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Justice and Home Affairs

Luxembourg, 11-12 April 2011

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Main results of the Council

In the home affairs part, the Council discussed migration and border related issues concerning the situation in the **Southern neighbourhood region** and adopted conclusions on the subject.

In a public session, the Council had a first exchange of views on a proposed **EU PNR system**, i.e. on the use of Passenger Name Record data (PNR) for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

Ministers then took note of a Commission report on the joint EU-US review of the first six months of the implementation of the **EU-US TFTP agreement**. They also exchanged views on the state-of-play concerning the **Common European Asylum System (CEAS)** and on **Greece's national action plan on migration management and asylum reform**.

In the justice part of the Council, ministers discussed the recent Commission communication on the **EU Framework on National Roma Integration Strategies.** They also held an orientation debate in public on the directive regarding **attacks against information systems**.

Still in public, the Council was then briefed by the Presidency on the ongoing negotiations with the European Parliament concerning the directive on the **right to information in criminal proceedings** and the directive on combating sexual abuse, **sexual exploitation of children** and child pornography. Another information item concerned the proposed regulation to simplify the **rules on successions with an international dimension** in the EU.

The Commission also presented its **roadmap on victim protection** as well as its most recent proposals concerning rules on **property rights in international marriages or registered partnerships**. Another Commission presentation concerned a **report on the implementation of the Charter of Fundamental Rights**.

Other subjects on the agenda included the **European Investigation Order** in criminal matters, the **EU agenda for the rights of the child** and a regulation on the possibility of attributing **legal value to the electronic edition of the Official Journal**.

In the margins of the Council, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) discussed migration and border-related issues concerning the situation in the **Southern neighbourhood region**, as stated above. The committee also looked at the state-of-play regarding negotiations on the proposed new rules for the **European external borders agency Frontex**. The committee then examined the state-of-play regarding the development of the **Visa Information System (VIS)**, the **Schengen Information System II (SIS II)** as well as the establishment of a **European agency for the operational management of large-scale IT systems**.

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Mr Kenneth CLARKE	Lord Chancellor, Secretary of State for Justice

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Ms Viviane REDING	Vice-President
Ms Cecilia MALMSTRÖM	Member
Ms Kristalina GEORGIEVA	Member

ITEMS DEBATED

Southern Neighbourhood Region - *Council conclusions*

The Council discussed developments in the Southern neighbourhood region and adopted conclusions as set out below, in the follow-up to the European Council declaration of 11 March 2011 (EUCO 7/11, points 10-12) and to the 24-25 March 2011 conclusions (EUCO 10/11, points 18-26) focusing on the short-term response to the crisis situation in the Mediterranean.

For a more long-term, comprehensive approach to migration with the countries of the Southern neighbourhood region to be endorsed by the European Council on 24 June 2011, the European Commission has been requested to present proposals.

The next steps up to the European Council in June will most likely be:

– Commission communication (early May),

– extraordinary JHA Council (12 May),

– Commission package of legislative proposals (end May / early June),

– JHA Council (9-10 June)

– European Council (24 June).

The Council adopted the following conclusions:

"THE COUNCIL:

a) Recalling the Declaration of the Extraordinary European Council on 11 March 2011 and the conclusions of the European Council on 24 and 25 March 2011;

b) Recalling the Joint Communication of 8 March 2011 to the European Council, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions - A partnership for democracy and shared prosperity with the Southern Mediterranean;

c) Bearing in mind the discussions at the JHA Council on 24 and 25 February 2011;

d) Recalling the Stockholm Programme and the European Pact on Immigration and Asylum, and the Global Approach to Migration;

e) Underlining that the situation in the Southern Neighbourhood and its migratory consequences continues to be a cause of common concern, which requires measures to be taken as a matter of urgency, as well as responses in the medium and long term;

ADOPTS THE FOLLOWING CONCLUSIONS:

1. The Council acknowledges the great efforts of UNHCR, IOM, ICRC and other international organisations, as well as the support given by the EU and its Member States to these efforts in providing humanitarian assistance and other support to persons displaced by conflict in Libya, and underlines the importance of continuing and further expanding this assistance.

2. The Council expresses appreciation for the decision of Tunisia and Egypt, as well as other countries neighbouring Libya, to receive people displaced as a result of the recent conflict and to cooperate with UNHCR, IOM and other organisations in providing support and assistance to those people, and encourages these countries to continue offering such support and facilities in cooperation with relevant organisations.

3. The Council reaffirms the need for genuine and concrete solidarity towards Member States most directly concerned by migratory movements and calls on the EU and its Member States to continue providing the necessary support as the situation evolves, such as by assisting the local authorities of the most affected Member States in addressing the immediate repercussions of migratory flows on the local economy and infrastructure. The Council welcomes the Commission's intention to extend, with the support of the current and incoming Presidencies of the Council, the existing pilot project, on a voluntary basis, for persons who are beneficiaries of international protection in Malta.

