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3135th Council meeting

Justice and Home Affairs

Brussels, 13-14 December 2011

President **Mr Jacek CICHOCKI**
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Main results of the Council

*The Council decided on the signing of the **EU-US PNR agreement** which took place on 14 December 2011 following the Council meeting. The European Parliament will now be requested to give its consent to the agreement.*

The Council also adopted a general approach concerning three legislative dossiers:

- *revised rules governing the **EU's visa- free regime**;*
- *a directive establishing minimum standards on the rights, support and protection of **victims of crime**; and*
- *a **European investigation order on criminal matters**.*

This allows the presidency to start negotiations with the European Parliament on all three issues.

*On Schengen related issues, ministers reverted to the question of **Schengen accession of Bulgaria and Romania**, however, a decision on the two countries accession coul, not be taken. The Council also discussed proposed amendments to two regulations for a more effective **governance of the Schengen area**: one concerns the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, the other concerns common rules on the temporary reintroduction of border controls in exceptional circumstances.*

*On asylum, the Council was informed about the state-of-play of the various legal instruments intended to improve the **Common European Asylum System (CEAS)**. On migration, the Council discussed a presidency paper regarding the **EU response to increased migration pressures**. Ministers also held a first exchange of views on the Commission communication on a "**Global approach to migration and mobility**".*

*The EU Counter-Terrorism Ccoordinator presented three documents for discussion: his most recent report on the **EU Action Plan on combating terrorism**, his latest **discussion paper** on the EU counter-terrorism strategy and his report on the implementation of the **revised strategy for terrorist financing**.*

Ministers also reached agreement on the text of a regulation on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of ***succession*** *and the creation of a European Certificate of Succession. On the recast of a regulation on jurisdiction and the recognition and enforcement of* ***judgments in civil and commercial matters*** *(the so-called "Brussels I" regulation), the Council approved political guidelines for further work.*

The Council was also briefed on the state of play concerning a proposal for a regulation on a ***Common European Sales Law*** *and took note of a progress report on a directive on the right of* ***access to a lawyer*** *and on the right to communicate upon arrest in criminal proceedings.*

Another information point concerned the ***EU-US ministerial meeting*** *on justice and home affairs issues which took place in November. Ministers finally held a first exchange of views on the Commission proposals in the justice and home affairs area in the context of the* ***multiannual financial framework (2014-2020)****.*

In the margins of the Council, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) examined the state of play on the implementation of the ***Schengen Information System II (SIS II)*** *and discussed the problems posed by* ***cross-border itinerant crime****.*

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Mr Alan SHATTER	Minister for Justice and Equality
Mr Rory MONTGOMERY	Permanent Representative
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Mr George PETALOTIS	State Secretary for Justice
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Mr Justo Tomás ZAMBRANA PINEDA	State Secretary for Security
Ms Anna TERRÓN I CUSÍ	State Secretary for Immigration and Emigration
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Ms Paola SEVERINO	Minister for Justice
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Mr Neoklis SYLIKIOTIS	Minister for the Interior
Mr Loukas LOUCA	Minister for Justice and Public Order
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Mr Gaidis BĒRZIŅŠ	Minister for Justice
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Mr Sándor PINTÉR	Minister for the Interior
Mr Tibor NAVRACSICS	Deputy Prime Minister, Minister for Public Administration and Justice

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Mr Aleš ZALAR	Minister for Justice

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Sweden:

Ms Beatrice ASK	Minister for Justice
Mr Tobias BILLSTRÖM	Minister for Migration

United Kingdom:

Ms Theresa MAY	Secretary of State for the Home Department and Minister for Women and Equalities
Mr Kenneth CLARKE	Lord Chancellor, Secretary of State for Justice

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Commission:

Ms Viviane REDING	Vice-President
Ms Cecilia MALMSTRÖM	Member

The Government of the Acceding State was represented as follows:

Croatia:

Mr Dražen BOŠNJAKOVIĆ	Minister for Justice
Mr Branko BARIČEVIĆ	Permanent Representative

ITEMS DEBATED

EU-US PNR AGREEMENT

The Council gave the green light for the signing of a new EU-US PNR agreement (*17434/11*), which took place on 14 December 2011 following the Council meeting. The European Parliament will now be asked to give its consent to the agreement, which is necessary before the Council can adopt its decision on the conclusion of the agreement.

