



**COUNCIL OF
THE EUROPEAN UNION**



10267/07 (Presse 125)

PRESS RELEASE

2807th Council meeting

Justice and Home Affairs

Luxembourg, 12-13 June 2007

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Main results of the Council

The Council

- welcomed the agreement reached in first reading with the European Parliament on a Regulation concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas. It also agreed on a Decision concerning access for consultation of the VIS by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences,
- adopted a Regulation establishing a mechanism for the creation of Rapid Border Intervention Teams,
- reached a political agreement on a Decision on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime. This Decision contains provisions based on the essential parts of the Prüm Treaty and is designed to improve the exchange of information between authorities responsible for the prevention and investigation of criminal offences,
- endorsed Conclusions on Extending and Enhancing the Global Approach to Migration, which will now be submitted to the General Affairs and External Relations Council, for adoption,
- reached a general approach on a proposal for a Framework Decision on the organisation and content of the exchange of Information extracted from criminal records between Member States, and
- regarding counter-terrorism, adopted policy recommendations, conclusions on a "Check the Web" project and conclusions on Information exchange on terrorist kidnappings.

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Mr Franco FRATTINI

Vice-President

ITEMS DEBATED**EUROPOL - Council conclusions**

The Council reached an agreement on Chapter 1 ("Establishment and tasks") of a proposal for a Council Decision establishing Europol.

It also adopted conclusions on replacing the Europol Convention by a Council Decision, as follows:

"THE COUNCIL

- "1. *recalls* that on 4 and 5 December 2006, it was agreed that, on the basis that it constitutes a clear improvement of the operational and administrative functioning of Europol, the Europol Convention should be replaced by a Council Decision subject to a full assessment of the implications of financing Europol from the general budget of the European Union and the application of the EC Staff Regulations and the Protocol on the Privileges and Immunities of the European Communities (EC PPI) guided by the principle of budget neutrality and taking into account the specific requirements resulting from Europol's mandate and tasks.
2. *notes* that the Europol Working Party and the Working Party on the Staff Regulations carried out a comprehensive examination of the effects of financing Europol from the general budget of the European Communities and the application of the EC Staff Regulations, in particular the impact assessment presented by the German Presidency as set out in doc. 10325/07 EUROPOL 73.
3. *acknowledges* that since the Commission and Europol used different bases of calculation (actual staff costs vs. average basic salary; short term vs. mid- to long-term), they arrived at differing results as regards the financial implications of applying the EC Staff Regulations.
4. *notes* that as a consequence, the Working Party on the Staff Regulations has pointed out that in the absence of comparable calculations, it was not possible to make any definitive statements on budget neutrality.
5. *underlines* that the change of financing mechanism should not affect Europol's operational ability.

Therefore, and in line with the Council Conclusions of December 2006, the Council agrees to the following:

- The Europol Convention will be replaced with a Council Decision pursuant to Article 34(2)(c) of the TEU and the necessary Council Decision will be finalised by 30 June 2008, at the latest.
- In accordance with Art. 41(3) TEU and other applicable provisions, Europol will be funded from the Community budget as from 1 January 2010, provided that satisfactory solutions on the following aspects have been found:
 - The lifting of immunity for Europol officials when participating in operational activities, especially Joint Investigation Teams
 - The principle of staff rotation and the possibility for Europol staff participating in JIT to receive instructions from the team leader
 - clarification of the budgetary consequences, guided by budget neutrality.
- Europol and the Commission will ensure that all preparatory work is carried out in order to enable the introduction of Community financing as from 1 January 2010. To this end, Europol and the Commission will draw up an implementation plan (roadmap) which sets out the milestones which have to be reached before that date. The Council will endorse the implementation plan (roadmap) as soon as possible and, at the latest, in December 2007."

It should be noted that on 4 and 5 December 2006, the Justice and Home Affairs Council agreed that the Europol Convention should be replaced by a Council Decision. This will constitute a clear improvement of the operational and administrative functioning of Europol. At that meeting, the Council also decided that a full assessment of the implications of financing Europol from the general budget of the EU and the application of the Protocol on the Privileges and Immunities of the European Communities should be made, guided by the principle of budget neutrality and taking into account the specific requirements resulting from Europol's mandate and tasks.

STEPPING UP COOPERATION FOR PURPOSES OF PREVENTION AND INVESTIGATION OF CRIMINAL OFFENCES

The Council reached a political agreement on a Decision on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (10232/07).

This Decision contains provisions based on the essential parts of the Prüm Treaty and is designed to improve the exchange of information between authorities responsible for the prevention and investigation of criminal offences.

To this end, the Decision contains rules in the following areas:

- on the conditions and procedure for the automated transfer of DNA profiles, dactyloscopic data and certain national vehicle registration data,
- on the conditions for the supply of data in connection with major events with a cross-border dimension,
- on the conditions for the supply of information in order to prevent terrorist offences, and
- on the conditions and procedure for stepping up cross-border police cooperation through various measures.

This closer police and judicial cooperation in criminal matters will go hand in hand with respect for fundamental rights, in particular the right to respect for privacy and to protection of personal data, which will be guaranteed by special data protection arrangements tailored to the specific nature of different forms of data exchange.

The Decision is the result of an initiative submitted by Belgium, Germany, Spain, France, Luxembourg, the Netherlands and Austria with the aim of incorporating the substance of the provisions of the Prüm Treaty into the legal framework of the European Union.

The Prüm Treaty

Signed on 27 May 2005 at Prüm, Germany, the Treaty is designed to intensify cross-border police cooperation, especially in the fight against terrorism, cross-border crime and illegal migration ¹.

The Treaty has meanwhile entered into force in Austria, Spain and Germany and is expected to be in force in the other original signatory States in the first half of 2007 at the latest. The ratification processes in the countries intending to accede to the Treaty are also well advanced.

Already at this early stage, the automatic information exchange has brought about noticeable operational success: For instance, the German authorities matched DNA profiles of open cases against data held by Austrian authorities and found hits in more than 1500 cases (data reported in February 2007). In this context, over 700 open traces from Germany could be attributed to persons known to the Austrian criminal prosecution authorities. Broken down by types of crime, 14 hits in homicide or murder cases, 885 hits in theft cases, and 85 hits in robbery or extortion cases have been found (as at 4 January). It is true that every hit needs to be examined carefully, and it will not be possible to clear up open cases by a DNA hit alone. Nevertheless it can be expected that hitherto unsolved cases in Germany and Austria can be closed and the perpetrators brought to justice. In any case, prosecution authorities are confident that the number of hits will increase constantly as further Prüm countries take part in this process, and that they will thus be able to solve numerous other open cases.

The special value of the Treaty lies in the substantially improved and efficiently organised procedures for the exchange of information. The States involved may now give one another automatic access to specific national databases. This amounts to a quantum leap in the cross-border sharing of information.

The contracting States have full and direct online read access to vehicle registration data held by their partners. They give one another access to their DNA analysis and dactyloscopic (fingerprint) databases in what is called a hit/no hit system. Police services may launch a query in the data system of a contracting partner to find out whether it contains data concerning a specific profile, and are automatically informed of the result within a matter of minutes. Further information, such as personal data, may be communicated in the course of mutual legal assistance.

¹ The Treaty text is contained in 10900/05 and in 16382/06.

Furthermore, the exchange of data concerning potential terrorist perpetrators and hooligans is regulated. Police cooperation may also be stepped up through operational measures, such as joint patrols, transferring sovereign powers to police forces of other contracting States, or assistance in the case of large-scale events.

The Treaty contains cooperation mechanisms that need to be regulated at EU level in the first pillar. This includes provisions regarding document advisers, sky marshals and return measures.

An important aspect of the Treaty is the comprehensive range of modern data protection regulations.

As the drafters of the Prüm Treaty sought to further develop European cooperation, the Treaty has been designed with its conversion into EU law in mind.

The signatory States are: Germany, Belgium, Spain, France, Luxembourg, the Netherlands, and Austria.

Those States having notified their wish to accede to the Prüm Treaty are: Slovenia, Italy, Finland, Portugal, Bulgaria, Romania, Greece, Sweden and Estonia.

PROTECTION OF PERSONAL DATA RELATING TO POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS

The Council adopted the following conclusions:

"The Council recognizes the importance of the existence of a comprehensive and coherent set of rules at the level of the European Union concerning the high level of protection of personal data processed in the framework of police and judicial cooperation in criminal matters, as a part of the Union's ever increasing set of regulatory instruments on such cooperation. These rules will build upon the minimum data protection principles set by the Convention of 28 January 1981 for the protection of individuals with regard to automatic processing of personal data and its Additional Protocol of 8 November 2001, and take account of Recommendation (87)15 regulating the use of personal data in the police sector, both adopted in the framework of the Council of Europe.

