2314th Council meeting

- JUSTICE, HOME AFFAIRS AND CIVIL PROTECTION -

Brussels, 30 November and 1 December 2000

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Keeper of the Seals, Minister for Justice

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JURISDICTION AND THE RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS

The Council reached political agreement on the Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. This regulation should be adopted before the end of December 2000, following finalisation of the text and once the Netherlands delegation has lifted its parliamentary scrutiny reservation. If so, it is planned that the Regulation will come into force on 1 March 2002.

The purpose of the Regulation is to "incorporate into a Community instrument" the 1968 Brussels Convention as amended by subsequent Conventions and to take over the outcome of the negotiations on the revision of the Brussels and Lugano Conventions, which ended in May 1999.

This Regulation constitutes one of the cornerstones of the European judicial area. It will facilitate and simplify the circulation of judgments in the European Community.

Ministers agreed to a statement on Article 15, concerning consumer contracts. This statement (set out in the Annex) pays particular attention to the application of Article 15 to electronic commerce.

The 1968 Brussels Convention covers all the areas of civil and commercial law, except those which are expressly excluded from its application, and which are listed restrictively in that text: the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills and succession, bankruptcy, social security and arbitration.

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1 See also the adoption of two programmes of measures on the implementation of the principle of mutual recognition: in civil and commercial matters and in criminal matters. (Items adopted without debate, page III).
The Regulation replaces the 1968 Convention but does not alter its scope. It lays down provisions concerning general jurisdiction, special jurisdiction, jurisdiction in matters relating to insurance, jurisdiction over consumer contracts, jurisdiction over individual contracts of employment and some exclusive jurisdictions. It also contains rules on prorogation, examination, admissibility, lis pendens and related actions, as well as provisional and protective measures.

Finally, the Regulation contains provisions on questions related to the recognition and enforcement of judgments, authentic instruments and court settlements, general, transitional and final provisions and relations with other instruments.

Denmark did not participate in the adoption of the Regulation, by virtue of the protocol concerning it annexed to the Amsterdam Treaty. However, Denmark has expressed an interest in the conclusion of an agreement allowing it to apply the rules laid down in this Regulation.
The Council held an in-depth discussion on questions of mutual enforcement as regards rights of access to children. The draft under consideration provides for a Regulation which excludes any checks by the courts in the requested State, in the case of judgments on the exercise of rights of access to the children of divorced or separated parents. During the debate, some delegations asked that the scope of the draft should be widened to cover all children for whom rights of access are exercised.

At the end of this policy debate, the Council noted the Presidency's intention to present a new draft Regulation on the subject in the light of the positions taken by the delegations. It also outlined the strong feeling that the Council's deliberations should cover, simultaneously and in parallel:

- the French initiative, which would be limited to judgments concerning the joint children of the spouses handed down at the time of divorce or separation in accordance with the Brussels II Regulation;

- work on drawing up an instrument to cover all the children for whom rights of access exist and who are not covered by the instrument proposed by France.
EUROPEAN JUDICIAL TRAINING NETWORK

The Council held a preliminary debate on a proposal for a Decision on setting up a European judicial training network, producing general agreement on the principle of this French initiative which initially relates to training in the criminal field. The network's task will be to promote consistency and effectiveness in training activities for members of the judiciaries of the Member States, by linking national schools and institutions responsible specifically for training professional judges and prosecutors who are members of the judiciary.

The network could pursue the following objectives in particular:

– further mutual knowledge of the legal and judicial systems of the Member States;

– develop knowledge and improve the use of European and international instruments in force within the European Union;

– analyse and identify training needs;

– exchange experience on judicial training;

– encourage the coordination of judicial training programmes within the European Union;

– provide the European institutions, the judicial authorities of the Member States, members of the European Judicial Network created by the Joint Action of 29 June 1998 and any other body responsible for judicial cooperation in criminal matters within the European Union with consistent and regularly updated training tools;

– develop training measures for members of the judiciary who are called upon to participate in activities in third countries to restore the rule of law;

– help structure the judicial training arrangements of the candidate States for membership of the European Union, open up access to training programmes to members of the judiciary from those States and, where appropriate, to their counterparts from third countries.

This proposal follows on from the Treaty of Amsterdam, the Vienna action plan and the Tampere European Council conclusions, which confirmed that the creation of an area of justice, freedom and security must be given utmost priority in the European Union.
PROTECTION OF THE EURO

Ministers took note of the Presidency's intention shortly to submit to the Council two initiatives based on Title VI of the Treaty on European Union, designed to supplement the draft Regulation on the protection of the euro against counterfeiting, which is currently under discussion by Council bodies. The Council instructed the Article 36 Committee to examine these two drafts as soon as possible.

