusion of this temporary agreement will be required in the coming months.

Any long-term agreement for the time after 31 October 2010 must be negotiated and concluded under the rules of the Treaty of Lisbon. These provide that the European Parliament must be fully informed at all stages of the negotiations and must give its consent to the formal conclusion of an agreement.

Concerning the follow-up agreement for the period after 31 October 2010, a Council declaration calls upon the Commission to submit as soon as possible, and in any case no later than February 2010, a recommendation to the Council for the negotiation of a long-term agreement. It also states that the current agreement is without prejudice to any provisions in that long-term agreement.

In a second declaration, the Council and the Commission commit themselves to the Lisbon rules, i.e. to inform the Parliament immediately and fully at all stages of the negotiations.

The negotiations on the provisional agreement adopted today, started in July 2009 and responded to a decision by one of the major providers of international financial payment messaging services to store its European financial messaging data no longer in a database located in the US, but only in Europe.

Under the Terrorist Finance Tracking Programme (TFTP), the US Department of the Treasury seeks to identify, track and pursue suspected terrorists and their providers of finance. It was set up shortly after the terrorist attacks of 11 September 2001. Relevant results of the US analysis have been and will continue to be shared with EU member states. A report by the former French investigating judge Jean-Luis Bruguière, commissioned by the Commission, concluded in December 2008 that the TFTP had generated considerable intelligence value for EU member states.

For more information see *Information note*.

Common European Asylum System (CEAS) and European Asylum Support Office (EASO)

The Council discussed the state of play of the Common European Asylum System (CEAS). In particular, it took note of the agreement reached between the European Parliament and the Council on the establishment of the European Asylum Support Office (EASO) (*6700/09*) and the related changes to the European Refugee Fund (ERF) (*6702/09*). This agreement opens the way for the relevant legislative instruments to be adopted in the near future.

Following a lunch discussion, the Presidency reported that agreement had been reached on Valetta, Malta as the seat of EASO. This agreement will be formalised in the near future.

The support office is aimed at improving the implementation of the Common European Asylum System, strengthening practical cooperation among member states on asylum and as providing and coordinating operational support to member states facing specific and disproportionate pressures on their national asylum systems. The ERF needs to be amended as the office will take over responsibility for certain operations that have until now been financed by the refugee fund.

Still in the context of the discussions on the CEAS, ministers held a first exchange of views on two recent Commission proposals:

– a directive on minimum standards on procedures in member states for granting and withdrawing international protection (*14959/09*); and

– a directive on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted (*14863/1/09*).

The Presidency concluded that the discussion highlighted a number of issues which will need to be addressed in the coming negotiations within the Council and with the European Parliament. These negotiations will be guided by the following principles: more efficiency, greater cost effectiveness and a high level of protection.

The two proposals for amending the directives tabled by the Commission in October 2009 aim to offer a higher degree of protection to victims of persecutions and to improve the coherence between EU asylum instruments. They are also meant to simplify and consolidate procedural standards, thus preventing fraud and improving the efficiency of the asylum process.

The CEAS was launched in the conclusions of the European Council of Tampere in 1999. In October 2008, the European Council adopted the European Pact on Immigration and Asylum and confirmed its commitment to complete the CEAS by 2012. Besides the EASO/ERF and the two most recent directive proposals mentioned above, the following legislative initiatives form part of the CEAS:

– the reception conditions directive (*16913/08*),

– the so-called Dublin II regulation (*16929/08*), determining the member state responsible for examining an asylum application,

– the EURODAC regulation (*13263/09*), establishing a system of comparing fingerprints in order to effectively implement the Dublin system,

– an amendment to the ERF (*12985/09*) relating to the establishment of a joint EU resettlement programme (*12986/09*).

Visa liberalisation for the Western Balkans countries

The Council decided to grant visa free travel to and throughout the Schengen area for citizens of the former Yugoslav Republic of Macedonia, Montenegro and Serbia (*15521/09*). It did so by adopting amendments to regulation No 539/2001. The visa waiver will apply from 19 December 2009 to holders of biometric passports.