The Council notes that the European Parliament has rapidly forwarded its opinion on the revised draft of the Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters and will examine all solutions suggested by the European Parliament, in the spirit of cooperation that is reflected in the opinion. The Council thanks the Parliament for its cooperation on this issue.

The Council notes the general principles in the annex to the opinion of the European Parliament of 24 May 2007 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters. The Council will take these principles, where appropriate, into consideration, when drafting the Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters.

The Council continues to give priority to the examination of the proposal for a Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, and intends to reach a political agreement on the proposal as soon as possible and at the latest by the end of 2007."

VISA INFORMATION SYSTEM (VIS)

The Council welcomed the agreement reached in first reading with the European Parliament on a Regulation concerning the VIS and the exchange of data between Member States on short-stay visas.

It also agreed on a Decision concerning access for consultation of the VIS by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences.

The VIS is a particularly important tool for strengthening the area of security, freedom and justice. The EC Regulation governing the Visa Information System allows the competent authorities (in particular visa, border and immigration agencies) to store in a central European database alphanumeric and biometric data on visa applicants and visas which have been issued, denied or revoked, and retrieve the data concerned. This enables them to prevent what is referred to as visa shopping, and to identify applications by the same person under different names. The Council Decision on access to the Visa Information System (VIS) allows security authorities to query the VIS for the purpose of preventing, detecting and investigating terrorist offences. Giving the security authorities this new possibility to search the VIS will allow a major advance in protecting against international terrorism and organised crime in particular.

GLOBAL APPROACH TO MIGRATION - Council conclusions

The Council endorsed Conclusions on Extending and Enhancing the Global Approach to Migration. The conclusions will now be submitted to the General Affairs and External Relations Council, for adoption.

- "1. The Council underlines the importance of the issue of migration for the EU and its Member States. The Council therefore welcomes the important progress being made with the adoption and the implementation of the Global Approach to Migration, the strategy established by the European Council in December 2005 and complemented by its Conclusions on the development of comprehensive European Migration Policy of December 2006.
 2. The Council notes the first set of priority actions for the purpose of the Global Approach focussed on Africa and the Mediterranean region. Strengthened political dialogue, including the recent EU missions to Africa, and concrete cooperation with African and EuroMed partners on migration and related issues, including development aspects of migration, are important recent achievements. The strengthened capacity to manage the control of external borders, in particular through joint maritime operations, is another important achievement. The Council believes that these measures should be further intensified in the light of recent events.
 3. The Council, while underlining the need to continue these efforts as a matter of urgency, also reaffirms the need to both extend the geographical scope and to enhance the content of the Global Approach in general.
 4. The Council therefore welcomes the Commission Communications of 16 May 2007 on applying the Global Approach to migration to the Eastern and South-Eastern regions neighbouring the European Union and on circular migration and mobility partnerships between the European Union and third countries. The Council calls on the Member States and the Commission to ensure that sufficient human and financial resources are allocated, within the existing financial framework, in order to enable the timely implementation of the comprehensive approach to migration.
- A. Extending the Global Approach - Applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighbouring the European Union**

5. The Council underlines the necessity for the EU to achieve a more efficient management of migration given the considerable numbers of migrants coming from or through the eastern and south-eastern regions. Existing cooperation structures in the region need to be enhanced and fully integrated in EU-relations with the third countries concerned, in order to create a more comprehensive and coherent approach. This applies, in particular, to dialogue and effective cooperation in matters such as enhancing border control, combating illegal immigration, organised crime and trafficking in and smuggling of human beings. This also applies to ensuring well-managed migration for social, cultural and business purposes and harnessing the opportunities to strengthen the links and synergies between migration and development in these regions.
6. The Council, while recognising that the dialogue with eastern and south-eastern countries is well advanced, stresses the need to take additional comprehensive and concrete actions based on existing political and institutional frameworks taking into account the competences of Member States. As a matter of priority, particular attention should be given to strengthening the dialogue and cooperation with the regions directly neighbouring the EU, i.e. the countries of the Western Balkans, Turkey, the ENP countries – including issues that could affect them, such as the consequences of the Iraqi refugee situation - and the Russian Federation. Furthermore the dialogue on migration issues should be intensified with Central Asian and Asian countries of origin and transit identified in accordance with the migratory routes concept.
7. The Council endorses the priority actions focusing on the Eastern and South-Eastern regions neighbouring the EU annexed to these Conclusions in the context of the extension of the Global Approach to Migration. The Council invites the Commission to report back on the implementation of the Global Approach thus extended."

B. Enhancing the Global Approach - Circular Migration and mobility partnerships between the European Union and third countries

8. The Council reiterates that active consideration must be given to how legal migration opportunities can be incorporated into the Union's external policies in order to develop a balanced partnership with interested third countries. These would need to be adapted to the specific EU Member States' labour market needs as well as to the cooperation results achieved from the third countries concerned.

9. The Council welcomes the Commission Communication on circular migration and mobility partnerships as a basis for further discussions. The Council believes that these two concepts could make an important contribution to a comprehensive approach, which combines measures aimed at facilitating legal migration opportunities with those reducing illegal immigration. Such a strategy could, in particular, be directed to promoting sustained cooperation with third countries along the migration routes towards the European Union.
10. The Council underlines that these mobility partnerships will be considered in those cases where they bring added value both to the EU and the third country on the management of migration flows and on the understanding that the willingness to contribute to this partnership and to cooperate actively is the basis for the opportunities offered by them. Such partnerships should, as far as appropriate, include the offer of legal migration opportunities, adapted in particular to the specific Member States' labour market needs, while fully respecting the competences of the Member States and the principle of Community preference on the one hand, and a genuine cooperation on preventing and combating illegal immigration, trafficking in and smuggling of human beings as well as effective readmission and return policy while respecting the protection of human rights, on the other hand.

Furthermore the Council agrees that, building upon the efforts to implement measures and actions that are already part of the dialogue and cooperation with third countries, these partnerships could include:

- the enhancement of the links between migration and development, i.a. to facilitate productive use of the resources of migrant communities and to promote co-development projects;
- the pooling of support measures in capacity building in order to better manage and control migration;
- the promotion of the reintegration of returnees;
- visa facilitation in accordance with the common approach, taking into account the experiences in the implementation of the current agreements;
- the enhancement of the protection of human rights in the fight against illegal immigration, in readmission and return policies and in the reception of migrants and asylum seekers; and
- the protection of refugees in accordance with international standards.

11. The Council believes that the concept of mobility partnerships between the European Union, Member States and third countries could be tested by way of a limited number of pilot partnerships. The Council therefore invites the Commission to consult Member States on the further development of this concept, including, in particular, on the terms of reference, and with a view to exploratory talks with interested third countries on pilot partnerships in close cooperation with the Presidency and interested Member States. The Commission is invited to report back to the Council on the outcome of these consultations in order to enable the Council to decide by the end of 2007 whether to invite the Commission to launch pilot partnerships.
12. The Council agrees that legal migration opportunities, including well-managed circular migration can potentially benefit all partners involved. All possibilities for a well-managed circular migration should therefore be explored in close cooperation with all relevant stakeholders with a view to the adoption of Council Conclusions not later than the end of 2007."

The annex to these conclusions can be found in document *10519/07*.

CURRENT SITUATION OF THE EU'S SOUTHERN MARITIME BORDERS

The Council held a debate on the current situation on the EU's Southern maritime borders.

The Presidency concluded as follows:

- "1. The Council took note of the attached declaration by the Presidency and Commission Vice-President Franco Frattini (*see below*) on recent incidents in the Mediterranean.
2. With regard to the specific difficult situation of Malta, suggestions on a system of sharing of responsibilities will be discussed in Coreper next week with a view to a proper follow-up on this issue.
3. The Council regretted that some media reports on recent incidents in the Central Mediterranean did not take into account all relevant facts.
4. Frontex should have the necessary resources to carry out its mandate in an efficient way. In particular, Member States should fulfill their commitment to ensure the availability of the equipment in the Centralised Records of Available Technical Equipment (Toolbox). The Council took note of the intention of the Commission to reinforce the operational budget of Frontex for 2007.
5. The Council reaffirmed the principle of solidarity and the need for taking into account the particular pressure which specific situations may put on individual Member States regarding assistance to persons in distress at sea."