The French Presidency believes that to be comprehensive, besides the proposal for a Regulation on the protection of the euro against counterfeiting proposed by the Commission (see below), the system to protect the euro against counterfeiting and falsification should be supplemented by two sorts of measure:

– firstly, the creation within Europol of a unit to combat counterfeiting of the euro and the negotiation of agreements on the exchange of information and cooperation between Europol on the one hand and the European Central Bank and the Commission on the other. France intends to submit draft Council conclusions to the Council to this effect.

– also, measures to facilitate mutual judicial assistance between Member States in the fight against counterfeiting. France intends to submit a draft framework decision to the Council to this effect.

It should be remembered that, as regards the proposal for a Regulation on the protection of the euro against counterfeiting mentioned above, the ECOFIN Council meeting held on 26 and 27 November 2000 took note of progress. That proposal aims to strengthen the legal protection of euro notes and coins and covers the processing of technical and statistical information relating to counterfeiting, the processing of operational and strategic data and cooperation and mutual assistance.

The draft Regulation, as revised by the Presidency, concerns only those aspects of the initial Commission proposal likely, in the opinion of the Council Legal Service, to be adopted in the framework of a Regulation falling within the scope of the EC Treaty. This would concern:

– the gathering by the relevant national authorities of counterfeit euro notes and coins in order to provide technical and statistical data on all detected cases of counterfeiting (including in criminal proceedings);

– an obligation, among others, adequately to verify the authenticity of the euro notes and coins distributed by credit institutions;

– strengthened cooperation among all the actors concerned (Member States, Commission, European Central Bank and Europol) and improved exchange and centralisation of information.
CRIME PREVENTION

The Council held a preliminary debate on the draft Decision on setting up a European Crime Prevention Network, which is an initiative of the French Republic and of the Kingdom of Sweden, and on the Commission communication on that subject. It was agreed that examination of the draft and the communication by the relevant Working Party would begin under the Swedish Presidency.

The draft Decision aims to set up a European Crime Prevention Network amongst the Member States. The network's task would be to contribute to the development of different aspects of crime prevention at European Union level, and support crime prevention activities at local and national level.

Under the proposal, the network would consist of contact points designated by each Member State and by the Commission: Europol would also participate with a contact point for the aspects which concerned it. The network's activities should also involve others in the field, including local authorities, non-governmental organisations and the private sector.

CREATION OF AN AREA OF FREEDOM, SECURITY AND JUSTICE (Scoreboard)

The Council took note of a brief presentation by Commissioner VITORINO on the first substantial updating of the scoreboard to review progress on the creation of an area of freedom, security and justice.
STRENGTHENING OF THE PENAL FRAMEWORK TO PREVENT THE FACILITATION OF UNAUTHORISED ENTRY AND RESIDENCE

The Council held an exchange of views on a draft Framework Decision on the strengthening of the penal framework to prevent the facilitation of unauthorised entry and residence and a draft Directive defining the facilitation of unauthorised entry, movement and residence.

Discussion revealed that the Council was most concerned to respect the activities of humanitarian organisations which give voluntary assistance to illegal immigrants, and to protect victims of trafficking in human beings. Various proposals made on previous occasions by Germany, Portugal, Finland and Belgium also had the aim of reconciling respect for these principles with the desire vigorously to combat the facilitation of unauthorised immigration.

The exchange of views showed that a large majority of delegations could accept that, in the most serious cases, the minimum sentence should be eight years imprisonment. However, the question of whether financial gain should be an essential element of the offence did not meet a unanimous response.

The Permanent Representatives Committee will resume work on the basis of an improved version of the humanitarian clause as requested by Belgium, in order to work out a formula which responds to the views expressed by Ministers. As regards the Swedish reservation on the grounds that its legislation does not contain penal sanctions for the facilitation of unauthorised entry and residence, the Swedish delegation announced that there was an intention to re-examine this question shortly at national level.
HARMONISATION OF PENALTIES IMPOSED ON CARRIERS TRANSPORTING THIRD-COUNTRY NATIONALS LACKING THE DOCUMENTS NECESSARY FOR ADMISSION

The Council held an exchange of views on outstanding issues as regards a draft Directive on the harmonisation of penalties imposed on carriers transporting into the territory of the Member States third-country nationals lacking the documents necessary for their admission. At the end of these discussions, and given the reservations expressed by three delegations, the Council agreed to return this issue to the Permanent Representatives Committee so that it could work out alternative wording which might be satisfactory to all the delegations.