4. Considering the need for further resources to respond to the situation, the Council welcomes the intention of the Commission to mobilize supplementary funds that can be made available to Member States or FRONTEX at short notice when needed.

5. The Council calls on FRONTEX to continue to monitor the situation and prepare detailed risk analyses on possible scenarios with a view to identifying the most effective responses to them, and also invites FRONTEX to speed up negotiations with the countries of the region - and in particular with Tunisia - with a view to concluding operational working arrangements, and organising joint patrolling operations in cooperation with Tunisian authorities and in application of all relevant international Conventions, in particular the UN Convention on the Law of the Sea ("the Montego Bay Convention").

6. The Council urges Member States to provide further human and technical resources to support the Agency's operations, and in particular the existing Joint Operations Hermes, Poseidon Land and Sea and the possible deployment of a RABIT operation in Malta, in accordance with needs identified by the Agency in the light of the developing situation.

7. In order to rapidly strengthen the competences of FRONTEX and put more effective tools at its disposal, the Council agrees to accelerate negotiations on amending the FRONTEX Regulation, in cooperation with the European Parliament, with a view to reaching agreement by June 2011.

8. The Council underlines the need to promote all relevant forms of cooperation on a performance-based approach in the field of migration, mobility and security with the countries of the region that are sufficiently advanced in their reform progresses, and that effectively cooperate with the EU and its Member States in preventing illegal migration flows, managing their borders and cooperating in the return and readmission of irregular migrants. The Council stresses the need for early progress in the area of return and readmission in the case of relevant third countries, and recalls in particular that all States have an obligation to readmit their own nationals.

9. As additional funds will be necessary to develop cooperation with the authorities of the Southern Mediterranean and to assist them in the management of migration flows, the Council invites its competent preparatory bodies and the Commission to ensure that this objective is also taken into account.

10. The Council welcomes the outcome of the visits of the Presidency and the Commission to Egypt and Tunisia and the intention of the Commission to follow-up these visits by setting up dialogues with the authorities of these countries at senior officials' level, in which Member States will also participate, and which will be aimed at promoting the swift development of cooperation on the management of migration flows. This dialogue should in first instance, focus on the identification and promotion of measures which can contribute in a concrete and effective way to the prevention of illegal migration, to the effective management and control of their external borders, to the facilitation of the return and readmission of irregular migrants, and to the development of protection in the region for those in need, including through regional protection programmes. Subsequently, this dialogue could explore the possibilities for facilitating people-to-people contacts using instruments such as mobility partnerships.

11. The Council stresses the importance of offering durable protection solutions to those in need of international protection present in the countries of the Southern Neighbourhood, and, in this respect, calls on the Commission and the Council's preparatory bodies to examine the possibility of assisting those countries in capacity building in the area of international protection, including by activating existing regional protection programmes, and assessing the need for additional programmes in the region.

12. The Council recalls that resettlement of refugees on a voluntary basis, in particular those living for some years in a situation of protracted displacement and vulnerability, and having no other perspective, can represent a durable solution for them. The Council takes note of the willingness of certain Member States to consider offering resettlement opportunities for the refugees present in the region. The Council invites Member States to continue supporting UNHCR in the development of resettlement programmes and calls on the Commission to identify solutions for supporting financially such resettlement actions.

13. The Council underlines that the measures mentioned in the paragraphs above represent the immediate answer to the crisis situation in the Mediterranean, but that it is also crucial to put in place a more long-term sustainable strategy to address international protection, migration, mobility and security in general, and taking also the secondary movements to other Member States into account.

14. The Council welcomes the Commission's intention to come forward for that purpose with proposals in response to the Declaration of the Extraordinary European Council of 11 March and the Conclusions of the European Council of 24-25 March, and notes that the Presidency stands ready to convene an extraordinary meeting of the Council on 12 May if necessary in the light of developments and to further consider these matters."

EU PNR system

Ministers examined a Commission proposal for a directive on the use of flight passenger data for protection against terrorist offences and serious crime (*6007/11*).

One of the main questions discussed was whether the proposed new rules should be limited to the collection of the so-called Passenger Name Record (PNR) data for flights from and to third countries or whether flights within the EU should also be covered. A majority of member states was in favour of including at least an option so that each member state can mandate the collection of such data also with regard to targeted intra-European flights.

The overall purpose of the proposed directive is to set up a coherent EU-wide system on flight passenger data, by creating a single EU model for all member states participating in the new rules and ensuring cooperation between the relevant authorities within the Union. As a consequence, all air carriers flying on routes covered by the new rules would need to provide PNR data to member states' law enforcement authorities. These authorities will, however, only be allowed to use the data - that is already today collected by air carriers - for the prevention, detection, investigation and prosecution of terrorist offences and serious (transnational) crime.