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* *

Declaration by the Presidency of the Council and the Commission Vice-President Franco Frattini

The Presidency of the Council and the Commission Vice-President Franco Frattini

Deeply regret the human tragedies that have occurred over the last few weeks in the Mediterranean;

Recognise that this is a European problem, which requires a political response by the European Union, through a comprehensive solution encompassing measures in the areas of immigration, asylum and border management;

Stress that the Global Approach to Migration remains the Union's overall framework in this regard and must be fully implemented by the European institutions and the Member States in cooperation with third countries;

Reaffirm the importance of full respect by all countries of their international obligations, notably those relating to human rights, international protection, and maritime law, including the obligation to come to the assistance of persons in distress at sea;

Recall that the Council has given priority to discussing these issues at every meeting held during the Finnish and German Presidencies;

Recall the Council Conclusions on Reinforcing the Southern External Border of the EU and note that the Commission, Member States, FRONTEX and international organisations are currently discussing issues related to the law of the sea and the rules relevant for combating illegal immigration;

Underline the importance of European solidarity and fair sharing of responsibilities as the founding principles guiding Europe's activities in managing the EU's external borders.

SANCTIONS AGAINST EMPLOYERS OF ILLEGALLY STAYING THIRD COUNTRY NATIONALS

The Council had a first exchange of views on a Commission proposal for a Directive providing for sanctions against employers of illegally staying third country nationals (9871/07).

This proposal forms part of the EU's efforts to develop a comprehensive migration policy. The Commission proposal states that one of the factors encouraging illegal immigration into the EU is the possibility of finding work. This proposal aims to reduce that pull factor by targeting the employment of third-country nationals who are illegally staying in the EU. Building on existing measures in the Member States, the aim is to ensure that all Member States introduce similar penalties for employers of such third-country nationals and enforce them effectively.

Under this proposal, it is the employer who will be sanctioned, not the illegally employed third-country nationals.

The Council instructed its preparatory bodies to further examine this proposal.

**STRENGTHENING OF INTEGRATION POLICIES IN THE EUROPEAN UNION -
Council conclusions**

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

Recalling previous European Council Conclusions, with special focus on the Thessaloniki European Council Conclusions of June 2003 and the Brussels European Council Conclusions on 4/5 November 2004 on The Hague Programme, which emphasized the importance of integration in the context of a comprehensive European migration policy,

Recalling the Council Conclusions on Integration of third-country nationals of October 2002 where the Council encouraged the establishment of National Contact Points on Integration (NCPI),

Recalling the Common Basic Principles (CBP) for Immigrant Integration Policy in the European Union adopted by the Council and the Representatives of the Governments of the Member States on 19 November 2004,

Recalling the Communication from the Commission on a Common Agenda for Integration: Framework for the Integration of third-country nationals in the European Union, adopted in September 2005,

Recalling the Conclusions adopted by the Council and the Representatives of the Governments of the Member States on a Common Agenda for Integration of 1 December 2005,

Recalling that a general approach has been reached for the adoption of a Council Decision establishing the European Fund for the Integration of third-country nationals for the period of 2007-2013 as part of the General Programme "Solidarity and Management of Migration Flows",

Recalling the European Conference on active participation of ethnic minority youth in society held in Copenhagen in September 2006 and the Conference on Integrating Cities: European Policies, local practices held in Rotterdam in October 2006,

Recalling the outcome of the exchange of views and experiences in the Informal Meeting of the EU Integration Ministers held in Potsdam in May 2007 to further strengthen the integration policies in the European Union by promoting unity in diversity,

Recalling the Report of the European Parliament on strategies and means for the integration of immigrants in the European Union of May 2006, the Opinion of the European Economic and Social Committee on Immigration in the EU and integration policies: cooperation between regional and local governments and civil society organisations of September 2006 and the Opinion of the Committee of the Regions of May 2006 on the Communication of the Commission on a Common Agenda for Integration, (among other activities developed at Community level on integration by the European Parliament, the Economic and Social Committee and the Committee of the Regions).

AND ADOPT THE FOLLOWING CONCLUSIONS:

1. The Council and the Representatives of the Governments of the Member States stress the need to promote a global and coherent approach to integration policies, migrant flow management, development and cooperation with the countries of origin. They recognise the complementary linkage between immigration and integration.
2. The Council and the Representatives of the Governments of the Member States recognise that integration is a dynamic two-way process involving both immigrants and the host society, with responsibilities for both sides, which should be underpinned by an agreed value system. Involving the host society in this process is one of the major challenges to the achievement of successful integration policies and long-term social cohesion. All individuals must assume responsibility in this integration process – as well as state institutions, political parties, media, businesses and civil society. Migrants who aim to stay permanently or for the long term should make a deliberate effort to integrate, in particular learning the language of their host society, and understanding the basic values of the European Union.

They further recognise the role of local stakeholders, including in particular, the role of local government and cities in designing and implementing integration programmes, given that integration takes place primarily at a local level.

3. The Council and the Representatives of the Governments of the Member States emphasise the need to continue to strengthen the integration policies of Member States with a view to managing diverse societies, counteracting all forms of discrimination and intolerance, maintaining social cohesion and ensuring that immigrants are able to reach their full potential and are able to participate to the fullest extent possible in the social, economic, cultural and civic life of the relevant Member State.

4. The Council and the Representatives of the Governments of the Member States welcome the initiatives taken, in the period since the adoption of the Common Basic Principles (CBP), to facilitate the exchange of experience as well as the opportunity provided by the Informal Meeting of EU Integration Ministers held in Potsdam on 10-11 May 2007 to review at a political level the scope for further action directed to strengthening the European framework for integration and the integration policies of the Member States, by promoting unity in diversity.
5. The Council and the Representatives of the Governments of the Member States also welcome the publication by the Commission, in all official languages, of the second edition of the Handbook on Integration for policy-makers and practitioners and request the Commission to ensure that the editions be continued and it be disseminated widely throughout the Member States.
6. The Council and the Representatives of the Governments of the Member States emphasise the continuing importance of the CBP as the basis of the European approach to integration and the need for the CBP to continue to guide the activities of the National Contact Points (NCPI) on integration. The Council and the Representatives of the Governments of the Member States recognise the need to further strengthen the role of the NCPI network.
7. The Council invites Member States to make maximum use of the possibilities created by the Integration Fund to promote integration policies and shared experience.
8. The Council invites the Commission to continue to support the activities of the NCPI network and to consider ways to redesign the Annual Report on Immigration and Integration in order to make it an up-to-date instrument for the comparative analysis of new developments in integration policy in the Member States and in due course to present a new concept for the Annual Report.
9. The Council invites the NCPI, supported by the Commission, to consider approaches to integration that involve the society as a whole, including in particular to:
 - explore and clarify the various conceptions of and approaches to ideas of participation and the various conceptions of citizenship under discussion, taking into account the relevant EC acquis that relate to the integration of immigrants and Member States' Constitutional and legal systems as well as exchange views and experiences on naturalisation systems applied by Member States;

- examine the added value of developing common European modules for migrant integration as a full project in the light of experience at national levels with introduction and language courses, the involvement of the host society, promoting the participation of immigrants in local life and various other aspects of the integration process;
- analyse measures that can be targeted at the host society in order to improve the public image of migration and to enhance the capacity of public institutions and the media to reflect in a balanced way and manage migration-related diversity in society;
- explore how integration programmes and policies can contribute to the prevention of social alienation and radicalisation;
- promote the development of common indicators and indexes that could be used by Member States on a voluntary basis in order to assess integration policy outcomes.

10. The Council and the Representatives of the Governments of the Member States recognise that intercultural dialogue has become an important instrument in fostering the successful integration of citizens of different origin, culture and religion in Europe and in counteracting racism and extremism. The Council and the Representatives of the Governments of the Member States, taking account of developments in the context of the forthcoming Year of Intercultural Dialogue in 2008, invite Member States to begin a regular exchange of experience gained in their recent efforts to establish such dialogue.

The Council and the Representatives of the Governments of the Member States further welcome the initiative of Germany to convene the first two expert meetings for this purpose and with a view to the preparation, in consultation with the NCPI, of a report for the Ministerial Conference in 2008, which should include proposals for the establishment of a flexible procedure capable of reacting to intercultural problems or conflicts with a potential cross-border dimension.

11. The Council invites incoming Presidencies and the Commission to proactively develop the Common Agenda for Integration and to promote the principles set out in paragraph 1. The Commission is further invited to report in particular to the above Ministerial Conference on Integration on the results of the tasks assigned to the NCPI network, as described in point 9 of these Conclusions. This report should be the starting point for discussion on future priorities."

REFUGEE SITUATION IN IRAQ AND SURROUNDING REGIONS

The Council held an exchange of views on this issue and agreed that its preparatory bodies and the Commission should continue to monitor the refugee situation in Iraq and its neighbouring regions, as well as the influx of Iraqi refugees to the EU.

Commission Vice-President Franco Frattini reported in particular on the recent steps undertaken in order to acquire a precise and comprehensive picture of national practices vis-à-vis Iraqi asylum seekers in the EU.

According to the United Nations High Commissioner for Refugees (UNHCR), the situation in Iraq continues to worsen, with more than 2 million Iraqis now believed to be displaced inside Iraq and another 2.2 million sheltering in neighbouring States.