The reservations entered by the three delegations mentioned above related to the financial penalties, and particularly the sum of EUR 5000 per stowaway proposed by the Directive, respect for the practices of the Member States when the person being carried submits an asylum application or is admitted to the territory of a Member State, and a question of a legal nature for one Member State whose legal system does not contain provisions imposing fines on carriers.
COOPERATION BETWEEN MEMBER STATES IN COMBATING ILLEGAL IMMIGRATION NETWORKS – Council conclusions

The Council:

1. invites the Member States, on the basis of the preliminary conclusions of the proceedings of CIREFI, to:

   – make as much use as possible of the early warning system, entrusting to the Presidency of the Council of the European Union the task of taking steps to facilitate consultation among the Member States in the most appropriate forum;

   – consider the subsequent development of the early warning system, in particular investigating both the extent to which the system should be reinforced and the use of higher performance means of communication (secure electronic means);

   – improve cooperation between liaison officers operating in the same immigration source country or in the same region of the world, which could lead to mutual and reciprocal assistance or even complementarity in carrying out tasks, bearing in mind in particular the proceedings of the seminar held in Madeira from 9 to 11 November 2000;

   – examine means of establishing new procedures to enable certain officers to represent other States in source countries of common interest;
2. requests each Presidency of the Council of the European Union to ensure that the outcome of CIREFI proceedings (particularly information exchanges) is regularly passed on – through the Strategic Committee on Immigration, Frontiers and Asylum – to other bodies of the Union which might find it useful, and particularly:

   – the High-level Working Group on Asylum and Migration, which is working on the main source countries for immigration to Europe;

   – the Article 36 Committee;

   – the Chief Police Officers Task Force, which at its meeting on 15 and 16 September 2000 asked for an intensification of work by the Union in these areas;

   – Europol, which has powers to act against illegal immigration networks;

   – the Working Party on Schengen Evaluation, which could be asked to contribute to the early warning system through its analyses;

3. asks future Presidencies and the Commission to take whatever steps are appropriate to strengthen solidarity and operational cooperation between Member States, including regionally, in order to curb illegal immigration flows. With the agreement of the parties concerned, consideration will be given to the possibility of making technical equipment and/or specialist staff available to the Member States in order to improve the effectiveness of surveillance and control arrangements at the Union's external borders most susceptible to illegal immigration.
PARALLEL AGREEMENT TO THE DUBLIN CONVENTION WITH NORWAY AND ICELAND

The Council took note of the draft parallel agreement negotiated by the Commission with Norway and Iceland, and asked the Commission to present a proposal for a Council Decision so that, following consultation of the European Parliament, the agreement may be swiftly signed and concluded. Ministers' agreement is connected to the entry into force of the Schengen Agreement in the Nordic States from March 2001.

The agreement negotiated with Norway and Iceland will determine, as does the Dublin Convention, which Member State is responsible for considering applications for asylum.
CONDITIONS FOR THE RECEPTION OF ASYLUM SEEKERS – Council conclusions

The Council of the European Union,

1. RECALLS the importance which the Member States, true to their common humanitarian tradition, attach to the protection of refugees and to the provisions of the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967;

2. EMPHASISES that the protection of the rights of refugees requires that asylum seekers should be received in conditions of dignity, in the spirit of the fundamental principles recognised by all Member States;

3. RECALLS that Article 63 of the amended Treaty establishing the European Community requires the Council to adopt within five years from entry into force of the Amsterdam Treaty "measures on asylum, in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties" (Article 63(1)), and specifically in the area of "minimum standards on the reception of asylum seekers in Member States" (Article 63(1)(b));

4. RECALLS that the European Council meeting in Tampere on 15 and 16 October 1999 reaffirmed the objective of establishing a Common European Asylum System which, in the short term, should include common minimum conditions for the reception of asylum seekers;

5. CONSIDERS that it is important to set minimum standards to ensure that asylum seekers are afforded comparable living conditions in all Member States;

6. CONSIDERS that the harmonisation of conditions for the reception of asylum seekers should help to limit the secondary movements of asylum seekers influenced by the variety of conditions for their reception;
7. CONSIDERS that application of the principles of subsidiarity and proportionality should leave Member States some room for manoeuvre with regard to the reception of asylum seekers;

8. WELCOMES the fact that the initial discussions on this subject among the Member States have enabled guidelines to be established for the future Community instrument which will have to determine the minimum standards governing the reception of asylum seekers in the Member States;

9. TAKES NOTE of the intention of the Commission to submit as soon as possible a proposal for a Community instrument on the subject and invites it to take into account the guidelines given in the Annex.

ANNEX

Guidelines for the future Community instrument on conditions for the reception of asylum seekers

(1) Scope

The future Community instrument should cover asylum seekers claiming the benefit of the Geneva Convention.

The following two options remain open to discussion:

– the future instrument mentioning the possibility of application or adaptation by the Member States to persons seeking other forms of protection;
– the future instrument also applying to persons seeking another form of protection.

The instrument should apply to the asylum seekers already present in national territory until the application has been the subject of a decision either granting refugee status or refusing that status and which as a consequence no longer entitles that person to remain in the territory as an asylum seeker.

Nevertheless, differentiated conditions of reception should be envisaged according to the stages in the procedure, in particular where Member States lay down specific procedures for those seeking asylum at border posts.

Moreover, the cases and the extent to which application of the Community instrument may be suspended should also be examined.