Albania and Bosnia and Herzegovina are not considered to have met all the benchmarks agreed under the visa liberalisation dialogue with the countries of the Western Balkans. A political declaration, however, invites the Commission to propose visa liberalisation for these two countries as soon as they comply with all the benchmarks, with a view to achieving visa free travel for their citizens as soon as possible (see full text below). The main areas where benchmarks were set under the visa liberalisation dialogue are border controls, passport security, fight against organised crime and corruption as well as external relations and fundamental rights.

The amended regulation also makes a reference to Kosovo under UNSCR 1244/99 with the result that persons residing in Kosovo require a visa when travelling to the EU.

The visa liberalisation dialogue with the countries of the Western Balkans was launched in early 2008. The Commission presented a proposal to amend regulation 539/2001 in July 2009, and the European Parliament delivered its opinion on 12 November 2009.

The text of the joint political declaration of the European Parliament and the Council reads:

"The European Union strongly supports the goal of the abolishment of the visa regime for all the countries of the Western Balkans.

The European Parliament and the Council recognise that the former Yugoslav Republic of Macedonia, Montenegro and Serbia fulfil all conditions for visa liberalisation. This has allowed for the adoption of the amendments to Regulation (EC) No 539/2001 in due time to allow those three countries to join the visa-free regime by 19 December 2009.

The European Parliament and the Council express the hope that Albania and Bosnia and Herzegovina will also qualify for visa liberalisation soon. To that end, the European Parliament and the Council urge those two countries to make all efforts to comply with all the benchmarks set out in the Commission's roadmaps.

The European Parliament and the Council invite the Commission to present a legislative proposal for amending Regulation (EC) No 539/2001 as soon as it has assessed that each country meets the benchmarks set out in the Commission's roadmaps, with a view to achieving visa liberalisation for citizens of those countries as soon as possible.

The European Parliament and the Council will examine a proposal for amending Regulation (EC) No 539/2001 concerning Albania and Bosnia and Herzegovina as a matter of urgency."

EU strategy and action plan to combat terrorism: implementation report

The EU Counter-Terrorism Coordinator, Gilles de Kerchove, presented to the Council his latest implementation report on the EU Strategy and Action Plan to Combat Terrorism (*15358/09*) and discussion paper on the way forward (15359/09). At the European Council's request, he submits such reports every six months.

The reports summarise progress made since June 2009 and look at the upcoming changes in the area of justice and home affairs with the entry into force of the Treaty of Lisbon, the imminent adoption of the Stockholm Programme and the priorities of the incoming Spanish EU Presidency which wishes to focus, among other things, on an internal security strategy.

In his report, Mr de Kerchove pays tribute to the success of the measures already taken in the fight against terrorism and the fact that police forces in Europe and the USA have foiled a number of plots including some aimed at mass transit systems. However, he also identifies the major risk of a growing sense of "CT fatigue". He then goes on to highlight ten key challenges for future work in the area.

The strategic commitment of the EU is to combat terrorism globally while respecting human rights, and to make Europe safer, allowing its citizens to live in an area of freedom, security and justice.

The EU Counter-Terrorism Strategy (*14469/4/05*) which was adopted in December 2005 and provides the framework for EU activity in this field groups all actions under four objectives:

– to *prevent* people from turning to terrorism,

– to *protect* citizens and infrastructure and reduce our vulnerability to attack, *inter alia* through improved security of borders, transport and critical infrastructure,

– to *pursue* and investigate terrorists across our borders as well as globally,

– to *prepare* ourselves, in a spirit of solidarity, to manage and minimize the consequences of a terrorist attack.

External relations: USA, the Western Balkans and Russia

Under external relations, the Council took note of the results of the ministerial meetings with the USA (27-28 October) and the Western Balkans countries (16-17 November) as well as of the result and follow up of the Global Forum on Migration and Development (Athens 4-5 November). Ministers also discussed their expectations with regard the meeting with Russia (2 December 2009).

At the meeting with the USA, a statement was adopted which describes the objectives for the five years ahead. Issues identified include an international agreement on data protection of personal data exchanged for law enforcement purposes, an EU-US declaration on common principles that guide the fight against terrorism and an expansion of the dialogue on migration and refugee issues.