24 EU member states will certainly participate in the adoption of the new directive, while Denmark will not be bound by the new rules. As far as the UK and Ireland are concerned, they will need to give notification as to whether they want to opt-in or not.

For more information see this background note.

EU-US TFTP agreement review

The Council took note of a Commission report on the joint EU-US review of the first six months of the implementation of the EU-US TFTP agreement (*8142/11*). Article 13 of the EU-US TFTP agreement (*OJ L 195, 27.7.2010*) provides for a joint EU-US review six months after the agreement entered into force.

The EU review team has reached the conclusion that all of the relevant elements of the agreement have been implemented in accordance with its provisions, including the data protection provisions. The measures which have been taken to ensure such implementation by the US authorities are convincing, and in some cases go beyond what is required under the agreement. In addition, the review team has been presented with convincing indications of the added value of the TFTP to efforts to combat terrorism and its financing.

The review team also makes a number of recommendations to address perceived shortcomings. They focus on the desirability of providing more publicly accessible information on the way the programme functions, in so far as this is possible, without endangering the effectiveness of the programme. This concerns, in particular, the overall volume of data provided to the US authorities, and the number of financial payment messages accessed. The EU review team also suggests further enhancing the Europol verification procedure referred to in Article 4 of the agreement. In addition, the EU review team would welcome more verifiable statistical information on the added value of TFTP-derived information to efforts to combat terrorism and its financing in order to further substantiate the added value of the programme. It also recommends improving some aspects of the provision of information to the general public on the rights accorded to them under the agreement.

Finally, the EU review team provides a recommendation on the preparation of future reviews, and suggests that the implementation of the recommendations should be the subject of future review efforts.

For more information see this background note.

Common European Asylum System (CEAS)

Ministers examined the state-of-play concerning the legislative proposals that are part of the establishment of the Common European Asylum System (CEAS).

The Council adopted an amendment to the Long Term Residents' Directive which extends all the rights provided in the text for third country nationals legally residing in an EU member state to beneficiaries of international protection. One of the most important rights granted by this directive - always after having lived in a member states for at least five years - is the right to become a resident in another EU member state.

Discussions are ongoing as regards the proposals amending the Dublin and the Eurodac Regulations. On the latter, the Commission signaled that it would come forward with a new proposal that would include one of the main demands by member states allowing access of law enforcement agencies to the Eurodac database.

The Commission also reiterated its intention to table revised proposals on the Reception Conditions and the Asylum Procedures Directive in time for a first discussion at the Justice and Home Affairs Council in June 2011.

Significant progress has been made in relation to the proposal amending the Qualification Directive. In February and March 2011 the European Parliament and the Council agreed on their respective positions which allowed them to start negotiations.

Finally, the European Asylum Support Office started operations, including assistance to the asylum system in Greece. Assistance to Malta is also being prepared. In so doing, the Support Office is already contributing to practical cooperation in the field of asylum significantly in advance of the date set out in its establishing regulation (19 June 2011).

Greece's National Action Plan on Migration Management and Asylum Reform

The Council heard from the Greek minister and the Commission on the progress made concerning Greece's National Action Plan on Migration Management and Asylum Reform.

The Greek authorities set this plan up at the end of 2010 as a consequence of the substantial migratory pressure on their external borders and the subsequent increased pressure on their asylum system.

Acknowledging the European dimension of the Greek situation, the Commission and a large number of member states are assisting Greece in its efforts. The EU border agency Frontex launched in November 2010 a RABIT operation at parts of the Greek-Turkish border. In March 2011, the temporary RABIT operation was succeeded by the enlarged 2011 POSEIDON operation.

Furthermore, the European Asylum Support Office (EASO) is assisting Greece in implementing the Action Plan, in particular through the deployment of asylum support teams. Important assistance is also provided by international organisations such as the UNHCR.

Among other things, the Greek authorities adopted in November 2010 the Asylum Presidential Decree aimed at addressing the current backlog of over 50000 asylum cases. In January 2011, a law was adopted on the establishment of a new asylum service, the setting up of screening centres and the transposition of the so-called EU return directive.

Attacks against information systems

The Council held an orientation debate concerning a directive on attacks against information systems which the Commission tabled on 30 September 2010 (*14436/10*). Once adopted, all EU member states except Denmark will need to transpose the text into national law.

With a view to finding a general approach in June 2011, ministers focused their discussion on the level of penalties, the question of jurisdiction, the criminalisation of the use of tools such as malicious software (e.g. "botnets"[1]) and the criminalisation of attacks committed by misusing another person's identity data ("identity theft"). Only when a general approach is reached among member states can negotiations with the European Parliament start.

The purpose of the proposal is to update the existing rules dating from 2005 (Framework Decision 2005/222/JHA). The directive defines criminal offences in the area of attacks against information systems and is aimed at approximating the penalty levels for such offences. It also serves to facilitate the prevention of such attacks and to improve the cooperation between competent authorities at EU level in this field.