(2) Information

It is important that asylum seekers should be rapidly informed of all the rights and assistance which they may claim and of their obligations and be told how to contact organisations or associations which might be able to help them. As soon as their applications have been submitted, asylum seekers should therefore be given information relating to the conditions of their reception. This information should be given in writing and as far as possible in a language which the asylum seeker can understand.
(3) **Documentation**

Documentation or some other form of evidence should be given to asylum seekers who have permission to remain in the territory of the Member State.

(4) **Residence and freedom of movement**

Asylum seekers should be able to move freely within the territory of the host Member State. However, their place of residence may be decided by the competent authorities of that State, for reasons of national interest or public policy.

The following two options remain open to discussion:

- fixing the place of residence as the place where asylum seekers receive social benefits;
- limiting the movements of an asylum seeker to an administrative subdivision or to parts of a State's territory in order to enable asylum applications to be processed swiftly.

It may be possible to detain an asylum seeker very briefly in a transit area under specific procedures for those seeking asylum at border posts.

Detention of asylum seekers simply because they are asylum seekers must not occur.

(5) **Financial and material assistance**

The objective is to achieve minimum standards ensuring asylum seekers comparable living conditions in all the Member States and to help limit secondary movements by asylum seekers. Member States should however be left some room for manoeuvre when setting the amount of the allowance and determining the arrangements for accommodating asylum seekers.

The host Member State should ensure decent living conditions throughout the procedure for asylum seekers and accompanying family members. To this end, if the asylum seeker's resources are inadequate, the host State should ensure either that its competent reception authorities provide accommodation, including lodging, food and basic daily expenses, or payment of an allowance, supplemented if need be depending on the composition of the family. Provision should also be made for access to some form of legal aid.

(6) **Work**

The future Community instrument should result in the harmonisation of conditions in which asylum seekers may work.

The following three options remain open to discussion:

- general ban on access to employment, to avoid the filing of applications solely for economic purposes;
- completely free access to employment;
- possibility of access to employment subject to one or more conditions.

(7) **Health care**

Asylum seekers' access to appropriate medical treatment to meet their immediate needs should be guaranteed and, if their means are insufficient, paid for by the host Member State, in whatever manner it deems fit.

(8) **Family unity**

Where possible, the unity of a family as present within its territory should be preserved where accommodation is provided by the host Member State.
(9) **Schooling of minors**

Minor children of asylum seekers and minor asylum seekers of school age should have access to public education on the same terms as nationals of the host Member State, or be offered opportunities for appropriate special instruction, particularly where a lack of knowledge of the language of the host State makes normal schooling impossible. If necessary other education arrangements might be proposed for a short initial period.

(10) **Vulnerable individuals**

The host Member State should pay particular attention to those who are vulnerable, such as minors, the elderly and the disabled. It should, in particular, be prepared to meet their special educational and/or medical needs.

The host Member State should provide special medical help for asylum seekers who have been the victims of torture, rape or other serious acts of violence.

(11) **Coordination with non-governmental organisations**

Member States may organise cooperation within their territory between NGOs which play a role in the reception of asylum seekers and the public bodies competent in that area.
LIST OF COUNTRIES SUBJECT TO THE VISA REQUIREMENT

The Council reached political agreement on the contents of the Regulation listing the third countries whose nationals must be in possession of visas when crossing the external borders of the European Union and those whose nationals are exempt from that requirement.

In particular, the Council reached unanimous agreement in favour of the inclusion

- of Bulgaria in the white list, i.e. the visa requirement will be lifted once the Regulation comes into force.

- of Romania in the white list, but with an asterisk, to specify (see Article 8(2) of the Regulation) that the lifting of the visa requirement will be decided on subsequently by the Council on the basis of a report to be drawn up by the Commission. To this end, the Commission will ask Romania to indicate which undertakings it is prepared to enter into on illegal immigration and illegal residence, including the repatriation of persons from that country who are illegally resident. The Commission will present a first report to the Council, accompanied by any useful recommendations, no later than 30 June 2001.

The Council accompanied its agreement with several statements to be entered in the minutes, which are set out below and concern Bulgaria, Romania, Hong Kong and Macao:

- "Before this Regulation is adopted, the Council asks the Commission to submit to it within two months a report on measures taken by Bulgaria to curb illegal immigration and illegal residence by persons from that country in the Member States and for the repatriation of those persons, and on the commitments entered into by Bulgaria vis-à-vis the Community and its Member States in that area and on observance of those commitments. To this end, the Council asks the Commission to contact the authorities of that country."
– "re Article 8(2)"

"Notwithstanding the date stipulated in Article 8(2) and pending adoption of this Regulation, the Council asks the Commission to submit to it a first report, accompanied by any useful recommendations, as soon as possible and in any event before 30 January 2001. To this end, the Council asks the Commission to contact the authorities of Romania without delay."

– "The Council asks the Commission to submit to it as soon as possible, and in any event before the Council adopts this Regulation, recommendations for Council decisions authorising the Commission to negotiate with the Special Administrative Regions of the People's Republic of China, in Annex II to this Regulation, readmission agreements between the European Community and those regions."