The meeting with the Western Balkans countries showed that clear, but uneven, progress is made towards meeting the acquis and European standards. In particular, the visa liberalisation dialogue has proven to be a strong incentive for reform.

Concerning the Russian Federation, subjects for discussion include the possibility for Europol to conclude an operational agreement with Russia, visa issues and a strengthened migration dialogue.

JUSTICE AFFAIRS

Sexual exploitation of children

The Council was informed about the state of play concerning a Council framework decision aimed at improving the fight against sexual abuse, sexual exploitation of children and child pornography (*8150/09*).

Progress has been made on a number of provisions. The main outstanding issues concern the definitions and scope of the offences, the penalties' system and the level of penalties, as well as the question of jurisdiction.

The progress made to date, will serve inter alia as a basis for a new legislative proposal which will become necessary with the entry into force of the Treaty of Lisbon on 1 December 2009. Under the Lisbon Treaty, EU legislation in the area of judicial cooperation in criminal matters will move from the present "third pillar" procedure (requiring unanimity in the Council and simple consultation of the European Parliament) to the ordinary legislative procedure (formerly the co-decision procedure) with qualified majority voting in the Council and full co-legislative powers of the European Parliament.

This proposal for a framework decision was tabled by the Commission in March 2009. Once a follow-up proposal has been adopted, new rules will replace framework decision 2004/68/JHA. The goal is to further approximate national legislation and to improve international law enforcement and judicial cooperation.

Transfer of criminal proceedings

The Council held an orientation debate on a Council framework decision on the transfer of proceedings in criminal matters (*13504/09*).

Progress has been made on several provisions. There remain, however, outstanding questions related to an essential element of this draft legislation, namely the question of jurisdiction. Ministers held a substantial discussion on the principle of jurisdiction to be used for future work on this dossier. While some member states prefer the principle of territoriality, others suggest the principle of active/passive personality. Other open questions concern the conditions for transfer, the effects for transferring and receiving member states, and costs.

The progress made to date, will serve inter alia as a basis for a new legislative proposal which will become necessary with the entry into force of the Treaty of Lisbon on 1 December 2009. Under the Lisbon Treaty, EU legislation in the area of judicial cooperation in criminal matters will move from the present "third pillar" procedure (requiring unanimity in the Council and simple consultation of the European Parliament) to the ordinary legislative procedure (formerly the co-decision procedure) with qualified majority voting in the Council and full co-legislative powers of the European Parliament.

The proposal for this framework decision was presented in June 2009 jointly by 16 member states. It aims to increase efficiency in criminal proceedings and to improve the proper administration of justice in line with the EU's aim of creating a common European area of freedom, security and justice. To this end, it strives for common rules facilitating the transfer of criminal proceedings between competent authorities of EU member states with, in particular, increased transparency and greater objectivity in the way in which the place for the trial is chosen.

Currently, there are several legal instruments on the transfer and coordination of proceedings applicable in relations between the member states. There is, however, no common legal framework at EU level.

Trafficking in human beings

The Council had an extensive debate on the issue of trafficking in human beings, specifically on criminal trends developing in Europe, and ways and means to counter them more effectively at EU level.

Within this general issue, ministers held an orientation debate concerning a Council framework decision aimed at strengthening the fight against trafficking in human beings and the protection of victims (*8151/09*). It also adopted an action oriented paper (*11450/5/09* REV5) focusing on the EU external dimension regarding action against trafficking in human beings.

With regard to the framework decision, agreement has been reached on most of the provisions. This text will now serve as a basis for a new legislative proposal which will become necessary with the entry into force of the Treaty of Lisbon on 1 December 2009. Under the Lisbon Treaty, EU legislation in the area of judicial cooperation in criminal matters will move from the present "third pillar" procedure (requiring unanimity in the Council and simple consultation of the European Parliament) to the ordinary legislative procedure (formerly the co-decision procedure) with qualified majority voting in the Council and full co-legislative powers of the European Parliament.