COMMON EUROPEAN ASYLUM SYSTEM

The Council had an exchange of views on the following items:

- a proposal for a Council Directive concerning the extension of the scope of Council Directive 2003/109/EC determining the status of third-country nationals who are long-term residents to beneficiaries of international protection,
- a report on the evaluation of the "Dublin" system, and
- a Green Paper on the future Common European Asylum System.

The Council preparatory bodies will further examine the proposal for a Directive and the report.

Concerning the Green Paper, the Commission intends to launch an in-depth reflection and debate. The Commission will synthesise the results of this reflection, together with the results of the evaluation of the first stage EC asylum instruments, and will then submit a road map of the work that will have to be carried out in the future, in order to establish the Common European Asylum System.

Council Directive 2003/109/EC determines the status of third-country nationals who are long term residents. At the time of the adoption of this Directive, the Council welcomed the Commission commitment to table a proposal for the extension of long-term resident status to refugees and persons under subsidiary protection, taking into account the question of transfer of protection status. The new Commission proposal responds to this commitment.

The so-called "Dublin system" includes Council Regulation 343/2003 establishing the criteria for determining the Member State responsible for examining an asylum application, and Council Regulation 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention (subsequently, Regulation 343/2003).

These two Regulations required the Commission to report on their application after three years of operation and to propose, where appropriate, the necessary amendments. The Commission has now submitted a combined report on both instruments, given their complementary character. The Commission intends to propose in the future, within the framework of the future Common European Asylum System, the necessary measures to improve the practical application and the effectiveness of the "Dublin system".

VISA WAIVER RECIPROCITY

Commission Vice-President Franco Frattini briefed the Council on the state of play regarding visa reciprocity with Canada and the United States.

He announced that, in the light of recent developments in these two countries regarding the visa waiver programme, the presentation of the Commission's third visa reciprocity report would be delayed until September 2007.

The situation in Canada is that the review of visa waiver criteria being undertaken by Citizenship and Immigration Canada (CIC) will provide a basis for discussion with the Commission and the Member States concerned in the near future.

The United States signalled a new initiative on the visa waiver programme which would involve the possibility of new legislation.

The Council agreed that the Presidency and the Commission would continue to have contacts with Canada and the United States on visa reciprocity.

EXCHANGE OF INFORMATION EXTRACTED FROM CRIMINAL RECORDS BETWEEN MEMBER STATES

The Council agreed on a general approach to a proposal for a Framework Decision on the organisation and content of the exchange of information extracted from criminal records between Member States.

This Framework Decision is an important instrument to improve the exchange of information on criminal convictions handed down against nationals of the EU Member States.

It will lay the ground rules for the transmission of information on convictions to the Member State of the person's nationality as well as for the storage of such information by that Member State and for retransmission, upon request, to other Member States.

The Framework Decision is intended to apply to requests in the case of both criminal proceedings and non-criminal proceedings. The Framework Decision also addresses the important issue of information exchange arising from convictions for sexual offences committed against children.

At a later stage, the EU will develop a mechanism for an electronic information exchange by means of a European standardised format.

Information on convictions handed down in other Member States is currently governed by Articles 13 and 22 of the European Convention on Mutual Assistance in Criminal Matters of 1959¹. The procedures described in these provisions are now, however, too slow for the requirements of judicial cooperation in an area of freedom, security and justice such as the European Union.

This Framework Decision will replace Article 22 of the Convention as regards the obligations of the convicting Member State to transmit to the Member State of the person's nationality information on convictions handed down against its nationals. It will also require the Member States of the person's nationality to store such information, in order to ensure it is able to respond fully to the information requests made to it by other Member States.

This Framework Decision will not prejudice the possibility of the direct transmission by judicial authorities' of information from criminal records pursuant to Article 6(1) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union established by Council Decision of 29 May 2000².

¹ Council of Europe, European Treaties Series, No 30.

² OJ C 197, 12.7.2000, p. 3.

RECOGNITION OF SUSPENDED SENTENCES, ALTERNATIVE SANCTIONS AND CONDITIONAL SENTENCES

The Council reached a common understanding on certain "key elements" (*see below*) of a draft Framework Decision on the recognition and supervision of suspended sentences, alternative sanctions and conditional sentences:

- the aim of the Framework Decision,
- the scope of its application,
- the types of suspensory measures and alternative sanctions, and
- the division of competences between the issuing State and executing State.

The common understanding does not commit delegations to specific wording of the Articles, which still need to be further discussed. Furthermore, this common understanding may need to be modified in the light of the work that has still to be carried out on other aspects of the draft Framework Decision, which are not covered by the key elements concerned.

The Council instructed its preparatory bodies to continue the work on this draft Framework Decision on the basis of the common understanding.

The Council also discussed the issue of double criminality and decided to come back to this issue at a later session.

Key elements

Aim of the Framework Decision

The draft Framework Decision aims at setting rules under which a Member State, to which a person has returned or intends to return following a conviction for a criminal offence, supervises suspensory measures imposed on the basis of a judgment which was issued in another Member State, or alternative sanctions contained in such a judgment, and takes all other decisions relating to such a judgment.

The objectives of the Framework Decision are the following:

- as regards the sentenced person, the objective is that it allows a sentenced person to return to his/her place of habitual residence during the period of probation, which facilitates the social re-integration of the person concerned. In this respect, the initiative favours the free movement of persons within the European Union;
- as regards the victim, the benefit is that it allows sentenced persons to be subject to obligations with a view to victim protection also at their place of habitual residence and subsequent decisions to be taken in case of breach of such obligations. In this respect, the initiative also helps to maintain public order and protect society;
- as regards justice in general, the benefit of the initiative is that it allows the judiciary to apply the most adequate solution in a particular case and contributes to the application of non-custodial measures to 'non-resident' offenders. In other words, it allows judicial authorities to find and apply a solution that is tailored to the situation of the individual person in question irrespective of whether the person lives in the State of conviction or wants to return to his/her place of habitual residence.

In respect of the EU Member States that are party to the Council of Europe Convention of 30 November 1964 on the Supervision of Conditionally Sentenced or Conditionally Released Offenders in the relationship between EU Member States, the draft Framework Decision is to replace that Convention and further expand on it.

Scope of application

The scope of the draft Framework Decision relates to the supervision by a Member State of "suspensory measures", which are imposed on the basis of, or contained in, a "suspended sentence", "conditional sentence" or a decision on "conditional release".¹

The basis for the imposition of "suspensory measures" will always be a judgment by a court, which establishes that the person has committed a criminal offence. A substantial number of delegations would advocate that, on the basis of such a decision, the concrete "suspensory measures" could also be imposed by an authority other than a court, in accordance with the relevant rules of national law. However, this issue is still open and needs to be further examined.

¹ These definitions may need to be further refined.

Subject to further discussion of the political aspects, and in line with the wishes of a very large majority of delegations, "alternative sanctions" that are decided by a court should in general terms also be included in the scope of the Framework Decision. It should however be examined whether certain limitations would be required for such inclusion. In this context, it needs to be further discussed whether the scope of the Framework Decision should be extended to "alternative sanctions" that are decided by a public prosecutor rather than by a court.

Types of suspensory measures and alternative sanctions

The following principles will apply as regards supervision of suspensory measures and alternative sanctions as determined by authorities of the issuing State:

There will be a list of types of suspensory measures and alternative sanctions, which the Member State, in which the sentenced person is lawfully and ordinarily resident, is obliged to supervise if so requested by the issuing State and in conformity with all other provisions of the Framework Decision and without prejudice to the grounds for refusal.

Member States will each be required to ensure that as an executing Member State their authorities can supervise such suspensory measures or alternative sanctions irrespective of whether or not the same type of measure or sanction is currently provided for in their own legislations in the case of their own criminal proceedings.

Given the possibility that the specific suspensory measure or alternative sanction imposed by the court [or other competent authority in an issuing State], even if it falls under the categories of measures/sanctions to be set out in the Framework Decision, may not exist in identical terms in the executing State, the Framework Decision will provide for the possibility for the executing authority to adapt the specific measure or sanction as it has been determined by the issuing authority and bring it in line with the type of measure/sanction, which exists in the executing State for similar offences.

Each Member State has the possibility of deciding that in addition it is prepared to supervise suspensory measures and alternative sanctions other than those set out on the list mentioned above. In such a case, the Member State concerned will notify the General Secretariat of the Council which will make the information received available to all Member States and to the Commission. This will allow the court or other authority in the issuing State to determine which other types of measures or sanctions can be supervised in a specific other Member State without prior consultation.