The Council agreed to hold fresh consultations with the European Parliament, since the initial text of the Commission proposal has been substantially amended.
TERRORISM

The Council took note of a document on the question of the terrorist threat in Europe.

The Council reaffirmed its determination to combat terrorism by taking all necessary steps at European level and further emphasising operational cooperation between the Member States.

During discussions, Ministers especially mentioned their solidarity with Spain, confronted with the ETA terrorist threat.

Ministers also highlighted the importance of respect for the deadlines set in the Commission scoreboard to review progress on the creation of an area of freedom, security and justice. In this context the Commission announced that it would send three draft legislative instruments to the Council:

− a proposal on the harmonisation of charges and penalties in cases of terrorism;
− a proposal on the acceleration and simplification of extradition procedures;
− a proposal creating a European arrest warrant.
EUROPEAN POLICE COLLEGE

The Council reached political agreement on the establishment of a European Police College (EPC). The Decision ought to be formally adopted by the Council this month.

The aim of the College will be to help train the senior police officers of the Member States. It will start as a network bringing together national training institutes for senior police officers in the Member States, which will cooperate closely to that end.

The EPC will support and develop a European approach to the main problems facing Member States in the fight against crime, crime prevention, and the maintenance of law and order and public security, in particular the cross-border dimensions of those problems.

In order to achieve that aim, the EPC will pursue the following objectives:

– to increase knowledge of the national police systems and structures of other Member States, of Europol and of cross-border police cooperation within the European Union;

– to strengthen knowledge of international instruments, in particular those which already exist at European Union level in the field of cooperation on combating crime;

– to provide appropriate training with regard to respect for democratic safeguards with particular reference to the rights of defence;

– to encourage cooperation between the College and the other police training institutes.

The College will also offer its facilities to senior police officers of candidate countries with which the European Union is conducting accession negotiations as well as those of Iceland and Norway.

With regard to practical organisational arrangements for the EPC, when formally adopting the Decision the Council should enter a statement into its minutes stating that the arrangements provided for shall be without prejudice to any future decision on the form and location of the European Police College.
HARMONISING THE STATUS OF THIRD-COUNTRY NATIONALS RESIDING ON A LONG-TERM BASIS – Council Conclusions

The establishment of a status of long-term resident in Member States, as provided for by Article 63 of the Treaty establishing the European Community, as amended by the Treaty of Amsterdam, and envisaged by the European Council in Tampere, forms a key part of the integration of third-country nationals into the European Union.


The Presidency organised a seminar in Paris on 5 and 6 October 2000 concerning the integration of foreign nationals settling in Member States on a long-term basis. The seminar showed that, while national laws have their own specific features stemming from the different legal traditions found in Europe, they nevertheless share a good deal of common ground, particularly in all making allowance for the length of standing and closeness of ties established in the host country.

Following the seminar, the French Presidency submitted a set of draft Council conclusions on conditions for harmonising the status of third-country nationals residing on a long-term basis. Initial discussions among experts in working parties revealed Member States' interest in the draft, although it did not prove possible to reach agreement, mainly for reasons of timing.

However, it seems important to ask Ministers for their views on the policy guidelines on which the future long-term resident status to be put to the Council by the Commission early next year could be based. There appear to be four basic points:

– access to the status in accordance with three criteria (length of presence – integration – private family life);
– substance of the status (guaranteed residence – economic and social rights);

– entitlement to freedom of residence;

  The principle of long-term residents' freedom to live in a Member State other than the one which granted them such status should be established;

– the need for collateral policies (integration – combating discrimination) and for interchange at European level.
REPORT TO THE EUROPEAN COUNCIL BY THE HIGH-LEVEL WORKING GROUP ON ASYLUM AND MIGRATION

The Council took note of the information supplied by the Presidency regarding the report to the European Council by the High-level Working Group on Asylum and Migration to be submitted to the General Affairs Council on 4 December for adoption and forwarding to the Nice European Council.

The report gives an evaluation of activities since Tampere regarding asylum and migration issues and the prospects for future proceedings. In this context, the Group took stock of measures taken in the year 2000 to implement the Action Plans.

The High-level Working Group on Asylum and Migration, set up by the General Affairs Council in December 1998, was given a brief to prepare cross-pillar Action Plans for the countries of origin and transit of asylum seekers and migrants. Five Action Plans, one each on Afghanistan and region, Iraq, Morocco, Somalia and Sri Lanka, were adopted by the Council in October 1999 and approved by the Tampere European Council. A sixth Action Plan, on Albania and region (mainly Kosovo), was adopted by the Council in June 2000, as the situation in Kosovo in 1999 had prevented the High-level Working Group from finalising a definitive Action Plan in time for the Tampere European Council.
ASYLUM POLICY

The Council took note of the Commission communication on asylum policy presented by Commissioner VITORINO and undertook to examine the Commission proposals at a steady pace. The Council also invited the Commission to submit the other proposals on asylum provided for in the Treaty of Amsterdam.