The proposal for a framework decision was tabled by the Commission in March 2009. Once a follow-up proposal has been adopted, the new rules will replace framework decision 2002/629/JHA. The goal is to further approximate national legislation and to improve international law enforcement and judicial cooperation. The aspects which member states have already reached agreements on include:

– a definition of the crime, aggravating circumstances and higher punishment;

– extraterritorial jurisdiction making it possible to prosecute EU nationals for crimes committed abroad and to use investigative tools such as phone listening and access to financial data;

- special treatment of the victims in criminal proceedings including non-punishment of victims who bear the consequences of the criminal activities;

- a higher standard of protection and assistance for victims, and in particular special protective measures for children;

- preventive measures aimed at discouraging the demand side of the phenomenon.

E-justice action plan

The Council took note of the state of play in the field of e-Justice. Ministers regretted that the European e-Justice portal was not launched, as initially planned, by the end of 2009, and requested the Commission to take all possible measures to ensure the delivery of the first release of the portal in the first half of 2010.

The European e-Justice action plan (OJ C 75, 31.3.2009) provides for the setting up of the European e-Justice portal. The portal is intended to promote the use of information and communication technologies in the field of justice. The use of the new technologies is intended to rationalise and simplify judicial procedures and to reduce operating costs, for the benefit of citizens, undertakings, legal practitioners and the administration of justice.

The portal will provide access to information and services in the field of justice, especially in the cross-border context. It is aimed to be a one-stop shop for justice-related information and functionalities in the EU.

The development of the portal will take place gradually. In the long-term, three aspects will be covered:

– Firstly, access to law and information at EU and national level (N-Lex, EUR-Lex, case-law), including pan-European databases (e.g. to find a lawyer or notary in another Member State);

– secondly, electronic communication between a judicial authority and the citizen (submission of applications to a court, exchange of documents in court proceedings, such as the European order for payment procedure etc.); and

– thirdly, secure communication between judicial authorities in the cross-border context (information on videoconferencing, its availability and possibilities, secure exchange of legal assistance requests etc.).

AOB

Under any other business and over lunch, home affairs ministers were given an update by the Commission on the follow-up to the June European Council conclusions concerning immigration in the Mediterranean and, in particular, the situation of FRONTEX. Italy also informed ministers about the Venice conference held on 23-24 November, and Austria presented its current police training programme.

Still under "any other business", the Commission informed ministers on justice and home affairs related provisions in the new Treaty of Lisbon and especially the Treaty on the Functioning of the European Union. It also called on member states to send more national staff to the EUPOL mission in Afghanistan.

Finally, the Spanish ministers presented the priorities of the upcoming Spanish Presidency in the area of justice and home affairs. On home affairs matters, these include: the start of the Stockholm programme, the further development of the Common European Asylum System (CEAS) and the adoption of an internal security strategy for the EU as well as an Erasmus programme for police officers, the fight against gender violence and the fight against drug trafficking via West Africa. On justice matters, some of the priorities are: the accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms, the rights of suspects in criminal proceedings and the fight against trafficking in human beings and sexual exploitation of children as well as rules regarding cross-border succession and wills, judicial cooperation with third countries and the further development and implementation of eJustice.

IN THE MARGINS OF THE COUNCIL

Mixed Committee: VIS, SIS II and IT agency

In the margins of the Council, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) took note of the state of play regarding the development of the Visa Information System (VIS) and of the Schengen Information System II (SIS II).

The committee also held an orientation debate on the possibility of setting up an agency for large-scale IT systems in the area of freedom, security and justice (*11722/09* and *11726/09*) and endorsed the amendments to regulations 539/2001 granting visa free travel for citizens of three Western Balkans countries (see page 17).

Regarding VIS, ministers took note of a revised time table presented by the Commission. It sets December 2010 as the new target date for the deployment of the system. Once operational, VIS will support the implementation of the common visa policy and facilitate effective border control by enabling Schengen member states to enter, update and consult visa data, including biometric data, electronically.