The Commission proposal retains most of the provisions currently in place – namely the penalisation of illegal access, illegal system interference and illegal data interference as well as instigation, aiding, abetting and attempting to commit those criminal offences – and includes the following new elements to address new threats posed by cybercrime:

– penalisation of the use of tools (such as malicious software – e.g. "botnets" – or unlawfully obtained computer passwords) for committing the offences, thus addressing the large scale cyber attacks, which could be especially damaging;

– attacks committed by misusing another person's identity data, i.e. by concealing the real identity of the perpetrator and thus gaining the trust of a third party (such attacks should be considered as aggravating circumstances with higher penalty levels);

– illegal interception of computer data will become a criminal offence;

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[1] The term botnet indicates a network of computers that have been infected by malicious software (computer virus). Such a network of compromised computers ("zombies") may be activated to perform specific actions such as attacks against information systems (cyber attacks). These 'zombies' can be controlled – often without the knowledge of the users of the compromised computers – from another computer.

– improvement of European criminal justice/police cooperation by strengthening the existing structure of 24/7 contact points, including an obligation to provide feedback within eight hours of an urgent request; and

– the obligation to collect basic statistical data on cybercrimes.

Compared to the initial Commission proposal, the current Council text - still not definitive - introduces a number of changes. They include:

– The directive will apply to more serious cases: minor cases are excluded from the scope of the directive. The definition of what constitutes a minor case is determined by national law and practice. However, a new recital provides examples of what could be considered a minor case.

– The Council maintains the level of criminal penalties in general cases: a maximum term of imprisonment of at least two years. Under aggravating circumstances, however, the Council position introduces more flexibility by providing for two different thresholds: a maximum term of imprisonment of at least three or at least five years, depending on the gravity of the offence. The Commission's initial proposal provided for a general penalty level under aggravating circumstances of at least five years.

– Two new aggravating circumstances, where the highest penalty would apply, are also introduced by the Council position: when the attack has caused serious damage and when it has been committed against critical structure information system.

EU Framework on National Roma Integration Strategies

The Council held a first exchange of views concerning the Commission communication on the EU Framework on National Roma Integration Strategies adopted on 5 April 2011 (*8727/11*).

Concerning the justice aspect of the issue, discussions among ministers focused on questions such as: What are the barriers to access to justice for marginalised communities, including the Roma? How could access to justice contribute more effectively to reducing poverty at EU and national level? What are the legal, institutional and/or non-governmental tools in the various member states that could serve as examples for others?

The goal of the Commission communication is to help guide national Roma policies and mobilise funds available at EU level to support better inclusion of Europe's 10-12 million Roma. Most Roma continue to face discrimination, marginalisation, social exclusion, segregation, extreme poverty and the denial of their rights. Women and children are especially vulnerable.

The communication focuses on four pillars: access to education, jobs, health care and housing. Member states are encouraged to set individual national Roma integration goals in proportion to the population on their territory and depending on their starting point.

Taking into consideration the complexity of the issue of Roma integration, the Hungarian Presidency intends to organise a series of discussions based on the communication in the relevant Council configurations leading up to the European Council on 24 June 2011:

– discussion at the Justice and Home Affairs Council (12 April);

– adoption of Council conclusions at the Employment, Social Policy, Health and Consumer Affairs Council (19 May);

– discussion at the Education, Youth, Culture and Sport Council (20 May);

– integration of these discussions into a Presidency report which will be presented and debated at the General Affairs Council (23 May).

The Presidency report will then be endorsed by the European Council on 24 June 2011.

Victim protection

The Council discussed the issue of victim protection in the light of the conclusions of the conference "Protecting Victims in the EU: The Road Ahead", held in Budapest on 23-24 March 2011 (*8657/11*).

These conclusions stress that Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings should be revised. Its provisions need to be made clearer and its obligations stricter. There is a general consensus among participants on the need for the EU to take both legislative and non-legislative action in this field, in order to ensure a common minimum level of safeguard for victims.

Key areas to be addressed include: the facilitation of access to justice for victims; the setting-up or strengthening of victim support structures, both public and private; the strengthening of the victim's position in the course of criminal proceedings; ensuring the recognition of the victim's status and protecting his or her fundamental rights, both in criminal proceedings and beyond; the need to train professionals who are involved in dealing with victims of crime; and the need to collect reliable data at the EU level in order to plan further action.

During the Council discussion, the Commission confirmed its intention to table, on 11 May 2011, a first package of legislative and non-legislative proposals aimed at enhancing the protection of victims in the EU. To support this initiative and complement it by other legislative and non-legislative measures, the Council is working on a coordinated and integrated approach to the various issues at stake which will be presented in the forthcoming resolution "Roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings".