Division of competences between issuing State and executing State

One of the key elements of the proposed Framework Decision is the attempt to ensure a well functioning division of competences between the issuing State and the executing State. While the executing State will primarily have the role of ensuring that the person complies with the suspensory measures or alternative sanctions, the Framework Decision will also need to address the possibility that the person does not comply with the measures/sanctions. In this respect, the following principles will apply as regards the division of competences between the issuing State and the executing State:

The competent [judicial] authority in the executing State will in general have jurisdiction to take all subsequent decisions relating to the judgment, i.e. in particular any decision which is required in view of non-compliance by the sentenced person with suspensory measures or alternative sanctions imposed.

However, it may be necessary to make provision for certain exceptions to this rule in the case of "conditional sentences" and "alternative sanctions". In both cases, if the person has not complied with the measures/sanctions, the decision to finally impose a custodial sentence or other measure involving the deprivation of liberty may need to be taken by the judicial authorities of the issuing State which had jurisdiction of the case when the conditional sentence or alternative sanction was first imposed.

It may also be necessary to allow the executing State, in certain cases and notwithstanding its obligation to supervise the measures/sanctions imposed, to refuse to assume responsibility for taking such subsequent decisions and thus leave that responsibility with the authorities of the issuing State.

Depending on which State will have jurisdiction over such subsequent decisions, the Framework Decision will need to set out certain information requirements to ensure proper cooperation between the authorities in both States.

VIOLENT VIDEO GAMES - Council conclusions

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION

Takes note of the fact that, although the majority of Member States does not have a specific concept concerning media that glamorise violence in their Criminal Codes, several provisions of those Criminal Codes are applicable. Those provisions provide for sanctions in the form of imprisonment or fines.

Notes with satisfaction that all Member States provide effective provisions aiming at the protection of minors from obtaining access to media that glamorise violence. Member States have various laws to serve this purpose. However, in all Member States, legislation on the Protection of the Children and the TV and Radio Acts as well as the Media and Advertising Acts contain sufficient provisions for compliance and sanctions.

Underlines the importance of continued attention to the development of violent video games, and therefore encourages Member States to improve and continue the exchange of information on this important topic and to promote, where necessary, intensified cooperation among those Member States most affected by this phenomenon. In this context, it might be useful for Member States to exchange information with respect to those violent video games that have been or should be made inaccessible to minors.

Encourages Member States to fully explore already existing EU instruments and expects the competent authorities of the Member States to co-operate closely with EUROJUST and EUROPOL, thereby enabling these authorities to benefit from the experience gained in this field."

It should be noted that the Informal Justice and Home Affairs ministerial meeting on 14 to 16 January 2007 supported the intention of the Presidency to launch a debate on the production and distribution of violent videos and computer games to explore solutions with producers and distributors.

On 7 March 2007 the German Presidency launched a questionnaire in order to obtain an overview of legal provisions for possible criminal sanctions as well as legal provisions for protecting minors from obtaining access to violent video games.

The answers to this questionnaire represent the basis of the above conclusions. According to the results of the questionnaire, Member States have various legislations in place to protect minors against the negative effects of violent video games.

Therefore, the conclusions do not provide for EU legislative action for the time being but focus on increased cooperation in practice and ask for further exchange of information between the Member States concerned.

PROCEDURAL RIGHTS IN CRIMINAL PROCEEDINGS THROUGHOUT THE EUROPEAN UNION

The Council held a public debate on a proposal for a Council Framework Decision on certain procedural rights in criminal proceedings throughout the European Union.

In the light of the debate, the Presidency concluded that the Council was not able to reach a consensus on this file.

The draft Framework Decision establishes rules defining certain rights of persons arrested in connection with or charged with a criminal offence in order to safeguard the fairness of criminal proceedings throughout the European Union.

At its meeting on 1 and 2 June 2006, the Justice and Home Affairs Council agreed on the principles for further work on this proposal. It was concluded that the scope of the proposed Framework Decision would be limited to the right to information, the right to legal assistance, the right to legal assistance free of charge, the right to interpretation and the right to translation of documents of the procedure. The Council also instructed its preparatory bodies to examine practical measures.

At its meeting on 15 and 16 June 2006, the European Council urged the finalisation of negotiations on the procedural rights in criminal proceedings.

At its meeting on 19 April 2007, the Council concluded that work should be pursued in order to reach a consensus on the scope of the instrument at the Council meeting in June. The dividing line was the question whether the Union was competent to legislate on purely domestic proceedings (at least 21 Member States share this view) or whether the legislation should be devoted solely to cross-border cases.

HORIZONTAL APPROACH IN RELATION TO CERTAIN CATEGORIES OF OFFENCE

The Council took note of the state of play of work done regarding this issue, as follows:

Background

At its meeting on 1 and 2 June 2006, the Justice and Home Affairs Council agreed on a general approach to the proposal for a Framework Decision on the European evidence warrant and instructed its preparatory bodies to give further consideration to the broader issue of the categories of offence, with a view to the adoption by the Council of a horizontal approach by the end of 2007 in relation to terrorism, computer-related crime, racism and xenophobia, sabotage, racketeering and extortion, and swindling.

The horizontal approach stems from the wish of a Member State which argued that those categories of offence might differ greatly in substance and in coverage from one legal system to another. In its view, a common understanding by Member States of the substance of the six categories in question could eliminate that scope for differing interpretations. The object of the exercise should be to make state action more foreseeable and more transparent. An EU-wide core of established criteria to be fulfilled if, say, a European arrest warrant is to be issued for an "undefined" listed offence should bring greater trust on the part of executing Member States and make state action more predictable and more calculable for the public.

In preparing for the adoption of a horizontal approach, due account should also be taken of the information available in accordance with the review clause in Article 25a of the draft Framework Decision on the European evidence warrant and of any other relevant information, such as developments in the case law of the European Court of Justice.

Action taken so far

In response to the Council's instructions, Member States were sent a questionnaire enquiring, among other things, about any proposals for the horizontal instrument and any practical problems regarding the six categories of offence in question.

Member States held a first detailed discussion of the horizontal approach to certain categories of offence on 22 and 23 March 2007.

In that discussion, Member States basically took a positive view of work on a horizontal approach confined to the six listed offences in question.

However, some delegations wondered whether to take the course of defining the listed offences more precisely did not signify a step backwards in mutual recognition, which involved waiving consideration of double criminality.

As regards whether any horizontal instrument should take the form of binding rules or merely be couched in non-binding guidelines, most Member States came out in favour of non-binding provisions.

With regard to how the categories of offences might be defined more precisely, some delegations were in favour of referring to international conventions or other EU instruments. Others had misgivings about reference to international conventions, as many countries had made numerous declarations, exceptions and reservations in respect of individual provisions in conventions.

Consideration was also given to whether, perhaps at a later stage, delegations could entertain the idea of placing discussion of a horizontal approach on a broader footing. A horizontal approach could conceivably lay down uniform rules on matters such as grounds for refusal (e.g. territoriality, immunity and time-barring). Such an "extended" horizontal approach might simplify future discussions on a variety of framework decisions. The same problems and issues arising would not need to be discussed anew for each piece of legislation. On this point there were different schools of thought among delegations as to the pros and cons.

Options

More precise definition

The categories of offence could be defined more precisely by reference to international instruments, where available. For those categories of offence for which there are no international conventions or other instruments, a separate definition could be drafted. Another possibility would be to draw up separate definitions altogether, without reference to any international conventions or EU instruments.

Possible mechanism

It would be sufficient to define more precisely the core conditions to be met by offences in order for the executing country's authorities to be required to give effect to the other country's decision, without considering double criminality. It would be possible, for instance, for the forms for use under each framework decision to include a box for indicating whether or not an offence met the definition established by Member States. If, in the issuing authority's view, a case met the more precise definition of the offence, consideration of double criminality would not be allowed. If, in the issuing authority's view, while constituting a listed offence, a case did not meet the agreed precise definition of it (the "core offence"), double criminality could still be considered.

Conclusion

Legal instruments based on the principle of mutual recognition, such as the European arrest warrant, have not yet been in application for long enough to identify any problems in putting them into practice. In order to discover any such problems, the European evidence warrant would also need to be assessed. This will have to wait until the evidence warrant has been implemented in all Member States. Only then will it be possible to ascertain whether and, if so, on what basis any specific steps can be taken towards a horizontal instrument.

PROTECTION OF THE ENVIRONMENT THROUGH CRIMINAL LAW

The Council took note of a Presidency report on the state of play of the proposal for a Directive on the protection of the environment through criminal law, as follows:

Presidency report

On 9 February 2007 the Commission submitted a proposal for a Directive on environmental protection through criminal law which is of particular importance for the Member States of the European Union.

A uniform level of protection in the field of environmental criminal law throughout Europe is both necessary and appropriate. The Member States had already made this clear by agreeing on the Framework Decision on the protection of the environment through criminal law, which was annulled on grounds of lack of competence by the European Court of Justice in its judgment of 13 September 2005. The proposal for a Directive is intended to replace the annulled Framework Decision and thus fill a gap in the area of environmental protection through criminal law. The Directive will probably be one of the first sets of legal instruments by means of which criminal law arrangements can be made in the context of the first pillar, and as such will to some extent serve as an example.