Regarding SIS II, the mixed committee discussed conclusions which were later adopted in Council (see page 11). SIS II will replace the existing Schengen Information System (SIS). It will facilitate the exchange of information on persons and objects between national authorities responsible, inter alia, for border controls and other customs and police checks.

An agency for large-scale IT systems would be responsible for the operational management of VIS, SIS II and EURODAC, the IT system for comparing the fingerprints of asylum seekers and illegal immigrants, in order to facilitate the application of the Dublin II Regulation, which makes it possible to determine the Member State responsible for examining an asylum application. The new agency would also be charged with the operational aspects of any other large-scale IT system developed in the future in the area of freedom, security and justice.

OTHER ITEMS APPROVED

JUSTICE AND HOME AFFAIRS

CBRN - *Council conclusions*

The Council adopted the conclusions set out in document *15505/1/09* + *15505/1/09* COR 1+ *15505/1/09* COR 2.

See the additional press release *16868/09*.

Community framework on disaster prevention within the EU - *Council conclusions*

The Council adopted the conclusions set out in document *15394/09*.

Community consent to Denmark's participation in specific international agreements

The Council adopted two decisions to establish procedures which aim at clarifying how the Community is to express its agreement to the participation by Denmark in international agreement concluded by the Community on two judicial matters:

– on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (*14899/09*); and

– on the service of judicial and extrajudicial documents in civil or commercial matters (*14902/09*).

Denmark can decide whether to take part in such international agreements concluded by the Community or not. But so far, there have been no procedures to allow the Community to rapidly consent to such a Danish decision.

Law applicable to maintenance obligations

The Council adopted a decision on the conclusion of the Hague Protocol of 23 November 2007 on the law applicable to maintenance obligations.

With this decision, all EU member states are bound by the protocol's provisions except Denmark and the United Kingdom.

The protocol aims to ensure greater legal certainty and predictability to maintenance creditors and debtors. It determines the law applicable to maintenance obligations arising from a family relationship, parentage, marriage or affinity, including a maintenance obligation in respect of a child regardless of the marital status of the parents.

Railway protocol - Convention on international interests in mobile equipment

The Council adopted a decision approving the signing of a protocol to the Convention on international interests in mobile equipment on matters specific to railway rolling stock (*13949/09*).

The protocol to the Convention (known as the "Rail Protocol") is intended to facilitate the financing of high-value railway rolling stock by creating a particularly strong international guarantee for creditors.

European system for forensic drug profiling

The Council adopted the conclusions set out in document *15876/09*.

Exchange of DNA analysis results - *Council resolution*

The Council adopted the resolution set out in document *15870/09*.

Forensic service providers carrying out laboratory activities

The Council adopted a framework decision on accreditation of forensic service providers carrying out laboratory activities (*15905/09*).

The purpose of this framework decision is to ensure that the results of forensic laboratory activities carried out in one EU member state are recognised by the authorities responsible for the prevention, detection and investigation of criminal offences within all other member states. To this aim, a national accreditation body in each member state will be required to accredit forensic service providers carrying out laboratory activities as complying with the relevant international ISO-standard.

The overall aim of this framework decision is confidence-building between EU member states. As a consequence of EU legislation such as the Eurodac regulation and the Prüm agreement, the amount of data transferred across the EU is increasing. It will therefore become increasingly important to ensure that the quality of the data is sufficiently high.

As for information originating from forensic processes, there are always a number of steps that have to be taken into account using a controlled routine: how an item has been handled, what methods have been used and how the results have been interpreted. The competence of the persons involved in the forensic process is also essential to achieving a defined level of quality.

European Crime Prevention Network (EUCPN)

The Council adopted a decision changing the set-up of the European Crime Prevention Network (EUCPN), established in 2001 (*15137/09*).

An external evaluation conducted in 2008-2009 identified the need for more engagement in the activities of the network by its national representatives. To that end, decision 2001/427/JHA has been repealed. The structure of the network has been revised in a number of respect, namely: provisions dealing with contact points, the secretariat, the structure of the board and its tasks, including the appointment of the chair.

EUCPN's main goals are to develop crime prevention measures, to exchange best practices and to strengthen the network of competent national authorities. The network mainly focuses on juvenile, urban and drug-related crime.