The agreement, once concluded, will replace the existing EU-US PNR agreement, provisionally applied since 2007.

For more information, see this press release.

EU VISA-FREE REGIME

The Council adopted a general approach concerning certain elements of the Commission proposal to amend the rules governing the EU's visa-free regime. This allows for negotiations with the European Parliament to start.

The Commission tabled its proposal in May 2011. It concern regulation 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders (Annex I to the regulation) and those whose nationals are exempt from that requirement (Annex II of the regulation) (*10834/11*).

The core of the Commission proposal is the introduction of a safeguard clause allowing the temporary reintroduction of the visa requirement for citizens of a third country whose nationals can normally travel to the EU without a visa.

While welcoming the safeguard clause, the Council decided to amend Article 1a. The original proposal for this article set the following condition for a member state to notify the Commission of an emergency situation that could trigger the safeguard procedure: a sudden increase of at least 50% in relation to illegal stays and/or asylum applications and/or rejected readmission applications.

In the Council's general approach, three main changes were introduced:

– The reference to a percentage has been replaced by a reference to "a substantial and sudden increase". The 50% notion was moved to a recital, thus becoming a guiding principle that indicates how the provision could be applied.

– The notion of asylum applications was clarified by adding that this criteria refers to asylum applications "which are manifestly unfounded or do not fulfil the conditions for international protection".

– The paragraph listing the issues to be taken into account by the Commission when examining the member state notification was extended, adding a reference to public policy and internal security as well as to the consequences of a possible suspension.

The main reason for the changes proposed is to have the Commission focus on the assessment of the real situation described by the member state presenting the notification.

The safeguard clause as it stands now also provides that, if problems regarding a third country persist, the Commission can propose to move that country permanently from Annex 2 to Annex 1, i.e. to the list of those countries whose nationals are not exempt from having a visa when travelling to the EU.

SCHENGEN ENLARGEMENT: BULGARIA AND ROMANIA

The Council reverted to the question of Schengen accession of Bulgaria and Romania. A decision on the two countries accession could not be taken, however, because the required unanimity was not achieved.

The current proposal suggests abolishing checks on persons at internal sea and air borders with and between Bulgaria and Romania on 25 March 2012. At the same time, the two countries would fully join the Schengen Information System (SIS). As to the abolition of checks on persons at internal land borders, a decision would be taken by the Council no later than 31 July 2012.

SCHENGEN GOVERNANCE

Over lunch, on the basis of a presidency note (*18196/1/11*), the Council examined a number of issues concerning the two legislative proposals for establishing a reinforced Schengen governance, namely:

a) a regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis (*14358/11*); and

b) an amendment to the Schengen Borders Code as regards the rules for the temporary reintroduction of border controls at internal borders in exceptional circumstances (*14359/11*).

The presidency reported broad support for the approach set out in that note as well as support for increased political steering of developments in the Schengen area. On this basis, the incoming Danish presidency will take forward work on the file.

This package is the Commission response to the European Council conclusions of 23-24 June 2011 (*EUCO 23/11*) which called, for a mechanism to be 'introduced in order to respond to exceptional circumstances putting the overall functioning of Schengen cooperation at risk, without jeopardising the principle of free movement of persons. The European Council also called for 'an effective and reliable monitoring and evaluation system' which 'should be EU-based and involve experts from the member states, the Commission and competent agencies'. As part of such a system the Commission could be invited 'where necessary to propose measures to respond to any deficiencies which are identified'.

The Commission proposals were presented in September 2011. For more information, see this background note (p. 7-9).

COMMON EUROPEAN ASYLUM SYSTEM

The Council discussed a presidency paper on the state-of-play of negotiations on the various legislative proposals concerning the Common European Asylum System (CEAS) (*18170/11*).

Ministers instructed the Council preparatory bodies to continue their work to reach an agreement at Council level and with the European Parliament as soon as possible.

The situation on the various files can be described as follows:

– The Dublin regulation establishes the procedures for determining the member state responsible for examining an application for international protection. Further progress has been made, in particular concerning a proposal to introduce a mechanism for early warning, preparedness and management of crises aimed at evaluating the practical functioning of national asylum systems, assisting member states in need and preventing asylum crisis. Such a mechanism would concentrate on adopting measures to prevent asylum crises from developing rather than addressing the consequences of such crises once they have occurred.