The aim of this resolution is to gather the necessary measures aimed at enhancing the protection of victims in the EU, including those set out in the Commission proposal, in a single coherent document, setting out the guiding principles for EU action in this field. The resolution will ask the Commission to take the appropriate initiatives and commit the Council to examining them as a matter of priority.

Sexual exploitation of children

The Council looked at the state of play regarding the directive on combating sexual abuse, sexual exploitation of children and child pornography (*8155/10*) after the first negotiation meetings in trialogue with the European Parliament.

Ministers raised the following two outstanding issues in particular:

– disqualifications arising from convictions which aim to ensure that a person convicted may be temporarily or permanently prevented from exercising certain activities. The Council's position as expressed in the general approach was to impose disqualifications of persons convicted to "at least" professional activities involving regular contacts with children making the inclusion of non-professional activities optional. This would mean that each member state will be able to decide whether it wants to also include non-professional activities in their national legislation or not; and

– measures against websites containing or disseminating child pornography, including the removal or, where this is not possible, the blocking of those webpages.

Other outstanding issues include:

– the issue of sex tourism, and in particular the question of jurisdiction;

– the level of penalties, where the Council in its common position introduced the age of sexual consent as an element of differentiation of the level of penalties;

– measures against solicitation of children for sexual purposes by means of information and communication technologies (grooming); and

– non-prosecution of child victims.

In December 2010, the Council reached a general approach on the dossier, allowing negotiations with the European Parliament to begin. The goal is a first-reading agreement with the European Parliament before the end of the Hungarian Presidency. The next trialogue meeting between the two institutions will take place on 19 April 2011.

After its adoption, the directive will not only establish minimum rules concerning criminal offences and sanctions; it will also strengthen the prevention of these crimes and the protection of their victims.

All EU member states except Denmark will need to transpose the new rules into national law.

Right to information in criminal proceedings

The Council discussed the state of play on EU-wide minimum standards concerning the right to information in criminal proceedings. The Council agreed on a general approach in December 2010 (*17503/10*). Negotiations with the European Parliament have started with a view to reach a first reading agreement by June 2011. The next trialogue meeting between both institutions will take place on 18 April 2011.

The directive was proposed by the Commission in July 2010 (*12564/10*). Its goal is to ensure that any person who is suspected or accused of having committed a criminal offence is provided with information concerning his or her fundamental procedural rights, as well as information on the accusation against him or her – including access to the material of the case. Once adopted, all member states except Denmark will need to transpose the new rules into national law.

For more information see this background note.

European Investigation Order

The Council took note of the state of play concerning the European Investigation Order (EIO) in criminal matters. This directive aims to allow one EU member state to carry out investigative measures at the request of another EU member state on the basis of mutual recognition.

The investigative measures would, for example, include interviewing witnesses, searches and seizures, and (with additional safeguards) interception of telecommunications, observation, infiltration and monitoring of bank accounts.

The Council preparatory bodies are instructed to continue work on the basis of an orientation note (*8369/11*).

Currently, the examination of the proposal is focused on the following issues:

– the scope of the proposal;

– the competent authorities in the issuing and executing state;

– the grounds for non-recognition or non-execution;

– the question of proportionality/legal remedies; and

– the issue of costs.

The EIO is an initiative that was presented in April 2010 by seven member states (*9288/10*)[1]. The United Kingdom and Ireland decided to participate in the EIO by using the opt-in option provided for in Protocol 21 of the Lisbon Treaty. Denmark is not taking part.

[1] Austria, Belgium, Bulgaria, Estonia, Slovenia, Spain and Sweden.

Charter of Fundamental Rights

The Council took note of a Commission report on the implementation of the Charter of Fundamental Rights of the European Union (*8453/11*). The Hungarian presidency aims to adopt conclusions in response to the report in June 2011.

The Commission has published – for the first time – an Annual Report on the Application of the Charter. The report monitors progress in the areas where the EU has powers to act, showing how the Charter has been taken into account in concrete cases. The report highlights how the fundamental rights enshrined in the Charter are relevant across a range of policies for which the EU is responsible and must always be taken into careful consideration when designing and implementing EU actions: from access to justice and transport policy to border management.

The report brings together for the first time a coherent overview of the most relevant information on the dynamic application of the Charter.

In February 2011, the Council adopted conclusions on the role of the Council in ensuring the effective implementation of the Charter of Fundamental Rights of the European Union (*6387/11*).

With the entry into force of the Lisbon Treaty, the Charter became a legally binding document with the same legal value as the Treaties. The Council, as co-legislator with the European Parliament, is committed to guaranteeing that fundamental rights are respected throughout its own internal decision-making procedures, especially in the context of legislative drafting (codecision or ordinary legislative procedure), but also when drafting legal acts which are not subject to a legislative procedure. Furthermore, the Council wishes to do so in an as visible and transparent way as possible, for the benefit of citizens and other parties concerned.