The Presidency took up the proposal for a Directive at the earliest opportunity and arranged for its timely discussion in the Working Party on Substantive Criminal Law. Three working party meetings have taken place to date, all of which were marked by constructive cooperation between the Member States and the Commission. Discussions are currently focusing on drawing up the criminal offences (Article 3 in conjunction with Article 2(a)). Here there are some fundamental issues to be clarified, on the basis of the European Court of Justice's judgment of 13 September 2005. It has to be decided, for example, whether the Community legislator should confine itself to ensuring, by criminal law means, the enforcement of Community law or of such national law that transposes Community law, or whether the Directive should also apply to purely national environmental law. The clear attitude is emerging among the Member States that only violations of Community environmental legislation should be covered by the Directive.

Discussions on the rules on sanctions (Articles 5 and 7) should, in the unanimous view of the Member States, be postponed until the European Court of Justice has ruled on the Commission's action for annulment of the Framework Decision to strengthen the criminal law framework for the enforcement of the law against ship-source pollution. That Framework Decision contains detailed rules on sanctions that are comparable to those in the proposal for a Directive. The Court of Justice is expected to give its ruling towards the end of 2007.

Further discussions on the matter will take place under the Portuguese Presidency.

E-JUSTICE - Council conclusions

The Council took note of a report on E-Justice (10393/07) and requested the continuation of work on this subject.

The Council also adopted the following conclusions:

- "1. The Council takes note of the report of the Working Party on Legal Data Processing (E-Justice)¹ on the results of the examination of the requirements for and the possibility of developing work in the area of E-Justice at the level of the EU and of the results of the Conference on E-Justice that took place in Bremen from the 29-31 May 2007.
2. The Council agrees that work should be carried on in the area of E-Justice with a view to creating at European level a technical platform giving access, in the sphere of justice, to existing or future electronic systems at national, Community and, where appropriate, international level in the areas covered by point 6.

The system will be decentralised. It will however be necessary to consider whether and to what extent a coordination will be required in order to ensure consistency in the functioning of an E-Justice system at European level.

The full implementation at European level of an E-Justice system is an ambitious project and will require the appropriate resources, at European level as well as at Member State level. Thus, an important preparatory work is necessary and the Council invites the Commission to carry out studies in this area. However this preparatory work should not prevent Member States from setting up pilot projects in the field of E-Justice.

3. An E-Justice system should give access to citizens, economic operators, practitioners of law, judicial authorities and courts, which will benefit from available modern technologies.

An E-Justice system should ensure a user-friendly access. Citizens should be able to use a language of the institutions of the European Union, to the extent possible, having however in mind that, in the framework of judicial proceedings, the language to be used is that of the place where the proceedings are taking place. With regard to the cooperation between authorities of Member States, it should be examined to what extent it will be possible to adopt a flexible linguistic regime. Aid to translation and interpretation is an important element to be taken into account in the framework of E-Justice.

¹ 10393/07 JURINFO 21 JAI 293 JUSTCIV 159 COPEN 86.

4. The work to be undertaken will be of a non-legislative nature and should be carried out in full cooperation with Council bodies which have competence for the examination of legislative proposals. The development of E-Justice at European level is an evolving process. The projects are open to all Member States. However, not each Member State is required to fully participate in all aspects of E-Justice from the outset.
5. With a view to full implementation in all EU Member States, which should be the long-term objective, the Council invites the Commission to examine whether and how the effective implementation of E-Justice projects in Member States could be supported by the Community at organisational, logistical and financial levels in the framework of existing programmes.
6. Action by the Community/Union with respect to an E-Justice system should be limited to cross-border issues in civil and commercial matters and in criminal matters and should cover:
 - a) the set-up of a European interface (E-Justice portal);
 - b) the possible use of IT for the communications between the judicial authorities and interested parties (applicant, defendant and other participants involved in the proceedings);
 - c) the possible use of IT in the context of specific procedures;
 - d) access to judicial registers in electronic form, in the full respect of the legal orders of the Member States.
7. The priorities for future work should be the following:
 - a) set up a European interface (E-Justice portal);
 - b) create the conditions for networking of the following registers¹:
 - criminal records

¹ Without prejudice to the national structure of such registers.

- insolvency registers
 - commercial and business registers and
 - land registers;
- c) start the preparations for the use of IT for the European payment order procedure, in full respect of Regulation (EC) No 1896/2006;
- d) improve the use of video-conferencing technology for communication in cross-border proceedings, in particular concerning the taking of evidence, and interpretation.
8. Technical work should be carried out with a view to:
- a) ensure interoperability and standardise, where necessary, the means of communications in the context of E-Justice;¹
 - b) make use of coordinated or mutually accepted authentication mechanisms;
 - c) ensure that the E-Justice system will be fully secured.
9. Without prejudice to Article 202 of the EC Treaty, the Council instructs Coreper to organise work in the field of E-Justice and prepare the mandate to a competent working party in order to:
- a) prepare the implementation of work as defined in point 7 and in compliance with point 8;
 - b) allow that the necessary technical assistance is given to Council working parties, where required, with a view to ensure, to the extent possible, a consistent approach to IT in the sphere of justice and
 - c) submit a report for its meeting in December 2007 on progress made in the area of E-Justice. In particular, this report should list the existing projects in this area."

¹ The standardisation should be subject to acceptance by each Member State on a voluntary basis.

ROME II (REGULATION ON THE LAW APPLICABLE TO NON-CONTRACTUAL OBLIGATIONS)

The Council heard an oral report by the Presidency on the agreement reached with the European Parliament on Rome II.

The purpose of this draft Regulation is to lay down a uniform set of rules of law applicable to non-contractual obligations, irrespective of the country of the court in which an action is brought. This should increase certainty as to the applicable law and improve the predictability of legal disputes and the free movement of judgments.

As a general rule, the draft Regulation sets out that the law applicable to a tort/delict is the law of the country where damage occurred. Only in certain limited, duly justified circumstances, will the general rule be derogated from and special rules applied. The draft Regulation contains special rules in matters of product liability, unfair competition, environmental damage, infringements of intellectual property and industrial action.

The Regulation will be formally adopted after the text has been revised by the legal/linguistic services of the European Parliament and of the Council.

OTHER BUSINESS**Cyber-crime**

Commission Vice-President Franco Frattini briefed the Council on a recently approved Commission Communication on cyber-crime.

The Estonian delegation also informed the Council about the cyber attacks against Estonia which occurred in April and May 2007.

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MIXED COMMITTEE

The Mixed Committee (EU+ Norway, Iceland and Switzerland) met on 12 June 2007 at 10.00 and discussed the following issues:

Schengen Information System (SIS)

The Mixed Committee confirmed its intention to go ahead, as scheduled, with four parallel projects:

- the enlargement of the Schengen area (removal of internal border checks in new Member States) between December 2007 and March 2008,
- the implementation of the SISone4all project (extension of the current SIS I to include new Member States),
- the development of SIS II, and
- the prolongation of the Schengen communication network.

The abolition of controls at the internal borders of the Member States which acceded to the EU in May 2004 depends upon the ability of those Member States to apply the Schengen acquis in full and to participate in the Schengen Information System (SIS).

While the development of SIS II remains the absolute priority, the implementation of the SISone4all project would allow new Member States to be integrated into the SIS 1+. Migration to the SIS II would follow as soon as the development of the SIS II is completed.

The SIS is the most important common search system used by the European police and border guard authorities. It allows them to obtain information relating to alerts on persons and objects and to alerts issued for the purpose of refusing entry. Therefore it is necessary to connect the new EU Member States which have acceded to the EU since 1 May 2004 to the system to be able to abolish controls at the internal borders of these countries. To this end, the Council decided in December 2006 to introduce "SISone4all".

Visa Information System (VIS)

See page 15.

Protection of personal data relating to police and judicial cooperation in criminal matters

See Council conclusions on page 14.

Uniform format for residence permits

The Mixed Committee took note of the state of play regarding this draft Regulation.

It should be noted that the objective of this proposal is the introduction of enhanced security features and biometric identifiers into residence permits for non-EU nationals, while respecting the principle of free movement of persons legally residing within the Schengen territory.

OTHER ITEMS APPROVED

IMMIGRATION

EU/Ukraine - Visa facilitation and readmission agreements

The Council adopted decisions approving the signing of an agreement between the EU and Ukraine on facilitating the issuance of visas to citizens of the EU and Ukraine, as well as an agreement on readmission (9323/07, 9312/07).

The purpose of the visa agreement is to facilitate, on the basis of reciprocity, the issuance of visas for an intended stay of no more than 90 days per period of 180 days to citizens of the EU and Ukraine. The agreement will not apply to the territory of Denmark, Ireland and the United Kingdom.

