Special Council meeting

– JUSTICE, HOME AFFAIRS AND CIVIL PROTECTION –

Luxembourg, 16 October 2001

President: Mr Marc VERWILGHEN
Minister for Justice of the Kingdom of Belgium
PARTICIPANTS

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

**Belgium :**
Mr Marc VERWILGHEN
Minister for Justice

**Denmark :**
Mr Frank JENSEN
Minister for Justice

**Germany :**
Mr Hansjörg GEIGER
State Secretary, Federal Ministry of Justice

**Greece :**
Mr Michalis STATHOPOULOS
Minister for Justice

**Spain :**
Mr Angel ACEBES PANIAGUA
Minister for Justice

**France :**
Ms Marylise LEBRANCHU
Keeper of the Seals, Minister for Justice

**Ireland :**
Mr John O'DONOGHUE
Minister for Justice, Equality and Law Reform

**Italy :**
Mr Roberto CASTELLI
Minister for Justice

**Luxembourg :**
Mr Luc FRIEDEN
Minister for Justice, Minister for the Treasury and the Budget

**Netherlands :**
Mr Benk KORTHALS
Minister for Justice

**Austria :**
Mr Dieter BÖHMDOFER
Federal Minister for Justice

**Portugal :**
Mr António COSTA
Minister for Justice

**Finland :**
Mr Johannes KOSKINEN
Minister for Justice

**Sweden :**
Mr Thomas BODSTRÖM
Minister for Justice

**United Kingdom :**
Mr John DENHAM
Minister of State for Crime Reduction, Policing and Community Safety

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**Commission :**
Mr António VITORINO
Member

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EUROPEAN ARREST WARRANT AND SURRENDER PROCEDURES BETWEEN MEMBER STATES

Two key issues arising with regard to the relevant Commission proposal were put to the Council: the scope of the proposed Framework Decision and the nature of involvement of the judicial authorities in the State of enforcement, in order to safeguard the rights of individuals for whom arrest warrants have been issued, while also establishing time limits for enforcement of arrest warrants.

Discussions focused on the first issue and Ministers considered a number of alternatives, with or without continued application of the principle of double criminality or based on negative or positive lists of offences for the purposes of determining the scope of the Framework Decision.

At the end of the discussion, the Council asked its preparatory bodies (the Article 36 Committee) to give detailed consideration to the respective merits of two methods, one based on a negative list and the other on a positive list, beginning with a common negative list, and to report back for its next JHA meeting, on 16 November 2001.

It should be noted that, at its meeting on 20 September 2001, the Council welcomed the Commission's initiative and instructed the Article 36 Committee to take steps immediately to examine the proposal thoroughly, so as to enable the Council to reach political agreement on the Commission proposal at its meeting on 6 and 7 December 2001.

At its special meeting on 21 September 2001, the European Council directed the Council to flesh out its agreement and to determine the relevant arrangements as a matter of urgency and at the latest at its meeting on 6 and 7 December 2001.
COMBATING TERRORISM – FRAMEWORK DECISION

On the basis of a broad consensus, established in preparatory work within the Article 36 Committee, on the line taken by the Commission, which proposed that terrorist offences be defined by reference to national law, with the addition of special intent, the Council was asked to consider the approach to be followed on penalties for offences committed as part of a terrorist group and the establishment of jurisdiction for Member States' judicial authorities.

Following preparatory work, the Presidency proposed some amendments to the Commission proposals:

- on penalties, a system simpler than that called for by the Commission, while still giving a strong political signal, with a maximum prison sentence of at least 20 years for directing a terrorist group and 8 years for other offences in connection with a terrorist group, and with other terrorist offences incurring heavier sentences than for ordinary offences under a Member State's national law;

- as regards Member States' jurisdiction, the Presidency also advocated a more ambitious approach:
  
  = making jurisdiction compulsory in the various possible situations;
  = extending jurisdiction to the entire territory of the Union and to all of its nationals, residents and institutions, thereby adding a new dimension to the concept of an area of freedom, security and justice, as laid down in the Treaty, and
  = establishing a system for coordination between the authorities concerned, with the assistance of Eurojust.
Winding up the discussion on penalties, the President:

– asked the Article 36 Committee to examine the definitions in greater depth and spell them out more clearly;
– found a majority in favour of the Presidency compromise, which appeared more balanced, but a need nevertheless for further discussion of the level of penalties;
– noted that at its next meeting, on 16 November 2001, the Council would consider a comprehensive report on harmonisation of penalties.

On European jurisdiction, the President spoke of the need for it to be established in overall terms and accordingly, in particular, for further discussion of criteria for identifying the Member State best placed to prosecute a terrorist offence and try the offender.