



Brussels, 2 April 2009

**BACKGROUND<sup>1</sup>**  
**JUSTICE AND HOME AFFAIRS COUNCIL**  
**Luxembourg, Monday 6 April 2009**

*The Justice and Home Affairs Council will take place on 6 April (starting at 10.00) in the Conference Centre FIL, 5 rue Carlo Hemmer in Luxembourg.*

*The morning meeting, chaired by **Jiří Pospíšil**, Minister of Justice, will start with a debate on a draft framework decision concerning **conflicts of jurisdiction in criminal proceedings**.*

*The Council will hold a first exchange of views on new proposals for improving the fight against **trafficking in human beings and sexual exploitation of children**. To this regard, the Council will take note of Presidency conclusions on a conference for the **protection of vulnerable victims** held in Prague on 17 and 18 March.*

*Over lunch, ministers of interior will examine the appointment of a new **director for Europol**.*

*In the afternoon, the Mixed Committee (EU + Norway, Iceland, Liechtenstein and Switzerland), will examine the state of play of the **Schengen Information System (SIS II)** and of the **Visa Information System (VIS)**.*

*The Council session will resume, under the chair of **Ivan Langer**, Minister of Interior, with the examination of a draft directive aimed at establishing a **single permit and common rights for foreign workers** legally living in the EU.*

*Finally, the Council will be briefed on the outcome the EU delegation visit to Washington on 16 and 17 March.*

*Amid the items to be submitted for final approval without discussion, the Council will formally adopt the legislative package on **climate change and renewable energy**.*

*The presidency will organise press conferences at the end of each Council session.*

**Press conferences and public events can be followed by video streaming:**  
<http://video.consilium.europa.eu/>

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<sup>1</sup> This note has been drawn up under the responsibility of the press office.

## **JUSTICE AFFAIRS (morning session)**

### **Conflicts of jurisdiction in criminal proceedings**

The Council will hold a debate on a draft framework decision concerning the prevention and settlement of conflicts of jurisdiction in criminal proceedings, with a view to reaching a general approach on the text (5208/09).

The Council is expected to deal with a number outstanding issues that may include: the role of Eurojust in dealing with certain cases where competent authorities could not find a consensus; or the opportunity of clarifying the application of the European Community competition law.

During previous ministerial discussions on 27<sup>th</sup> February, a broad consensus emerged on the advisability of restricting the scope of the instrument to situations where the same person(s) is (are) subject to parallel criminal proceedings in different member states, which might lead to the double final disposal of those proceedings (the "ne bis in idem" legal principle).

At that occasion other items discussed concerned the nature of the competent authorities which would be able to act under the framework decision and the communication procedures.

In a common area of freedom, security and justice it is necessary to ensure that national authorities are made aware, at an early stage, of facts of a case which fall within the jurisdiction of two or more member states and that agreement is reached to concentrate, as far as possible, criminal proceedings for such facts in a single jurisdiction.

In order to achieve these principles, the following measures are proposed:

- avoiding, as early in the proceedings as possible, situations where the same person is subject to parallel criminal proceedings in different member states;
- ensuring that there is sufficient exchange of information between member states, from an early stage, about ongoing proceedings which are significantly linked to another jurisdiction;
- putting in place transparent rules and common criteria which will be applied when member states are seeking the agreement on the best placed jurisdiction;
- making it possible for the national authorities concerned to enter into direct consultations with each other in order to reach quickly an agreement.

The framework decision is aimed at improving judicial cooperation in the EU, as well as contributing to a better application of the principle of mutual recognition, both in the pre-trial and post-trial stage. It is also aimed at allowing a more thorough consideration of the rights and interests of individuals in relation to the place of the trial, including the victims' protection. To avoid undue bureaucracy, in situations where more flexible instruments or arrangements are in place between member states, those should prevail.

This proposal, which is a joint initiative put forward by the Czech Republic, Poland, Slovenia, Slovakia and Sweden last January, was forwarded to the European Parliament for consultation.

## **Sexual exploitation of children**

The Council will hold a preliminary exchange of views on a draft framework decision aimed at improving the fight against sexual abuse and exploitation of children (8150/09).

The exchange of views will follow a Commission presentation on the proposal issued on 25th March.

The new proposal, which is intended to replace the framework decision 2004/68/JHA, covers the following main priorities related to:

- criminal law, serious forms of child sexual abuse and exploitation currently not covered by EU legislation would be criminalised;
- use of new technologies, new forms of sexual abuse and exploitation facilitated by the use of the Internet would be criminalised, such as "grooming" (on-line solicitation of children for sexual purposes);
- criminal investigation and initiation of proceedings, a number of provisions would be introduced to assist with investigating offences and the bringing about of charges, in the absence of reporting by the child victim;
- prosecution of offences committed abroad, rules on jurisdiction would be amended to ensure that child sexual abusers or exploiters from the EU face prosecution even if they commit their crimes in a non-EU country;
- protection of victims, in order to ensure that abused children have easy access to legal remedies and do not suffer for participating in criminal proceedings;
- prevention of offences, through special programmes to be implemented throughout the EU and mechanisms to block access to websites with child pornography.