The readmission agreement establishes, on the basis of reciprocity, rapid and effective procedures for the identification and return of persons who do not, or who no longer, fulfil the conditions for entry to and stay on the territory of Ukraine or of one of the Member States of the EU, and to facilitate the transit of such persons in a spirit of cooperation. The agreement will not apply to the territory of Denmark.

The Council took note that the Commission will inform the Ukrainian side of the following statement:

"Taking into consideration the importance of the equal treatment of all EU citizens by third countries on visa issues, the European Community declares its intention to wait for the adoption by the Ukrainian authorities of the unilateral decision granting Bulgarian and Romanian citizens the same treatment as all other EU citizens with regard to visa before ratifying the Agreement between European Community and Ukraine on the facilitation of the issuance of short-stay visas."

Rapid border intervention teams

The Council adopted a Regulation establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers (PE-CONS 3616/07).

The Regulation establishes a mechanism for the purposes of providing rapid operational assistance for a limited period to a requesting Member State facing a situation of urgent and exceptional pressure, especially the arrival at points of the external borders of large numbers of third-country nationals trying to enter the territory of the Member State illegally, in the form of Rapid Border Intervention Teams. In addition, it defines the tasks to be performed and powers to be exercised by members of the teams during operations in a Member State other than their own.

The Regulation will apply without prejudice to the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.

Evaluation of the progress and outcome of negotiations for Community readmission agreements with third countries - *Council conclusions*

The full text of the Council conclusions can be found at:

<http://register.consilium.europa.eu/pdf/en/07/st09/st09850.en07.pdf>

Improvement of cooperation between Member States, the Commission and Frontex in the field of return - *Council conclusions*

The full text of the Council conclusions can be found at:

<http://register.consilium.europa.eu/pdf/en/07/st09/st09805.en07.pdf>

Statistics on migration

The Council adopted a Regulation establishing common rules for the collection and compilation of Community statistics on migration and international protection with a view to contributing to the development of effective EU policies on migration (3609/07 + 10010/07 ADD1).

The new rules aim at harmonising the different EU Member States' mechanisms for producing statistics relating to migration issues in order to better develop, implement and monitor common immigration and asylum legislation. They seek also to reinforce the exchange of statistical data on asylum and migration and to improve the quality of Community statistical collections and outputs which have, hitherto, been compiled on the basis of informal agreements between Member States.

CIVIL PROTECTION

Community Civil Protection Mechanism*

The Council reached a political agreement on a draft Decision establishing a Community Civil Protection Mechanism and recasting Council Decision 2001/792 (10482/07). The draft text will now undergo legal and linguistic revision and, subject to the lifting of a German parliamentary scrutiny reservation, be re-submitted to the Council later in 2007 for adoption.

The Community Civil Protection Mechanism was created in 2001 to support and facilitate the mobilisation and coordination of civil protection assistance in the event of major emergencies occurring inside or outside the European Union. The present draft Decision which revises that Mechanism takes into account lessons learned in past emergencies and a series of European Council declarations outlining policy orientations on the further development of European civil protection cooperation, in particular on the setting up of a rapid response capability based upon the civil protection modules of the Member States.

The draft Decision on the Mechanism, which uses the possibilities now offered by the Civil Protection Financial Instrument of 5 March 2007 (OJ L 71/2007), aims at :

- developing the Monitoring and Information Centre (MIC) into a framework for collecting and sharing validated emergency information,
- contributing to the further development and establishment of detection and early warning systems,
- developing self-sufficient and autonomous interoperable civil protection assistance intervention capabilities or teams consisting of resources of Member States which aim to be fully interoperable ("modules"),
- facilitating the identification and pooling of transport and equipment and supporting Member States in obtaining access to transport resources,
- providing the EU assessment and coordination teams with adequate supporting equipment, in particular communication tools,
- clarifying the respective coordination roles of the Member State entrusted with the Presidency of the Council, of the Commission, of the Member States' contact points and of the United Nations during interventions in third countries.

EU emergency and crisis coordination

The Council took note of the progress achieved so far and endorsed the revised version of the Manual on EU Emergency and Crisis Coordination.

Enhancing the coordination capacity of the Monitoring and Information Centre (MIC) within the Community Civil Protection Mechanism - *Council conclusions*

The Council conclusions can be found at:

<http://register.consilium.europa.eu/pdf/en/07/st10/st10014.en07.pdf>

Preparedness for decontamination of casualties following chemical, biological, radiological and nuclear (CBRN) incidents - *Council conclusions*

The Council conclusions can be found at:

<http://register.consilium.europa.eu/pdf/en/07/st10/st10015.en07.pdf>

SCHENGEN

Schengen Information System II (SIS II): Establishment, operation and use*

The Council adopted a Decision on the establishment, operation and use of the second generation Schengen Information System (SIS II) (14914/06).

SIS II constitutes one single information system that will replace SIS as created pursuant to the Schengen Convention. SIS II is a compensatory measure contributing to maintaining a high level of security within the area of freedom, security and justice of the European Union by supporting operational cooperation between police authorities and judicial authorities in criminal matters.

The Council's Decision on SIS II specifies the objectives of the system, its technical architecture and financing, and lays down rules concerning its operation and use and to define responsibilities, the categories of data to be entered into the system, the purposes for which the data are to be entered, the criteria for their entry, the authorities authorised to access the data, the interlinking of alerts and further rules on data processing and the protection of personal data.

SIS II includes a central system (Central SIS II) and national applications. The expenditure involved in the operation of Central SIS II and related communication infrastructure will be charged to the general budget of the European Union.

The Council also adopted conclusions on SIS. The full text of the Council conclusions can be found at:

<http://register.consilium.europa.eu/pdf/en/07/st10/st10586.en07.pdf>

Schengen Information System - Budget for 2007

The Member States, meeting within the Council, adopted the C.SIS installation and operating budget for 2007 (7954/07).

Application of the Schengen Information System (SIS) to new Member States

The Council adopted a Decision on the on the application of the provisions of the Schengen acquis relating to the Schengen Information System (SIS) in the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and the Slovak Republic (9201/07).

The 2003 Act of Accession provides that all Schengen acquis provisions will only apply in a new Member State following a Council Decision, after verification that the necessary conditions have been met.

The Council concluded in December 2006 and June 2007 that the necessary conditions had been fulfilled. It is therefore possible to set a date from which the Schengen acquis relating to the SIS may apply in those Member States.

The entry into force of this Decision will allow for real SIS data to be transferred to the Member States concerned. The concrete use of this data would allow the Council to verify the correct application of the provisions of the Schengen acquis relating to the SIS in the Member States concerned. These evaluations are scheduled to take place in September 2007.

Once these evaluations have been carried out, the Council will decide on the lifting of checks at the internal borders with the Member States concerned.

In addition, the Council took note of an interim report sketching the progress made in the Schengen evaluation process by the ten new EU Member States, which joined the EU in May 2004.

COUNTER-TERRORISM

Policy recommendations, implementation of strategy and action plan, "Check the Web" project, information on terrorist kidnappings and limiting the availability of arms and explosives to terrorists

The Council:

- approved a set of policy recommendations on counter-terrorism, with a view to their incorporation into the EU Counter-Terrorism Action Plan,
- approved a document concerning the follow-up to policy recommendations on counter-terrorism,
- took note of a report concerning the activities of the Working Party on Terrorism,
- took note of the conclusions of the second High Level Political Dialogue on Counter-Terrorism between the Council, the Commission and the European Parliament (9599/1/07),
- took note of a report on the implementation of the Strategy and Action Plan to Combat Terrorism (9666/07 + ADD 1 REV 1),
- adopted conclusions on combating the terrorist use of the Internet "Check the Web",

<http://register.consilium.europa.eu/pdf/en/07/st08/st08457-re03.en07.pdf>

- adopted a recommendation on the sharing of information on terrorist kidnappings,

<http://register.consilium.europa.eu/pdf/en/07/st05/st05845-re03.en07.pdf> , and

- adopted conclusions on limiting the availability of arms and explosives to terrorists.

<http://register.consilium.europa.eu/pdf/en/07/st09/st09962.en07.pdf>

JUDICIAL COOPERATION IN CIVIL AND CRIMINAL MATTERS

Small claims

Following an agreement with the European Parliament, the Council adopted, in first reading, a Regulation establishing a European Small Claims Procedure (*PE-CONS 3604/07*).

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

It will apply from 1 January 2009, with the exception of several provisions that will apply from 1 January 2008.