Decisions on Europol

The Council approved a number of decisions regarding Europol related to:

– the establishment of the rules on the selection, extension of the term of office and dismissal of the Europol director and deputy directors (*15943/09*);

– conditions for data processing (*15942/09*);

– rules on the confidentiality of information (*15135/1/09*);

– implementing rules for Europol analysis work files (*15140/1/09*);

– implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information (*15138/1/09*)

– the list of third countries and organisations with which Europol shall conclude agreements (*15139/1/09*); and

– the establishment of the rules of procedure of the Europol joint supervisory body (*15848/09*).

Civilian crisis management

The Council endorsed a report on how to "Develop and strengthen the co-operation between Justice and Home Affairs and Civilian Crisis Management of the European Security and Defence Policy"(*15880/09*).

Judges, prosecutors, police officers and civilian administrators from EU member states are making important contributions to the prevention of conflicts and re-building of states in conflict areas within the framework of the European Security and Defence Policy (ESDP). Human resources for ESDP civilian crisis management missions are mainly drawn from the Justice and Home Affairs sector.

The report indicates that a consistent and coherent EU action based on a joint geographical approach between the ESDP and the JHA sector would increase the efficiency of efforts and initiatives in the mission areas.

Conflicts of jurisdiction in criminal proceedings

The Council adopted a framework decision on prevention and settlement of conflicts of jurisdiction in criminal proceedings (*8535/09* and *14567/09* ADD1).

The measures provided for in the framework decision are aimed at preventing situations where the same person is subject to parallel criminal proceedings in different EU member states in respect of the same facts, which might lead to the final disposal of those proceedings in two or more member states. It therefore seeks to prevent an infringement of the "*ne bis in idem*" principle.

These measures include:

– a procedure for establishing contact between competent authorities of member states, with a view to confirming the existence of parallel criminal proceedings in respect of the same facts involving the same person(s);

– rules on the exchange of information, through direct consultations, between the competent authorities of two or more member states conducting such parallel criminal proceedings(s), with a view to reaching a consensus on any effective solution aimed at avoiding the adverse consequences arising therefrom.

The framework decision does not affect any right of individuals to argue that they should be prosecuted in their own or in another jurisdiction, if such a right exists under national law.

The Hague programme[1] on strengthening freedom, security and justice, which was approved by the European Council in November 2004, requires EU member states to consider legislation on conflicts of jurisdiction, with a view to increasing the efficiency of prosecutions while guaranteeing the proper administration of justice, so as to complete the comprehensive programme of measures to implement the principle of mutual recognition of judicial decisions in criminal matters.

EU/US agreement on extradition - Extension to the Netherlands Antilles and Aruba

The Council adopted a decision approving the extension, at the request of the Netherlands, of the territorial scope of the EU/US agreement on extradition to the Netherlands Antilles and Aruba (*16456/09*).

Strengthening of the fight against drug trafficking in West Africa - *Council conclusions*

The Council adopted the conclusions set out in document *16451/09*.

Guiding the Council Criminal Law - *Council conclusions*

The Council adopted the conclusions set out in document *16798/09*.

[1] Published in the EU Official Journal C 53 of 3.3.2005.

Strengthening procedural rights in criminal proceedings - *Council resolution*

The Council adopted the resolution set out in document *15434/09*.

Labour migration and its development potential in the age of mobility - *Council conclusions*

The Council adopted the conclusions set out in document *15823/09*.

Migration for development - *Council conclusions*

The Council adopted the conclusions set out in document *15806/09*.

Mobility partnerships - *Council conclusions*

The Council adopted the conclusions set out in document *15811/09*.

Joint declaration: EU- Georgia Mobility partnership

The Council took note of the joint declaration set out in document *16396/09* ADD1.

Use of information technology for customs purposes

The Council adopted a decision on the use of information technology for customs purposes (*14065/09*).

The decision is aimed at replacing the 1995 Convention on the use of information technology for customs purposes (Customs Information System Convention) and bringing it into line with regulation 766/2008, which amends regulation 515/97 on mutual assistance between the administrative authorities of the member states and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters.