– The qualification directive providing for better, clearer and more harmonised standards for identifying persons in need of international protection was adopted in November 2011 (*17435/11*).

– The asylum procedures and reception conditions directives: Revised proposals were tabled by the Commission on 1 June 2011 (*11207/11* and *11214/11*, respectively). Significant progress has been made across on the two instruments. Work on both instruments continues.

– The Eurodac regulation: discussions on amendments to the rules regulating this fingerprint database are on hold pending a Commission proposal which would permit law enforcement access, as requested by member states.

Two other agreements related to the CEAS have been achieved so far. They concern the long term residence directive and the creation of the European Asylum Support Office (EASO) which started operations earlier this year.

The European Council confirmed in its conclusions in June 2011 (*EUCO 23/11*) that negotiations on the various elements of the CEAS should be concluded by 2012.

EU RESPONSE TO INCREASED MIGRATION PRESSURE

The Council discussed a presidency report regarding the EU's response to increased migration pressures (*18302/11*). Member states welcomed the report and underlined the importance of many of the measures suggested in the report.

The report underlines that illegal immigration is a multidimensional phenomenon that demands a comprehensive response, and highlights the main challenges faced by the EU at present, including: irregular crossings of the EU's external borders; abuses of legal migration channels, such as visa overstayers and abuses of asylum procedures; and smuggling and trafficking in human beings, often resulting in forced labour and the sexual exploitation of migrants, especially women and children.

The report also suggests priorities for future measures: cooperation with third countries of transit and origin; concrete solidarity between member states; enhanced and coordinated operational activities; mobilisation of appropriate financial means in the upcoming multiannual financial framework (2014-20); the further development of new tools, such as the Visa Information System (VIS) and EUROSUR.

GLOBAL APPROACH TO MIGRATION AND MOBILITY

The Council took note of the Commission communication on a "Global approach to migration and mobility" (*17254/11 + ADD 1*).

In this communication, the Commission proposes to centre EU action in the area around four equally important operational priorities:

– organising and facilitating legal migration and mobility;

– preventing and reducing irregular migration and trafficking in human beings;

– promoting international protection and enhancing the external dimension of asylum policy; and

– maximising the development impact of migration and mobility.

The communication also suggests geographical priorities and implementation mechanisms and addresses the questions of appropriate funding and monitoring.

The communication follows a previous Commission communication on migration of 4 May 2011 (*9731/11*).

FIGHT AGAINST TERRORISM

The Council discussed three terrorism related documents presented by the EU Counter-Terrorism Coordinator:

Discussion paper on the EU Counter-terrorism strategy

In his discussion paper on the implementation of the EU's counter-terrorism strategy (*17595/11*), the EU Counter-Terrorism Coordinator focuses on five key challenges to be addressed as a matter of priority and makes a number of recommendations.

These key issues are:

– understanding the evolving threat of terrorism, which does not come from a single source;

– increasing the coherence of the EU's internal and external policies;

– improving the technical response to an evolving threat: security-related research;

– how to further increase transport security; and

– how to tackle terrorist financing more effectively.

The EU Counter-Terrorism Strategy was adopted in December 2005 and provides the framework for EU activity in this field (*14469/4/05*). Every six months, the Counter-Terrorism Coordinator submits a discussion paper to the Council giving his assessment of the terrorism threat and highlighting key challenges to be addressed.

Report on the EU Action Plan on combating terrorism

The report on the Action Plan on combating terrorism (*17594/1/11*) gives an overview of the latest results in the four strands of the strategy (prevent, protect, pursue and prepare) and lists those areas where measures are due to be taken.

Report on the implementation of the revised strategy for terrorist financing

The report on the implementation of the revised strategy for terrorist financing (*15062/11*), drawn up in cooperation with the Commission, highlights a number of issues: recent trends in terrorist financing have shown that terrorism and crime tend to be increasingly linked with each other; terrorist groups rely increasingly on ransom money for their financing (amounts which in some places far exceed any other financing methods); terrorist groups are increasingly dependent on cash couriers and informal remittances.