Insolvency proceedings

The Council adopted a Regulation amending the lists of insolvency proceedings, winding-up proceedings and liquidators in Annexes A,B and C to Regulation (EC) No 1346/2000 on insolvency proceedings. (*9452/07*)

The amended text of the Annexes to Regulation 1346/2000 is aimed at responding to a notification by the Czech Republic of amendments to the Czech legislation on insolvency and also covers amendments to national insolvency rules notified by Italy, Romania and Sweden.

The amended text of the Regulation also reflects the information concerning Bulgaria in Council Regulation (EC) No 1791/2006 amending Regulation (EC) No 1346/2000 by reason of the accession of Bulgaria and Romania.

Civil Justice Programme

The Council adopted its common position on a draft Decision establishing for the period 2007-2013 the specific programme "Civil Justice" as part of the general programme "Fundamental Rights and Justice" and will forward it to the European Parliament for a second reading in the framework of the codecision procedure (8699/07).

The Civil Justice Programme is aimed at improving mutual understanding of the legal and judicial systems of the Member States, lowering the barriers to judicial cooperation in civil matters, and improving the functioning of the internal market.

Development of criminal law policy - future handling of legislative files

The Council took note of a procedure for future handling of legislative files, containing proposals of the first pillar relevant to the development of criminal law policy.

POLICE COOPERATION

Prevention of violence and disturbances at football matches

The Council adopted a Decision amending Decision 2002/348/JHA¹ concerning security in connection with football matches with an international dimension. (9058/07)

The new Decision introduces new provisions in Decision 2002/348/JHA in order to strengthen cooperation among national authorities and put their exchange of information on a professional footing allowing every Member State to make an efficient risk assessment before an international football match.

2006 Progress Review on the Implementation of the EU Drugs Action Plan (2005-2008) - Council conclusions

The Council conclusions can be found at:

<http://register.consilium.europa.eu/pdf/en/07/st10/st10301.en07.pdf>

¹ OJ L 121, 8.5.2002, p. 1

Access to Eurodac by Member State police and law enforcement authorities - *Council conclusions*

The Council conclusions can be found at:

<http://register.consilium.europa.eu/pdf/en/07/st10/st10002.en07.pdf>

Cross-border enquiries by police authorities in investigating supply channels for seized or recovered crime-related firearms - *Council recommendation*

The Council recommendation can be found at:

<http://register.consilium.europa.eu/pdf/en/07/st10/st10000.en07.pdf>

<http://register.consilium.europa.eu/pdf/en/07/st10/st10000-co01.en07.pdf>

FIGHT AGAINST ORGANISED CRIME

EU priorities for the fight against organised crime - *Council conclusions*

The Council adopted conclusions which can be found at:

<http://register.consilium.europa.eu/pdf/en/07/st07/st07547-re03.en07.pdf>

European Crime Prevention Network (EUCPN) - *Council conclusions*

The Council adopted conclusions which can be found at:

<http://register.consilium.europa.eu/pdf/en/07/st06/st06692-re02.en07.pdf>

Simplification of the cross-border deployment of undercover officers - *Council resolution*

The Council adopted a resolution which can be found at:

<http://register.consilium.europa.eu/pdf/en/07/st06/st06678-re03.en07.pdf>

<http://register.consilium.europa.eu/pdf/en/07/st06/st06678-re03co01.en07.pdf>

EUROPOL

Work Programme 2008, processing of personal data, creation of a first response network, JITs

The Council

- adopted the Europol Work Programme for 2008 (7911/07),
- took note of the Europol financial plan 2008-2012 and its 2006 annual report (7950/07) and forwarded them to the European Parliament,
- approved the transformation of the Counter Terrorism Task Force into a first response network, which will organise the first response of Member States and Europol to a major terrorist incident,
- adopted a Decision on processing personal data communicated to Europol (9637/07),
- took note of a report by the Europol Management Board on the implementation of the Council recommendations on selected short-term options (9576/07), and
- adopted conclusions on a Decision on Europol participation in joint investigation teams (JITs):

<http://register.consilium.europa.eu/pdf/en/07/st07/st07114-re01.en07.pdf>

EUROJUST

Fifth Eurojust Annual Report

The Council adopted conclusions which can be found at

<http://register.consilium.europa.eu/pdf/en/07/st09/st09920.en07.pdf>

COMMON FOREIGN AND SECURITY POLICY**Budget**

The Council endorsed the procedures for having recourse to the "Preparatory measures" budget line within the Common Foreign and Security Policy budget for the purpose of the preparation of civilian crisis management operations.

EUROPEAN SECURITY AND DEFENCE POLICY**Democratic Republic of Congo – EU missions in the field of security sector reform****– Mission EUSEC RD Congo**

The Council adopted a joint action extending for a year the EU mission to provide advice and assistance for security sector reform in the Democratic Republic of Congo (DRC, EUSEC RD Congo) (9815/07).

The joint action aims at continuing the EU's contribution to completing the integration of the various armed factions in the DRC, as well as supporting Congolese efforts to restructure and rebuild the Congolese army. It extends the EUSEC RD Congo mission launched in May 2005 beyond its current expiry date of 30 June.

A reference amount of EUR 9.7 million is earmarked for the period from 1 July 2007 until 30 June 2008.

– EUPOL RD Congo Mission

The Council adopted a joint action establishing a police mission in order to continue the EU's contribution to Congolese efforts to reform and restructure the National Congolese Police and its interaction with the judicial system in the RDC.

The new EUPOL RD Congo mission will, on an invitation from the Congolese authorities, build on the activities carried out by the EUPOL Kinshasa mission, which has been operating in the capital of the DRC since April 2005 and which expires on 30 June.

A reference amount of EUR 5.5 million is earmarked for the period from 1 July 2007 until 30 June 2008.

EU Member States and invited third States will contribute to the mission by seconding up to 37 police officers, magistrates and other experts.

Under these two joint actions, the EU will provide advice and assistance to the Congolese authorities, including with a view to promoting policies compatible with human rights and international humanitarian law, democratic standards and the principles of good governance, transparency and respect for the rule of law. Both missions are to be carried out in close cooperation with the United Nations and other actors of the international community.

The 2006 elections in the DRC marked the end of the transition process and enabled the formation of a government in 2007. Its programme provides, *inter alia*, for a reform of the security sector, the drawing up of a national plan, and priority reforms in the police, armed forces and judicial sectors.

The EU has shown its support for the transition process in the DRC and for the reform of the security sector, including by the organisation of three operations: EUSEC RD Congo, EUPOL Kinshasa and Operation EUFOR RD Congo, which contributed to the creation of a secure environment during the election process.

EUROPEAN ECONOMIC AREA

Cooperation in specific fields through Community programmes

The Council approved draft Decisions of the European Economic Area (EEA) Joint Committee amending the EEA Agreement on cooperation in specific fields outside the four freedoms with a view to extending cooperation on:

- the Culture Programme 2007-2013 (7876/07),
- the Community Programme for Employment and Social Solidarity - Progress (7879/07),
- an action Programme in the field of lifelong learning and the "Youth in action Action" programme 2007-2013 (7884/07),
- the Competitiveness and Innovation Framework Programme 2007-2013 (7889/07),
- a programme of support for the European audiovisual sector (MEDIA 2007) (7919/07),

- the 7th Framework Programme of the European Community for research, technological development and demonstration activities 2007-2013 (8142/07),
- a programme of Community action in the field of consumer policy 2007-2013 (8145/07).

The EEA Joint Committee must integrate all Community legislation relevant to the EEA Agreement in order to ensure the necessary legal certainty and homogeneity of the internal market.

FISHERIES

Faroe Islands - Tariff quota for fish feed

The Council adopted a Decision on a Community position to be adopted within the EU/Denmark-Faroe Islands Joint Committee, with a view to amending the EU/Denmark-Faroe Islands Agreement in order to increase, up to 20 000 tonnes, the annual tariff quota for Faroese fish feed (8197/07).

INTERNAL MARKET

EU Company Law - Shareholders' voting rights*

Following an agreement with the European Parliament, the Council adopted in first reading a Directive on the exercise of voting rights by shareholders of companies having their registered office in a Member State and whose shares are admitted to trading on a regulated market. The new Directive amends Directive 2004/109/EC¹ (PE-CONS 3608/07).

The Directive aims at removing the key obstacles to the cross-border voting process in listed companies having their registered office in a Member State by introducing specific requirements with respect to selected rights of shareholders in relation to general meetings.

¹ OJ L 390, 21.12.2004, p. 38-57

ENERGY**Nuclear energy - Third party liability**

The Council adopted a draft Decision authorising the Republic of Slovenia to ratify, in the interest of the European Community, the Protocol of 12 February 2004 amending the Paris Convention of 29 July 1960 on Third Party Liability in the field of Nuclear Energy, and decided to send the Decision to the European Parliament for assent.

The Protocol of 12 February 2004) contains provisions which affect the rules laid down in Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters¹.

¹ OJ L 12, 16.1.2001, p. 1.