In point 15 of its conclusions the Tampere European Council asked the Commission to prepare a communication on future Community rules leading to a common asylum procedure and a uniform status for those who are granted asylum valid throughout the Union.

The communication looks at several aspects:

- the context and objectives of the common procedure and the uniform status (taking account of the flows confronting the Member States and the nature of the legal environment before considering common objectives and a scope);

- the various options regarding:
  = a common procedure (limited procedural approach or more fully integrated approach)
  = a uniform status;

- the need to reach a common analysis underlying the procedure and the status;

- the method for examining and following-up the communication.

With regard to the last aspect, the Commission recalls the commitments entered into in the Treaty and the need to adopt legislative instruments and transpose them into national law before 1 May 2004. It feels that, in the second stage, other actions will also be necessary to ensure a common procedure and uniform status.
IMMIGRATION POLICY

The Council took note of the Commission communication on immigration policy presented by Commissioner VITORINO.

In the light of the Ministers' comments, the Presidency asked the Member States to submit proposals in writing on the aspects of the communication which concerned them more closely with a view to better preparation for future Council proceedings on the matter.

Both Article 63 of the Treaty and the Tampere Conclusions stressed the need to develop a common European policy on immigration. This need is all the more keenly felt since the massive influx of immigrants leaving their country for humanitarian or economic reasons or for family reunification to enter the Union, legally or illegally, is a major problem now faced by all Member States. Forecasts of demographic trends in the countries of origin show that the influx of immigrants is likely to grow in the future, forcing us to give immediate consideration to taking practical measures at Community level so as to manage the phenomenon effectively.

In its communication the Commission sets out the broad lines of an integrated approach to immigration and identifies the following priorities:

- consolidating partnership with countries of origin;
- establishing a common European asylum system;
- defining the conditions necessary to ensure fair treatment of third-country nationals;
- effective and coordinated management of migration flows.

The communication also outlines a two-pronged framework for immigration policy:

(a) admission for humanitarian reasons,
(b) admission of economic migrants.

With regard to the category of economic migrants, the communication proposes an open coordination procedure to assess labour market needs based on annual reports prepared by the Member States in collaboration with the social partners and those dealing with the integration of immigrants.
Finally, the communication outlines a common legal framework for the admission of immigrants. To this end, the Commission plans to submit proposals for legislative instruments on:

– the conditions of admission and residence for third-country nationals for the purpose of exercising a professional activity, on an employed or self-employed basis, or an unpaid activity,

– the conditions of admission and residence for third-country nationals for the purpose of study or vocational training,

– standards and procedures for visas and long-term residence permits,

– defining a set of uniform rights for third-country nationals,

– the criteria and conditions to be applied to allow third-country nationals to reside and work in a Member State.
PUTTING INTO EFFECT THE SCHENGEN ACQUIS IN THE NORDIC STATES

The Council welcomed the formal agreement reached on the full putting into effect of the Schengen acquis in the Nordic countries, after having discussed the matter at the meeting of the Mixed Committee with Norway and Iceland.

That decision will result in the abolition of border controls between the Nordic countries (Denmark, Finland, Sweden, Norway and Iceland) and the countries in the Schengen area (Austria, Belgium, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal and Spain) as of 25 March 2001.

During debate preceding the decision the Member States concerned stated that they intended to instruct the Schengen Evaluation Working Party to prepare by 1 March reports on visits carried out on the ground concerning, in particular, implementation of the SIS, surveillance of maritime borders, Schengen training for border control officials and observance of Schengen control procedures in airports.
OTHER BUSINESS

− **QUESTIONNAIRE ON THE BODIES REQUIRED TO INTERVENE IN THE EVENT OF THE DISAPPEARANCE OF CHILDREN**

The Council noted the future Belgian Presidency's intention to propose an initiative for networking the Member States' bodies required to intervene in the event of the disappearance of children and, in this context, undertook to reply to a questionnaire submitted by the Belgian delegation.

− **SETTING UP OF EUROJUST – Practical problems**

The Ministers held a discussion during luncheon on the practical problems connected with setting up Eurojust. In this context, they agreed on the positions and profiles of the members of the unit and the date for setting up the unit. The actual start-up of the unit is scheduled for the first quarter of 2001.

* * *
MIXED COMMITTEE

A meeting of the EU/Iceland and Norway Mixed Committee at Ministerial level in the framework of the Schengen arrangements was held on the occasion of the Council meeting and chaired by Ms Hanne HARLEM, Minister for Justice of Norway, with the participation of Ms Solveig PETERSDOTTIR, Minister for Justice of Iceland.

The following items were discussed:

- *Decision of the Mixed Committee on the application of the Schengen acquis in Denmark, Finland and Sweden, and in Iceland and Norway*

  That Decision was followed by adoption of a corresponding Decision by the Council of the European Union.