The report makes a number of recommendations on how to implement the strategy more effectively, including better monitoring of the implementation of various important legal instruments, more efficient threat analysis, better cooperation between member states' financial intelligence units, more cooperation with the private sector and better international cooperation.

A revised strategy on terrorist financing was endorsed by the Council in July 2008 (*11778/1/08*). It tasked the Counter-Terrorism Coordinator, in cooperation with the Commission, with ensuring the follow-up.

VICTIMS OF CRIME

The Council adopted a general approach on the articles and key recitals of a directive establishing minimum standards on the rights, support and protection of victims of crime (*18241/11*). This will allow the Danish presidency to start negotiations with the European Parliament.

Ministers welcomed the balance reached in terms of reconciling the needs of victims on the one hand and the requirement to maintain smooth proceedings and to take into account financial considerations of the member states on the other.

The text, which is based on a Commission proposal submitted in May 2011 (*10610/11* + *ADD 1* + *ADD 2*), aims to amend and expand the existing provisions on the standing of victims in criminal proceedings and includes provisions on information and support, participation in criminal provisions, recognition of vulnerability and protection of victims as well as general provisions concerning the training of practitioners and co-operation and co-ordination of services.

The United Kingdom and Ireland decided to participate in the adoption of the directive. Denmark is not taking part.

For more information see this background note (p. 8/9).

EUROPEAN INVESTIGATION ORDER

The Council agreed on a general approach on a European investigation order (EIO) in criminal matters (*18225/1/11*). This will allow the Danish presidency to start negotiations with the European Parliament.

The goal of the directive, which is an initiative of seven member states[1] presented in April 2010 (*9288/10*) is to allow member states to carry out investigative measures at the request of another member state on the basis of mutual recognition. The investigative measures would, for example, include interviewing of witnesses, searches and seizures, and (with additional safeguards) interception of telecommunications, observation, infiltration and monitoring of bank accounts.

A number of ministers underlined that the compromise reached is a good basis for negotiations with the European Parliament. Ministers also highlighted the added value of the draft text, particularly because the new rules, once adopted, will replace the current patchwork of legal provisions in this area with a single new instrument aiming to make legal cooperation on investigations faster and more efficient. The new legislation would introduce automatic mutual recognition of investigation orders and limit the grounds for refusing to execute the order by another EU state, while at the same time providing legal remedies to protect the defence rights of concerned persons. Finally, the directive would for the first time set deadlines for carrying out the investigative measures, thus ensuring the delivery of justice in due time.

The agreement covers inter alia the following general issues:

– Scope: the EIO can be used in criminal proceedings, but also in those brought by administrative authorities when there is a criminal dimension.

– Grounds for non-recognition or non-execution: a number of safeguards ensure that an EIO will not be executed if it could harm national security interests or immunities established in the executing state, for instance rules limiting criminal liability relating to freedom of the press.

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

– Legal remedies: member states must ensure that interested parties are entitled to legal remedies equivalent to those available in a similar domestic case and that they are properly informed of these possibilities. Legal remedies may be brought in both the issuing and the executing state.

– Deadlines for the execution of the EIO: member states must acknowledge receipt of an EIO within 30 days and carry out the investigation measure within 90 days.

– Costs: save in exceptional circumstances, the executing state bears the costs of the measures carried out in its territory.

The United Kingdom decided to participate in the EIO. Ireland has not yet decided to do so and Denmark is not taking part.

JUDGEMENTS IN CIVIL AND COMMERCIAL MATTERS

The Council agreed on political guidelines on the abolition of exequatur on judgements given on matters falling within the scope of the so-called Brussels I regulation. This regulation concerns jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

The guidelines proposed by the presidency respond to an appeal of the Stockholm Programme to make the free circulation of the court decisions in civil and commercial matters easier, faster and cheaper for citizens.

The recast was presented by the Commission in December 2010 (*18101/10* + *ADD 1* + *ADD 2*). It aims to remove the remaining obstacles to the free movement of judicial decisions in line with the principle of mutual recognition.

The UK and Ireland have decided to take part in the adoption of the revised regulation. Once adopted, the revised regulation will also be applicable to Denmark in the context of the existing agreement between the EU and Denmark on the matter.

For more information see this background note (p. 11/12).