The aim of the Customs Information System is to assist in preventing, investigating and prosecuting serious contraventions of national laws by making information available more rapidly, thereby increasing the effectiveness of the cooperation and control procedures of the customs administrations of the member states.

Visa waiver agreements with six island states

The Council adopted decisions concluding short-stay visa waiver agreements between the EU and the following six island states: Antigua and Barbuda, the Bahamas, Barbados, Mauritius, Saint Kitts and Nevis and the Seychelles.

The agreements have already been applied on a provisional basis since 28 May 2009.

The new visa regime provides for visa-free travel for EU citizens when travelling to the territory of these six countries and vice versa, for a period of stay not exceeding three months during a six-month period. Visa-free travel applies to all categories of persons and for all purposes of travel (for instance tourism, cultural visits, scientific activities, family visits, business etc.), except to persons travelling for the purpose of carrying out a paid activity.

Schengen evaluation, C.SIS and SISNET

The Council took note of the proposal for a Council regulation and decision on the establishment of an evaluation mechanism to verify the application of the Schengen acquis. The overall goal of the proposal is to improve the current Schengen evaluations.

Regarding C.SIS, the Council adopted several decisions concerning the financial regulation on the costs of installing and operating the technical support function for the Schengen Information System (C.SIS). It also approved the management report concerning the implementation of the C.SIS installation and operation budget for 2008.

Regarding SISNET, the Council adopted a decision on the financial regulation relating to the installation and the functioning of the communication infrastructure for the Schengen environment (SISNET).

Information management strategy for EU internal security - *Council conclusions*

The Council adopted the conclusions set out in document *16637/09*.

External borders fund - Agreement with Iceland, Liechtenstein, Norway and Switzerland

The Council adopted a decision approving the signing and provisional application of an agreement with Iceland, Liechtenstein, Norway and Switzerland on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013 (*15954/09*).

The aim of the agreement is to provide for the arrangements for the supplementary rules necessary for the participation by these countries in the External Borders Fund (decision 574/2007/EC) as part of the general programme 'Solidarity and Management of Migration Flows'.[1].

INSTITUTIONAL ISSUES

Implementation of the Treaty of Lisbon

Today, the day of the entry into force of the Treaty of Lisbon, several decisions were taken in view of the implementation of the Treaty.

Following the political agreement reached by the Heads of State or Government on 19 November the European Council decided:

– To elect Mr Herman Van Rompuy as President of the European Council for the period from 1 December 2009 until 31 May 2012 (16530/1/09 REV1), and

– To appoint, with the agreement of the President of the Commission, Ms Catherine Ashton as High Representative of the Union for Foreign Affairs and Security Policy for the period from 1 December 2009 until the end of the current term of office of the Commission (16531/2/09 REV2).

[1] OJ L 144, 6.6.2007, p. 22.

The European Council also adopted its rules of procedure and a decision on the exercise of the Presidency of the Council.[1]

Furthermore, the Council decided today [2] to appoint Mr Pierre de Boissieu as Secretary-General of the Council for the period from 1 December 2009 until the day after the European Council meeting of June 2011 (16533/2/09 REV2).

It also adopted its Rules of Procedure (*16183/09*), as well as a decision laying down measures for the implementation of the European Council decision on the exercise of the Presidency of the Council (*16517/09*).

ECONOMIC AND FINANCIAL AFFAIRS

Macro-financial assistance to Georgia, Serbia, Bosnia-Herzegovina and Armenia

The Council adopted four decisions providing macro-financial assistance to Georgia, Serbia, Bosnia-Herzegovina and Armenia (*16330/09*, *16324/09*, *16322/09*, *16321/09*).

The financial assistance to Georgia (maximum EUR 46 million in grants) is aimed to support the country's of post-war economic recovery efforts and to alleviate the financial constraints on the implementation of the government's economic reform programme in times of financial crisis.