Property rights concerning international couples

The Council took note of a Commission presentation of its most recent proposals concerning rules on property rights in international marriages (*8160/11*) or registered partnerships (*8163/11*). As both proposals relate to family law, the adoption of the new rules require unanimity among EU member states, after consultation of the European Parliament.

The main goal of the proposals is to bring legal certainty to international couples as regards their property rights. The proposed rules concern couples made up of nationals of different member states or living in a member state other than their state of origin[1]. Uncertainty in this area has been highlighted as one of the obstacles to free movement of persons[2], and the issue has been on the EU's agenda for many years. Most recently, the Stockholm Programme called for measures on the matter.

The different proposals are very similar in nature. Nevertheless, it should be noted that across the EU marriage and registered partnership are different legal institutions. Marriage exists in all member states, whereas registered partnership, a more recent institution, exists in only 14 member states.

The proposed new rules concern three areas: They will make it possible to identify the relevant jurisdiction if a union comes to an end and the applicable law for the division of property. The free movement of decisions will also be ensured by their automatic recognition throughout the Union, and there will be a uniform simplified procedure for having decisions enforced.

Jurisdiction

The new rules will establish which court has jurisdiction to liquidate a matrimonial property regime or the property consequences of a registered partnership. The Commission proposes that a single court should be responsible:

– The courts with jurisdiction to rule on divorce or legal separation proceedings under the Brussels IIa regulation would have their jurisdiction extended to the liquidation of the matrimonial property regime as a result of a divorce or legal separation.

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1 According to the Commission, there are 16 million such international couples living in the EU.

2 Most recently by the 2010 EU Citizenship Report: Dismantling the obstacles to EU citizens' rights, COM(2010) 603.

– Similarly, if one of the spouses or partners dies, the court with jurisdiction over the succession in accordance with the instrument under negotiation (see separate item on succession rules) would have its jurisdiction extended to matters of matrimonial property regimes and the property consequences of partnerships.

Applicable law

Different approaches are proposed for marriages and for registered partnerships because of the specific features of each institution:

– Married spouses are given the option of limited choice of law. The choice is between the law of their common habitual residence or that of their country of nationality. Where no agreement can be reached and, consequently, no law has been chosen, the proposal contains a list of connecting factors to identify the applicable law.

– The same freedom is not proposed for registered partners. Here the proposal provides that the law applicable is the one of the state where the partnership was registered.

Recognition and enforcement

The proposed provisions on recognition and enforcement of decisions and instruments are the first measures proposed at EU level concerning the property relationships of international couples:

– Decisions made in one member state will be recognised before the courts of the Member State where enforcement is sought on the basis of exequatur. This is a procedure that basically consists of a formal verification of the documents submitted by the applicant, as happens presently in civil and commercial proceedings.

– These new provisions are a considerable step forward compared with the current situation where each member state applies its own procedural rules and has its own grounds for refusing enforcement of foreign decisions, something which seriously hampers the movement of decisions in this area.

Succession

The Council took note of a presentation on the state of play on proposed EU-wide rules in matters of succession and the creation of a European certificate of succession. The draft regulation was presented by the Commission in October 2009 (*14722/09* + *14722/09 ADD 2*), and the Council adopted a first set of guidelines for future work in June 2010.

At the time, ministers underlined the importance of the proposed rules since they have the potential to make life easier for heirs, legatees and other interested parties. Not least, the new rules would take some of the stress out of succession planning by enabling people to choose the law that will govern the transmission of all their assets.

In this regard, the proposal provides for the application of a single criterion for determining both the jurisdiction of the authorities and the law applicable to a cross-border succession: the deceased's habitual place of residence. People living abroad will, however, be able to opt to have the law of their country of nationality apply to the entirety of their succession.

All assets making up a succession will thus be governed by one and the same law. Likewise, a single authority should be competent for settling the succession. There should also be full mutual recognition of decisions and authentic acts in succession matters.

Under the proposed regulation, a European Certificate of Succession would be created to enable a person to confirm their status as heir or their powers as administrator or executor of a succession without further formalities. At present, people sometimes have great difficulty exercising their rights. The result will be faster and cheaper procedures.

It is to be noted that Denmark, the United Kingdom and Ireland will not take part in the adoption and application of the proposed regulation.

Rights of the Child

The Council took note of a presentation by the Commission of an EU Agenda for the Rights of the Child adopted in March 2011 (*7226/11*).

The text presents general principles as well as a number of specific measures in areas where the EU can bring real added value, such as child-friendly justice, protecting children in vulnerable situations and fighting violence against children both inside the European Union and externally.

Official Journal of the EU

The Council took note of a presentation by the Commission on its proposal concerning the electronic edition of the Official Journal of the European Union, which was adopted on 4 April 2011 (*8609/11*).