SUCCESSION

The Council reached very broad general agreement on the text of the regulation on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession (*18745/11 + ADD 1*). The initial proposal was presented by the Commission in October 2009 (*14722/09* + *14722/09 ADD 2*).

In order to reach a general approach, further work is needed, in particular on two issues:

– the question of restoration of lifetime gifts ("clawback") where considerable differences between member states' legal systems exist: While some member states allow for clawback, others don't.

– the question of the administration of a deceased person's estate: Work will start immediately in order to prepare incoming negotiations with the European Parliament. .

Open questions also exist on the recitals as well as the proposed standard forms.

In general, the proposed rules aim to make life easier for heirs, legatees and other interested parties. The main provisions are:

– The draft act provides for the application of a basic connecting factor for determining both the jurisdiction of the courts and the law applicable to a succession with cross-border implications, namely the deceased's habitual residence at the time of death. The proposed Regulation will also allow a person to choose the law to govern the succession the law of the State of his/her nationality. This rule would take some of the stress out of estate planning by creating predictability.

– The proposed rules will ensure mutual recognition and enforcement of decisions and mutual acceptance and enforcement of authentic instruments in succession matters.

– A European Certificate of Succession would be created to enable persons to prove their status and/or rights as heirs or their powers as administrator of the estate or executor of the will without further formalities. This should result in faster and cheaper procedures for all those involved in a succession with cross-border implications.

The UK and Ireland have not yet notified the Council that they will participate in the final adoption of the regulation, but have participated actively in the negotiations. Denmark will not take part in the adoption of the proposed regulation.

COMMON EUROPEAN SALES LAW

The Council took note of the state of play of negotiations on the proposal for a Common European Sales Law on the basis of a presidency paper (*18353/11*). The Commission proposal for a regulation was submitted in October 2011 (*15429/11*).

The discussion confirmed that among the aspects of the proposal that require thorough discussion are the personal, material and territorial scope of the proposal, the complexity of linking the proposal with the different national legal systems, the details and consequences of choice of the instrument, the consequences of an invalid choice, the consumer protection rules relating to the choice and the reporting obligations of member states, including the envisaged online database of judgments.

On the methodology of negotiations, the presidency paper suggests dealing with the legal basis for the instrument when at least some of the content-specific issues have been settled and the merits of the economic impact of the proposal has been sufficiently evaluated.

The regulation as proposed by the Commission would give businesses and consumers from different countries an alternative to doing business under the rules of one or the other country which both parties might not be familiar with. The two contracting parties could agree to voluntarily choose an alternative second set of rules for their cross-border sales contracts identical in each of the member states and co-existing with the regular national sales laws.

The goal of the proposal is to enhance growth and trade in the internal market by decreasing business costs arising from diverging national contract laws and consumers' reluctance to shop cross-border. The guiding principles are freedom of contract and a high level of consumer protection. The proposal assumes that this alternative set of rules would stimulate more cross-border business.

The alternative sales law would be available to contracts on the sales of goods and supply of digital content, as well as directly related services. It would be open to business-to-consumer contracts as well as those business-to-business contracts where at least one party is a small or medium-sized enterprise (SME). It is important to underline that both parties to a cross-border contract would need to agree to use this alternative, European sales law regime.

The new rules would cover most issues of contract law that are considered of practical relevance during the life-cycle of a cross-border contract, including rights and obligations of the parties and the remedies for non-performance, pre-contractual information duties, the right of withdrawal and its consequences, interpretation and the contents and effects of a contract.

In order to ensure effective and uniform application, the proposal envisages as future supporting measures the development of "European model contract terms" and the creation of a publicly accessible database of relevant judicial decisions.

For more information see this background note (p. 12/13).

ACCESS TO A LAWYER

The Council took note of a progress report on the proposed directive concerning the right of access to a lawyer and the right to communicate upon arrest with consular authorities and with a third person, such as a relative or an employer (*18215/11*).

The progress report analyses the main issues so far discussed, including: the scope of the directive, the situations in which the right of access to a lawyer should be given, possible derogations, the information upon deprivation of liberty, the right of access to a lawyer in European arrest warrant proceedings as well as the issues of remedies.

The Commission presented this proposal in June 2011 *(11497/11)*.