- *Directive concerning the harmonisation of penalties imposed on carriers transporting into the territory of the Member States third-country nationals lacking the documents necessary for admission*

  The Mixed Committee noted progress on this dossier and agreed to continue work on the remaining problems (see also page 13 concerning the Council's proceedings).

- *Directive defining the facilitation of unauthorised entry and residence and Framework Decision on strengthening the penal framework for preventing the facilitation of unauthorised entry and residence*

  The Mixed Committee noted the progress of the negotiations and agreed to continue work on the subject (see also page 12 concerning the Council's proceedings).
• *Directive on mutual recognition of decisions on the expulsion of third-country nationals*

The Mixed Committee confirmed the consensus reached at senior official level on the French Presidency's draft Directive aimed at contributing to better enforcement of expulsion decisions taken by the Member States by setting up a mutual recognition system intended to allow enforcement of an expulsion decision taken by the authorities of another Member State without the latter being obliged to adopt a further expulsion decision.

• *Report by the Evaluation Committee on Greece*

The Mixed Committee took note of a summary document from the Schengen Evaluation Committee on implementation of the Schengen provisions in Greece/evaluation of external borders. The Council expressed satisfaction with the efforts made with regard to staff, equipment and training. It also noted that Greece agreed with the report's conclusions on additional efforts to be made, in particular with regard to combating illegal migration from Greece to Italy.

• *New functionalities for SIS II*

The Mixed Committee took note of the progress of work, following a discussion which was held in Marseilles on 28 and 29 July on the occasion of the informal meeting of Ministers for Justice and Home Affairs, on the basis of a note from the French and German delegations concerning the development of European police cooperation by means of the Schengen Information System.
Jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

Statement on Articles 15 and [68]

1. The Council and the Commission are aware that the development of electronic commerce in the information society facilitates the economic growth of undertakings. Community law is an essential if citizens, economic operators and consumers are to benefit from the possibilities afforded by electronic commerce.

They consider that the development of new distance marketing techniques based on the use of the Internet depends in part on the mutual confidence which may grow up between undertakings and consumers. One of the major elements in this confidence is the opportunity offered to consumers by Article 16 of the Regulation to bring possible disputes before the courts of the Member States in which they reside, where the contract concluded by the consumer is covered by Article 15 of the Regulation.

The Council and the Commission point out in this connection that for Article 15(1)(c) to be applicable it is not sufficient for an undertaking to target its activities at the Member State of the consumer's residence, or at a number of Member States including that Member State; a contract must also be concluded within the framework of its activities. This provision relates to a number of marketing methods, including contracts concluded at a distance through the Internet.

In this context, the Council and the Commission stress that the mere fact that an Internet site is accessible is not sufficient for Article 15 to be applicable, although a factor will be that this Internet site solicits the conclusion of distance contracts and that a contract has actually been concluded at a distance, by whatever means. In this respect, the language or currency which a website uses does not constitute a relevant factor.

2. The Council and the Commission take the view that in general it is in the interest of consumers and undertakings to try to settle their disputes amicably before resorting to the courts.

The Council and the Commission stress in this connection that the purpose of the Regulation, and in particular of Articles 15 and 17 thereof, is not to prohibit the parties from making use of alternative methods of dispute settlement.
The Council and the Commission accordingly wish to reiterate how important it is that work on alternative methods of dispute settlement in civil and commercial matters should continue at European Community level, in keeping with the Council's conclusions of 29 May 2000.

They are aware of the great significance of this work and stress the useful complementary role represented by alternative methods of dispute settlement in civil and commercial matters, in particular with regard to electronic commerce.

3. Pursuant to Article [68] of the Regulation, the Commission is to submit a report on the application of the Regulation, accompanied, if need be, by proposals for adaptations, to the European Parliament, the Council and the Economic and Social Committee.

The Council and the Commission consider that in preparing the report especial attention should be paid to the application of the provisions of the Regulation relating to consumers and small and medium-sized undertakings, in particular with respect to electronic commerce. For this purpose, the Commission will, where appropriate, propose amendments to the Regulation before the expiry of the period referred to in Article [68] of the Regulation.
ITEMS APPROVED WITHOUT DEBATE

(Decisions for which statements for the Council minutes have been made available to the public are indicated by asterisks; the statements in question may be obtained from the Press Office.)

JUSTICE AND HOME AFFAIRS

Europol's assistance to joint investigative teams

The Council adopted the recommendations on Europol's assistance to joint investigative teams created by the Member States.

Europol – extension of competence to include money-laundering

The Council adopted an act drawing up, on the basis of Article 43(1) of the Convention on the establishment of a European Police Office (Europol Convention), the Protocol amending Article 2 and the Annex to that Convention.

This act extends Europol's mandate to cover money-laundering, irrespective of the nature of the predicate offence.

Europol work programme 2001


Second year of mutual evaluation of judicial cooperation – Report to the Council

The Council took note of the report on the second year of mutual evaluation of the application and implementation at national level of international undertakings in the fight against organised crime.