The new proposal aims to give legal value to the electronic edition of the Official Journal of the EU. This will allow everyone to rely on it as being official, authentic, up-to-date and complete.

The Official Journal of the EU ensures the official publication of the legislation and all other acts of the European Union. It has been published on paper since 1958 and since 1998 it has also been made available on the Internet. However, until now, only the paper version has had legal value.

AOB

Under any other business, the Commission presented an EU agenda for the rights of the child.

Romania informed the Council about a meeting of the interior ministers of the member states of the Organization of the Black Sea Economic Cooperation (BSEC) that will take place on 14 April 2011. The main subject will be regional efforts to prevent and combat corruption.

In the light of the tsunami and current nuclear crisis in Japan, Belgium suggested further reflections on a EU cooperation mechanism in the event of a nuclear incident.

Mixed Committee

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

Southern Neighbourhood Region

The committee discussed developments in the Southern neighbourhood region, in the follow-up to the European Council declaration of 11 March 2011 (EUCO 7/11, points 10-12) and to the 24-25 March 2011 conclusions (EUCO 10/11, points 18-26). Both texts identified a number of priorities for EU action which needed to be taken forward in the short, medium and long term.

The Council later adopted conclusions on the subject (see separate item above).

Frontex Regulation

The committee looked at the state-of-play of discussions on the revision of the rules concerning the European external borders agency Frontex (*6898/10*). Some of the issues outstanding include:

– monitoring in the context of return cooperation;

– the processing of personal data collected by member states for the purpose of risk analysis in the context of operational activities coordinated by the agency; and

– the involvement of third countries, EU agencies and international organisations in Frontex activities.

The presidency intends to start negotiations with the European Parliament in the coming weeks. The goal is to reach agreement before the summer in line with the conclusions of the European Council of 24 March 2011.

EU IT Agency

The Committee also discussed the state-of-play on the establishment of a European agency for the operational management of large-scale IT systems (such as the second-generation Schengen Information System (SIS II), the Visa Information System (VIS) and EURODAC) (*11722/09*).

On this dossier, the Council aims to reach a first reading agreement with the European Parliament before the summer.

SIS II

The committee discussed the state-of-play of the implementation of the Schengen Information System II (SIS II). The global schedule presented by the Commission at the Council meeting in October 2010 provides for entry into operation of the SIS II by the first quarter of 2013.

VIS

The committee also looked at the progress made regarding the preparation of the Visa Information System (VIS). For the VIS to go live, the central VIS managed by the Commission, the national VIS of each individual member state as well as preparations at the external border crossing points and in the consulates of the first roll-out region (North Africa) must be ready. The central VIS is expected to be ready by the end of June 2011. The member states will then need to notify the readiness of their national systems as well as their consulates. The whole system should start operating in the autumn of 2011.

OTHER ITEMS APPROVED

JUSTICE AND HOME AFFAIRS

Long term residence directive*

The Council adopted an amendment to the Long Term Residents' directive which extends all the rights provided in the text for third country nationals legally residing in an EU member states to beneficiaries of international protection (*66/10* + *8427/11 ADD 1 REV 1*).

One of the most important rights granted by this directive - always after having lived in a member state for at least five years - is the right to become a resident in another EU member state.

For more information see the following press release.

Visa facilitation agreements

The Council adopted three decisions authorising the Commission to open negotiations with the Russian Federation, Ukraine and the Republic of Moldova for the conclusion of agreements on the issuance of visas which amend the visa facilitation agreements currently in force between the European Union and these countries.

CEPOL Work Programme for 2011

The Council adopted the 2011CEPOL (European Police College) Work Programme (*7645/11*), which includes new priorities, topics and administrative tools. Support to the national colleges in implementing common curricula is a priority, as well as the development of e-Learning modules and the exchange programme for 2011 - 2012.

European Crime Prevention Network 2010 Annual Report - *Council conclusions*

The Council adopted conclusions on the European Crime Prevention Network (EUCPN) 2010 Annual Report and Work Programme for 2011 (*7135/1/11 REV 1*). The EUCPN supports crime prevention activities by exchanging best practices, expertise, information and contacts in this field.

Crime Prevention Through Environmental Design - *Council conclusions*

The Council adopted conclusions on Crime Prevention Through Environmental Design (CPTED) (*8094/11*). CPTED is a multi-disciplinary approach to deterring criminal behaviour: it is based on the theory that the physical environment influences human behaviour. CPTED strategies rely upon the ability to influence offender decisions that precede criminal acts.

Therefore member states are encouraged to apply CPTED in all relevant urban planning applications and to promote the adoption of the philosophy and principles of CPTED by police forces and local authorities, in order to improve the quality of life for the community.

Use of police dogs - *Council resolution*

The Council adopted a resolution on the use of police dogs in the European Union (*8178/11*). It invites member states to create a network of police dog professionals (KYNOPOL) in order to enhance cooperation and coordination of the activities of the member states' law enforcement authorities regarding the use of police dogs.