The UK and Ireland have decided not to opt-in in the adoption of this Directive at this stage, but they participate actively in the discussions and may decide to opt-in at a later stage.

For more information see this background note (p. 12/13).

MULTIANNUAL FINANCIAL FRAMEWORK (MFF) 2014-2020

The Council held a first exchange of views on the Commission proposals in the justice and home affairs area in the context of the multiannual financial framework (2014-2020).

On the home affairs side, the Commission presented its communication "Building an open and secure Europe: the home affairs budget for 2014-2020" (*17284/11*), as well as the accompanying package of legislative proposals:

– a regulation laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management *(17285/11);*

– two regulations establishing, as part of the Internal Security Fund, the instrument for financial support for

– external borders and visa *(17290/11);*

– police cooperation, preventing and combating crime and crisis management *(17287/11);*

– a regulation establishing the Asylum and Migration Fund (*17289/11*).

On the justice side, the Council discussed the two proposals for regulations establishing the Justice programme (*17278/11*) and the Rights and Citizenship programme (*17273/11*).

EU-US JHA MINISTERIAL MEETING

The Council was informed about the outcome of the EU-US JHA ministerial meeting which took place on 21 November 2011.

The issues discussed at the meeting included negotiations on a EU-US PNR agreement, on a EU-US data protection agreement, counter-terrorism as well as cybercrime/cybersecurity issues, migration and mobility cooperation, negotiations on a common European sales law as well as the implementation of the EU-US extradition and mutual legal assistance treaties.

OTHER BUSINESS

Under other business and further to a request by Slovakia, the Commission reported on a recent mission to Kosovo which focused on the evaluation of measures taken in Kosovo on the reintegration of returnees. Since substantial progress had been made on the issue, the Commission announced that a visa dialogue with Kosovo would be initiated shortly.

Lithuania made an intervention highlighting certain aspects of an item adopted without discussion ("A" item) concerning the presidency report on the follow-up to the evaluation reports relating to the fourth round of mutual evaluations which deal with the practical application of the European arrest warrant and the relevant surrender procedures between member states.

The incoming Danish presidency gave an overview of its priorities in the justice and home affairs area.

MIXED COMMITTEE

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

SIS II

The Commission presented to the committee an overview of the main developments during the past six months on the implementation of the Schengen Information System II (SIS II). The SIS II is planned to come into operation by the first quarter of 2013.

The Schengen Information System (SIS) is a database shared by participating countries' border and migration authorities, and law enforcement authorities and contains information on persons and on lost and stolen objects. Specific stringent data protection rules apply to the SIS. It is a compensatory measure for the opening of the internal borders under the Schengen agreement, but it is also seen as a vital security factor in the EU. The European Commission is currently developing a second generation of the SIS, commonly called the SIS II.

Cross-border itinerant crime

The committee discussed the problems posed by cross-border itinerant crime. A large number of delegations took the floor and underlined the importance of greater cooperation and information exchange in this area, including through Europol.

In December 2010 the Council adopted conclusions on the fight against crimes committed by mobile (itinerant) criminal groups.

Schengen governance

The committee examined the two legislative proposal for the establishment of reinforced Schengen governance.

See separate item above.

EU visa-free regime

The committee discussed the suspension clause from the Commission proposal to amend the rules governing the EU's visa-free regime (*10834/11*). The amendments tabled in May 2011 concern regulation 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

See separate item above.

Multiannual Financial Framework (MFF) 2014-2020 - Home Affairs

The committee held a first exchange of views on two regulations establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visas (*17290/11*) as well as for police cooperation, preventing and combating crime and crisis management (*17287/11*). They are part of the Commission proposals in the context of the multiannual financial framework (2014-2020).

See separate item above.

EU response to increased migration pressure

The committee discussed a presidency paper regarding the EU response to increased migration pressures.

See separate item above.

OTHER ITEMS APPROVED

JUSTICE AND HOME AFFAIRS

Application of the European arrest warrant

The Council to took note of the Presidency report on the follow-up to the evaluation reports relating to the fourth round of mutual evaluations, which deal with the practical application of the European arrest warrant and the relevant surrender procedures between member states.

These evaluations take place in the framework of the Joint Action of 5 December 1997 [1], which established a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime.