The international protection of children, which is one of the top priorities of the Czech presidency, was the subject of ministerial discussions on 15th January at the Prague informal Council.

## **Trafficking in human beings and protection of victims**

The Council will hold a preliminary exchange of views on a draft framework decision aimed at strengthening the fight against trafficking in human beings (8151/09).

The exchange of views will follow a Commission presentation on the proposal issued on 25th March 2009.

The new framework decision, which is intended to replace the framework decision 2002/629/JHA, aims at improving the existing instruments used to combat trafficking in human beings and victims support, including:

- definition of the crime, aggravating circumstances and higher punishment;
- extraterritorial jurisdiction allowing to prosecute EU nationals for crimes committed abroad and to use investigative tools such as phone listening and access to financial data;
- special treatment of the victims in criminal proceedings including non-punishment of the victims who bear the consequences of the criminal activities;
- higher standard of protection and assistance to the victims. Special protective measures are envisaged for children;
- preventive measures aimed at discouraging the demand that foster trafficking.

The new proposal seeks to reinforce further the commitment of member states in order to prevent and combat trafficking in human beings, which are mostly women and children. The proposal will contribute to the approximation of national legislations in this field as well as to the improvement of international law enforcement and judicial cooperation.

It incorporates all legal instruments governing decisions in relation to prosecution, victim support, prevention and monitoring.

### **Protection of vulnerable victims**

The Council will take note of conclusions drawn by the Presidency on a conference on protection of vulnerable victims and their standing in criminal proceedings held in Prague on 17 and 18 March.

The conclusions can be found in document (7855/1/09).

## **HOME AFFAIRS (afternoon session)**

### **Single permit and common rights for foreign workers**

The Council will hold a political debate on a proposal for establishing a single application procedure for a single permit for third-country nationals to reside and work in a member state and a common set of rights for third-country workers legally residing in the EU.

The proposal (14491/07), presented by the Commission in October 2007, was the subject of extensive debates under previous Presidencies leading to a substantial level of agreement on a large number of provisions.

The exchange of views at the Council will take place on the basis of a Presidency compromise text and is expected to focus on remaining outstanding political issues, such as the scope of the directive, with a view to clarifying the categories of non-EU citizens granted with a single permit who may be admitted to the labour market under the future provisions.

This proposal seeks to simplify admission procedures for the purpose of work, thus contributing to a better control of immigration. To that effect, it provides for a "one-stop-shop" system for third-country nationals wishing to live and work in a member state. It envisages a single application procedure, thereby simplifying, shortening and accelerating the procedure, both for employers and migrants.

The conditions pursuant to which the third-country national can be admitted are not defined in the proposal, which remains a national matter. If granted, the permit to stay and work should be issued in a single act. The "single permit" will adopt the existing harmonised EU format for residence permits.

By acknowledging that legally employed third country nationals contribute to the European economy the same way that EU citizens do, the proposal further grants legal foreign workers basic socio-economic rights on an equal footing with EU citizens. Equal treatment would include working conditions, health and safety at the workplace, education, vocational training, recognition of qualifications, social security, export of pensions, etc.

The proposal is based on article 63 of the EC Treaty and requires unanimity within the Council.

### **European Security and Innovation Forum**

The Council will take note of a report by the chair of the European Security and Innovation Forum (ESRIF).

The ESRIF, established by European member states in September 2007, has a mandate to elaborate a long-term strategic plan for civil security research and innovation, with a view to

- developing a research and innovation agenda that will contribute to the security of citizens, infrastructure and borders; and
- enhancing competitiveness and innovation in order to contribute to make Europe a leader in the international security market.

A note addressed to the Council by the chairman of the ESRIF can be found in document 8001/09. For more information see: <http://www.esrif.eu/>

### **Europol/Russia cooperation agreement on exchange of personal data**

The Council is expected to exchange views on a possible authorisation to Europol to enter into negotiations with Russia with a view to concluding an operational cooperation agreement.

In 2003, the Council approved an agreement between Russia and Europol which does not include the exchange of personal data.

In 2000, the Council included Russia on the list of third countries and non-EU related bodies with which the Europol director can enter into negotiations on agreements.

## **MIXED COMMITTEE**

In the margins of the Council, the Mixed Committee (the EU countries plus Norway, Iceland, Liechtenstein and Switzerland) will take note of the state of play on the second generation of the Schengen Information System « SIS II », following the conclusions adopted by the Council on 26 February (6896/09).

In the framework of the SIS, the ministers of the Mixed Committee will discuss conclusions on the development of the SIRENE Bureaux<sup>1</sup>. These conclusions are due to be adopted by the Council (8107/09).

The Mixed Committee will be informed by the Presidency and the Commission on the state of play regarding the deployment of the Visa Information System (VIS), including the preparations for the planned starting up of operations in December 2009.

It will also take note of information following the lifting of air border controls in Switzerland for the Schengen area on 29 March.

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<sup>1</sup> SIRENE stands for Supplementary Information Request at the National Entry and outlines the main task of the "SIRENE Bureaux" established in all Schengen states. SIRENE Bureaux provides supplementary information on alerts and coordinate measures in relation to alerts in the SIS.