Cooperation between Europol and the SECI Center /SELEC - *Council conclusions*

The Council adopted conclusions on cooperation between Europol and the SECI (East Southeast European Cooperation) Center /SELEC (Southeast European Law Enforcement Centre) *(8185/11),* which aim at ensuring compatibility between these structures and Europol's legal framework, in order to avoid a possible duplication of roles and tasks.

Europol should have the driving role in preventing and combating serious crime and the SECI Center /SELEC should constitute an operational platform for cooperation and coordination between its member states, focusing on the organisation of joint operations and providing Europol with criminal intelligence for analytical purposes.

Customs authorities and the fight against serious and organised cross-border crime - *Council conclusions*

The Council adopted conclusions on the contribution of the customs authorities to the implementation of the Stockholm Programme in the fight against serious and organised cross-border crime (See *8096/11*).

Risk Assessment for Disaster Management - *Council conclusions*

The Council adopted conclusions on Further Developing Risk Assessment for Disaster Management within the European Union (See *8068/11*).

ECONOMIC AND FINANCIAL AFFAIRS

Amended regulation on credit rating agencies*

The Council adopted a regulation amending regulation 1060/2009 on credit rating agencies in order to introduce centralised oversight of credit rating agencies operating in the EU (*70/10* + *8116/11 ADD 1*).

The amendment is aimed in particular at entrusting the European Securities and Markets Authority with the necessary powers to perform new tasks for the registration and oversight of credit rating agencies.

Ernst & Young approved as external auditors of National Bank of Belgium

The Council adopted a decision approving Ernst & Young Bedrijfsrevisoren/Réviseurs d'entreprises as the external auditors of the National Bank of Belgium for the financial years 2011 to 2013, with the possibility of one single renewal for the financial years 2014 to 2016 (*7151/11*).

The Council decision amends decision 1999/70/EC.

BUDGETS

Calendar and practical arrangements for the adoption of the EU budget 2012

The Council approved the calendar for this year's budgetary procedure and the modalities for the functioning of the Conciliation Committee as agreed during the trilogue between the Hungarian Presidency, the European Parliament and the Commission held on 30 March 2011 (*8445/11*).

EU humanitarian aid and civil protection for Libya, Côte d'Ivoire and Japan

The Council approved additional financial resources for humanitarian aid and civil protection in Libya, Côte d'Ivoire and Japan. In total, EUR 60 million in commitment appropriations are being made available through transfer from the emergency aid reserve. EUR 55 million will allow the EU to respond swiftly and in a timely manner to the possible aggravation of the humanitarian situation in Libya and Côte d'Ivoire, and to face other new needs that may occur. A further EUR 5 million will be used to maintain sufficient capacity of the EU civil protection mechanism for further intervention, following the Libya crisis and the tsunami in Japan.

TRADE POLICY

EU-Korea Free Trade Agreement: Implementation of safeguard clause

The Council adopted a regulation implementing the bilateral safeguard clause of the EU-Korea Free Trade Agreement (*8/11*).

The agreement was signed in October 2010, and it was agreed that its provisional application would start on 1 July 2011, provided that a regulation implementing the bilateral safeguard clause was in place.

The clause provides for the possibility of imposing safeguard measures in response to a serious injury or threat of serious injury to EU producers caused by imports benefiting from duty drawback or exemption from customs duty.

DEVELOPMENT COOPERATION

European development fund

The Council amended the financial regulation for the European Development Fund (EDF) (*7497/1/11 REV 1*) to take account of the creation of the European External Action Service. The Commission may accordingly delegate to heads of Union delegations, who are part of the External Action Service, its powers to manage funds from the EDF.

ENFOPOL

Safety at sports events

The Council adopted the annual action plan implementing the 2011-2013 EU Work Programme *(7315/11)* on further measures designed to maximise safety and security in connection with sports events, in particular football matches, with an international dimension.

The European strategy and associated preventive measures need to be flexible and non-mandatory in order to be adaptable to national (or indeed local) circumstances and should build upon current European governmental and police co-operation in this field.

Major sports events with more than one organising country - *Council resolution*

The Council adopted a resolution concerning recommendations for hosting major football and other sports events, in particular tournaments with more than one organising country (*8179/11*).These recommendations are based on the updated handbook adopted last year by the Council, which includes recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one member state is involved *(OJ C 165, 24.6.2010)*.

ENVIRONMENT

Long-range transboundary air pollution

The Council revised the negotiating directives for the EU's participation in the international negotiations to amend the protocol on heavy metals to the convention on long-range transboundary air pollution. This was to take account of a change in the scope of the talks.

APPOINTMENTS

Committee of the Regions

The Council appointed Mr Riccardo VENTRE (Italy) as a member of the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2015 *(8749/11)*.