At the end of this fourth round, in June 2009, the Council adopted a final report with recommendations to the member states. The present presidency report includes information transmitted by member states on the actions and measures taken or planned in response to those recommendations and to the countries' evaluation reports.

Schengen area: Accession of Liechtenstein

The Council decided that on 19 December 2011 Liechtenstein will become the 26th country to join the Schengen area.

To that end, the Council adopted a decision providing for both the lifting of internal border controls with Liechtenstein at the land borders and the lifting of the current restrictions on the use of the Schengen Information System (*17219/11*).

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[1] OJ L 344, 15.12.1997

In a prior evaluation procedure, the Council had established that Liechtenstein fulfils all the necessary conditions for the practical application of the relevant parts of the Schengen acquis. Council conclusions confirmed the results of this evaluation procedure (*15570/1/11*).

The Schengen acquis is a set of common rules providing for:

– free movement of persons and the abolition of systematic controls at internal borders;

– police and customs cooperation;

– judicial cooperation;

– the establishment of the Schengen Information System (SIS), a database shared by participating countries' border and migration authorities, as well as law enforcement authorities and containing information on persons and on lost and stolen objects;

– a common Schengen visa which grants free movement throughout Schengen territory for a period that may not exceed 90 days.

Customs cooperation

The Council adopted a resolution on the future of customs law enforcement cooperation *(17558/11)* defining a strategy for the future in this field.

The strategy aims in particular at strengthening the cooperation among the EU's custom services in order to improve their effectiveness in the fight against cross-border and transnational crime. Customs should be the leading authority for controlling the movement of goods within the area of freedom, security and justice, in order better to protect Union citizens, as well as the Union's economy, from smuggling, fraud and other threats caused by organised crime in the EU territory.

Report on e-Justice

The Council took note of the report by the Working Party on e-Law (e-Justice) *(16312/1/11)* on progress made this semester in the area of European e-Justice. The work was carried out on the basis of the revised roadmap endorsed by the JHA Council in June 2011 *(10331/11)* and in accordance with the European e-Justice Action Plan [1].

EU-Australia PNR agreement

The Council today adopted the decision on the conclusion of the EU-Australia agreement on the processing and transfer of Passenger Name Record (PNR) data (*10093/11*).

It will replace the existing agreement from 2008.

For more information, see this press release.

Protection of sports events from terrorist attacks

The Council adopted an annex to the handbook for police and security authorities concerning cooperation at major events with an international dimension (*16933/1/11*). The annex deals with the protection of mass sports events with an international dimension from terrorist attacks, thus filling a gap in EU guidelines on sporting events.

Fighting currency counterfeiting - *Council conclusions*

The Council adopted conclusions on strengthening cooperation and information exchange in the sphere of fighting currency counterfeiting, especially the euro. For more information see *14401/2/11*.

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[1] OJ C 75 31.3.2009.

Combating sexual exploitation of children and child pornography in the Internet - *Council conclusions*

The Council adopted conclusions on combating sexual exploitation of children and child pornography in the Internet - strengthening the effectiveness of police activities in member states and third countries. For more information see *15783/3/11*.

European agenda for the integration of third-country nationals - *Council conclusions*

The Council adopted conclusions on the European agenda for the integration of third-country nationals. For more information see *18296/11*.

Exchange of information on third-country nationals refused entry - *Council conclusions*

The Council adopted conclusions on better use of SIS and SIRENE for the exchange of information on third-country nationals refused entry. For more information see *16951/11*.

Improvements to the quality of SIS 1+ data prior to their migration to SIS II - *Council conclusions*

The Council adopted conclusions on the appropriate means of preparing member states' institutional SIS users for improvements to the quality of SIS 1+ data prior to their migration to SIS II. For more information see *15550/11*.

National training systems and common training system for SIRENE operators - *Council conclusions*

The Council adopted conclusions on the national training systems and common training system for SIRENE operators. For more information see *15551/11*.

Vision for European Forensic Science 2020 - *Council conclusions*

The Council adopted conclusions on the vision for European forensic science 2020 including the creation of a European Forensic Science Area and the development of forensic science infrastructure in Europe. For more information see *17537/11*.