The assistance to Serbia (maximum EUR 200 million as a loan facility), Bosnia-Herzegovina (maximum amount of EUR 100 million in the form of a loan facility) and Armenia (maximum of EUR 65 million in the form of a loan facility and a maximum of EUR 35 million as a grant) is designed to support the countries economic stabilisation and finance their balance of payments and budgetary needs.

The Commission will verify at regular intervals that the economic policies of the four countries are in accordance with the objectives of the EU assistance and that the agreed economic policy conditions are being satisfactorily fulfilled.

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[1] The decisions were adopted by written procedure.
[2] Justice and Home Affairs Council of 1 December 2009.

EUROPEAN ECONOMIC AREA

Participation in the European Agency for Safety and Health at Work

The Council approved a draft decision of the Joint Committee of the European Economic Area (EEA) allowing for the participation of Iceland, Liechtenstein and Norway in the European Agency for Safety and Health at Work (*15043/09*).

FISHERIES

Greenland halibut recovery plan

The Council adopted a regulation amending regulation 2115/2005 on the Greenland halibut recovery plan with the purpose of bringing it into line with modifications adopted by the Northwest Atlantic Fisheries Organisation (NAFO) (*14955/09*).

At its annual meeting held in September 2007, NAFO adopted a number of amendments on the Greenland halibut recovery plan, which relate to enhanced measures for catch reporting and additional control measures designed to enhance at-sea inspections for vessels entering and leaving the NAFO regulatory area.

EMPLOYMENT

Globalisation Adjustment Fund - Austria, the Netherlands and Sweden

The Council decided to mobilise a total amount of EUR 15.9 million under the European Globalisation Adjustment Fund (EGF) in order to provide support to workers made redundant in the automotive industry in Sweden (Volvo Cars) and Austria (Steiermark region), as well as in the construction sector in the Netherlands (Heijmans) (*15604/09*). EUR 9.84 million is earmarked for Sweden, EUR 5.71 million for Austria and EUR 386 114 for the Netherlands. The Council also approved the Commission's proposal to finance the aid by transferring an amount of EUR 15.9 million in commitment appropriations from the reserve for the European Globalisation Adjustment Fund and the same amount in payment appropriations from the European Social Fund (ESF).

AVIATION

Extension of the EU-US Open Skies Agreement to Iceland and Norway*

The Council approved the signing and provisional application of an agreement extending the EU-US air transport agreement signed in 2007 ("EU-US Open Skies Agreement") to Iceland and Norway. The agreement is accompanied by an ancillary agreement with procedural provisions.

The new agreement will give EU air carriers the right to operate flights between Iceland and Norway and the United States; reciprocally Icelandic and Norwegian carriers will be allowed to operate between the EU and the USA.

See also Council press release *14056/09*, p. 12, for further details.

Air transport agreement with Canada*

The Council approved the signing and provisional application of a comprehensive air transport agreement with Canada that will replace the existing bilateral agreements concluded by member states with this country.

The agreement includes a gradual phasing-in of traffic rights and investment opportunities. It also provides for cooperation on a number of issues such as safety, security, social matters, consumer interests, the environment, air traffic management, state aids and competition.

The agreement has been negotiated under a mandate received by the Commission from the Council in October 2007.

Agreements on air services with Azerbaijan and Mongolia*

The Council adopted decisions approving the conclusion of agreements on air services with Azerbaijan and Mongolia (*15950/09* + *15952/09*).

The agreements are the result of negotiations carried out by the Commission under a mandate granted by the Council in June 2003 with a view to bringing member states' existing bilateral aviation agreements into line with EU law.

The agreements were signed in July 2009 (Azerbaijan) and April 2009 (Mongolia).

RESEARCH

EU-Japan cooperation agreement in science and technology

The Council adopted a decision approving the signing of an agreement with Japan on cooperation in science and technology (*13753/09*). The signature took place in Brussels on 30 November.

TRANSPARENCY

Public access to documents

The Council adopted the reply to confirmatory application No 24/c/01/09 (*14860/09*).

APPOINTMENTS

Committee of the Regions

The Council adopted a decision appointing as a member for the remainder of the current term of office, which runs until 25 January 2010:

– Mr Massimo PINESCHI, Consigliere regionale, Regione Lazio.