The Council also took note of the provisional conclusions on specific aspects in paragraph 4 of the report and endorsed the conclusions and recommendations set out in the Annex with a view to taking measures subsequently in accordance with Article 8(3) of the Joint Action, following the evaluation of all Member States.

Organised crime – 1999 report

The Council approved the situation reports on organised crime in the European Union in 1999.
List of authorities with direct access to the SIS

The Council adopted the list of authorities with direct access to the SIS.

Study on container control in the ports of the European Union

The Council took note of a study on container control in the ports of the European Union.

The study contains a comparative analysis of experts' comments. This report is in the framework of the multiannual action plan on this subject adopted in 1998 by the Working Party on Customs Cooperation.

Mutual assistance in criminal matters


The Convention supplements the existing arrangements under the 1959 Council of Europe Convention on Mutual Assistance and the Benelux Treaty as well as the provisions of the Schengen acquis which were integrated in the European Union by the Amsterdam Treaty. The provisions of the Convention supplementing the Schengen acquis will apply also to Norway and Iceland in accordance with the arrangements concluded between these two countries.

The Convention covers a large number of areas; it determines the procedures for which mutual assistance will be granted, defines the rules on procedures, on the sending and service of procedural acts and on direct contacts between authorities in the area of mutual assistance. In addition, the Convention contains provisions on a number of specific forms of mutual assistance, such as restitution, temporary transfer of persons, hearings by video- and telephone conference, as well as cross-border investigation methods – i.e. controlled deliveries, joint investigation teams and covert investigations. Moreover, the Convention also includes important provisions on the interception of telecommunications.

Schengen Agreement – Declassification of certain parts of the Common Manual

The Council adopted a Decision on declassifying certain parts of the Common Manual adopted by the Executive Committee established by the Convention implementing the Schengen Agreement of 14 June 1985.
Mutual recognition of decisions in civil and commercial matters – programme of measures

The Council approved a draft programme of measures for implementation of the principle of mutual recognition of decisions in civil and commercial matters.

The principle elements of this programme concern chiefly:

– in the areas not yet covered by the existing instruments:
  = international jurisdiction, recognition and enforcement of judgments relating to the dissolution of rights in property arising out of a matrimonial relationship, to property consequences of the separation of unmarried couples and to succession
  = international jurisdiction, recognition and enforcement of judgments relating to parental responsibility and other non-property aspects of the separation of couples.

– In areas already covered by existing instruments
  = rights of access
  = maintenance claims
  = uncontested claims
  = litigation on small claims

The programme also proposes achieving further degrees of mutual recognition, both in areas not covered by existing instruments and in those already covered by existing instruments. It provides for two stages for achieving this.

Mutual recognition of decisions in criminal matters – programme of measures

The Council approved a programme of measures to implement the principle of mutual recognition of decisions in criminal matters.

The programme of Council measures is defined by the following parameters:

– whether the envisaged measure is of general application or limited to specific offences. A number of measures implementing mutual assistance may be limited to serious crimes;

– whether fulfilment of the double criminality requirement as a condition for recognition is maintained or dropped;

– mechanisms for safeguarding the rights of third parties, victims and suspects;

– the definition of minimum common standards necessary to facilitate application of the principle of mutual recognition, for instance with regard to the competence of the courts;
whether enforcement of the decision is direct or indirect, and the definition and scope of a validation procedure, if any;

determination and extent of grounds for refusing recognition, where those grounds are the sovereignty or other essential interests of the requested State or relate to legality;

whether States have liability arrangements in the event of acquittal.

Depending on the type of decision concerned, how individual parameters are taken into account can vary according to how ambitiously the goal of implementing the principle of mutual recognition of criminal decisions is to be interpreted, unless an autonomous measure has to be taken to arrange for a particular parameter to apply generally.

The programme of measures relates to the following:

- taking account of final criminal judgments already delivered by the courts in another Member State;
- enforcement of pre-trial orders;
- sentencing;
- post-sentencing follow-up decisions;
- peer evaluation,

and proposes assessment of the priority to be given to the various measures proposed.

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**Budget for SISNET for the year 2001**

The Representatives of the Governments of the Member States, meeting within the Council, have adopted the budget for SISNET for the year 2001.

The contributions from the Member States concerned and Iceland and Norway are calculated according to the distribution key laid down in Article 26 of the abovementioned Financial Regulation relating to the installation and functioning of SISNET.

The estimated grand total of expenditure amounts to EUR 1 840 500.
Budget for Sirene Phase II and Helpdesk

The Representatives of the Governments of the Member States, meeting within the Council, have adopted the budget for Sirene Phase II and the Helpdesk for the year 2001.

The contributions from the Member States concerned and Iceland and Norway are calculated according to the distribution key laid down in Article 22 of the above-mentioned Financial Regulation relating to the installation and functioning of the Helpdesk Server of the Management Unit and the Sirene Phase II Network.

The estimated total expenditure amounts to EUR 1 241 000.