Preventing and combating crime against cultural property - *Council conclusions*

The Council adopted conclusions on preventing and combating crime against cultural property. For more information see *17541/11*.

Cooperation in the Area of JHA within the Eastern Partnership - *Council conclusions*

The Council adopted conclusions on Cooperation in the Area of Justice and Home Affairs within the Eastern Partnership. For more information see *17596/11*.

Cooperation between the EU and Eastern Europe in the field of drugs - *Council conclusions*

The Council adopted conclusions on cooperation between the EU and Eastern Europe in the field of drugs. For more information see *17728/11*.

New psychoactive substances - *Council conclusions*

The Council adopted conclusions on new psychoactive substances. For more information see *17730/11*.

"Prüm Decisions" - *Council conclusions*

The Council adopted conclusions on intensifying the implementation of the "Prüm Decisions" after the deadline of 26 August 2011. For more information see *17762/11*.

The Council also adopted a semi-annual report on the implementation of automated data exchange provisions of the "Prüm Decisions". For more information see *17761/11*.

Police cooperation with non-EU countries: sports events safety and security - *Council conclusions*

The Council adopted conclusions on strengthening police cooperation with non-EU countries in the area of sports events safety and security. For more information see *17555/11* + *COR 1* + *COR 2*.

More effective risk, emergency and crisis communication - *Council conclusions*

The Council adopted conclusions on an integrated approach to more effective risk, emergency and crisis communication. For more information see *17122/11* + *COR 1* + *COR 3*.

EU accession to ECHR

The Council took note of a report on the state of play on the negotiations for the EU's accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) as set out in *18117/11*.

European criminal records information system (ECRIS)

The Council took note of a presidency report regarding the European Criminal Records Information System (ECRIS) (*18357/11*). The ECRIS is linked to two Council decisions from 2009 which established rules for the exchange of information on convictions and data extracted from criminal records.

The report sets out the state of play of work carried out in the Council on the development and operation of ECRIS in particular by establishing logging systems and procedures, adopting technical specification for the exchange of information, including security requirements and a common set of protocols, as well as establishing procedures for verifying the conformity of national software applications with the technical specifications. In addition a non-binding manual for practitioners has been developed. It sets out the procedures for the exchange of information through ECRIS.

It is envisaged that the mechanism for the exchange of information via ECRIS will be operational between member states as of April 2012.

Automated "Prüm" data exchange in Lithuania

Regarding Prüm legislative framework (2008/015/JHA and 2008/016/ JHA), the Council adopted two decisions on the launch of automated data exchange in Lithuania, concerning respectively DNA (*14524/11*) and dactyloscopic data (*14525/11*).

The evaluation procedure required by Council decision 2008/616/JHA[1] concluded that the general provisions on data protection are fully implemented by the Republic of Lithuania and that this country is therefore entitled to receive and supply personal data in the relevant categories as from the date of the entry into force of these decisions.

FOREIGN AFFAIRS

EU action plan for Pakistan

The Council took note of the fourth half-yearly implementation report of the EU action plan for Pakistan, which was adopted in October 2009.

[1] OJ L 210, 6.8.2008.

Citizens' mobility to and from Russia

The Council took common steps towards visa-free short-term travel for Russian and European citizens. This includes a list of actions for both the EU and the Russian Federation to implement in preparation for visa-free travel for short-term stays. They concern: document security, for example the introduction of biometric passports; combating illegal immigration and border management; as well as public order, security and judicial cooperation, including the fight against transnational organized crime, terrorism and corruption.

Restrictive measures - Republic of Guinea

The Council adopted a regulation modifying the scope of the restrictive measures which have been imposed against the Republic of Guinea since 22 December 2009 in order to align them with Council decision 2011/706 of 27 October 2011.

BUDGETS

Financing of ITER

The Council confirmed the additional financing of the International Thermonuclear Experimental Reactor (ITER) in 2012 and 2013, on the basis of a compromise reached between the Polish presidency, representatives of the European Parliament and the Commission on 1 December (*18322/1/11 REV 1*)[1].

This means that an additional EUR 1.2 billion in commitments will be made available for ITER in the coming two years. The amount supplements the EUR 100 million which have already been secured through the 2012 EU budget.

For details see *18557/11*.

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[1] Luxembourg, the Netherlands and Sweden abstained.