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Subject: The Stockholm Programme - An open and secure Europe serving and protecting citizens

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## **1. TOWARDS A CITIZENS' EUROPE IN THE AREA OF FREEDOM, SECURITY AND JUSTICE**

The European Council reaffirms the priority it attaches to the development of an area of freedom, security and justice , responding to a central concern of the peoples of the States brought together in the Union.

Building on the achievements of the Tampere and Hague Programmes, significant progress has been achieved to date in this field. Internal border controls have been removed in the Schengen area and the external borders of the Union are now managed in a more coherent manner. Through the development of the Global Approach to Migration, the external dimension of the Union's migration policy focuses on dialogue and partnerships with third countries, based on mutual interests. Significant steps have been taken towards the creation of a European Asylum System. European agencies such as Europol, Eurojust, the European Union Agency for Fundamental Rights and Frontex have reached operational maturity in their respective fields of activity. Cooperation in civil matters is facilitating the everyday life of citizens and cooperation in law enforcement provides enhanced security.

In spite of these and other important achievements in the area of freedom, security and justice Europe still faces challenges. These challenges must be addressed in a comprehensive manner. Further efforts are thus needed in order to improve coherence between policy areas. In addition, cooperation with partner countries should be intensified.



It is therefore time for a new agenda to enable the Union and its Member-States to build on these achievements and to meet future challenges. To this end the European Council has adopted this new multi-annual programme to be known as the Stockholm Programme, for the period 2010-2014.

The European Council welcomes the increased role that the European Parliament and National Parliaments will play following the entry into force of the Lisbon Treaty<sup>1</sup>. Citizens and representative associations will have greater opportunity to make known and publicly exchange their views in all areas of Union action in accordance with Article 11 TEU. This will reinforce the open and democratic character of the Union for the benefit of its people.

The Treaty facilitates the process of reaching the goals outlined in this programme, both for the Union institutions and for the Member States. The role of the Commission in preparing initiatives is confirmed, as is the right for a group of at least seven Member States to submit legislative proposals. The legislative process is improved by the use, in most sectors, of the codecision procedure, thereby granting full involvement of the European Parliament. National Parliaments will play an increasing role in the legislative process. By enhancing also the role of the Court of Justice, the Treaty will improve Europe's ability to fully implement policy in this area and ensure the consistency of interpretation.

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<sup>1</sup> As it is commonly known. The Union is actually founded on two Treaties: the Treaty on European Union (TEU) and the Treaty of the Functioning of the European Union (TFEU). For ease of reading, the "Lisbon Treaty" or "the Treaty" will sometimes be used in the Programme.

All opportunities offered by the Lisbon Treaty to strengthen the European area of freedom, security and justice for the benefit of the citizens of the Union should be used by the Union institutions.

This programme defines strategic guidelines for legislative and operational planning within the area of freedom, security and justice in accordance with Article 68 TFEU.

### **1.1. Political priorities**

The European Council considers that the priority for the coming years will be to focus on the interests and needs of citizens. The challenge will be to ensure respect for fundamental rights and freedoms and integrity of the person while guaranteeing security in Europe. It is of paramount importance that law enforcement measures, on the one hand, and measures to safeguard individual rights, the rule of law and international protection rules, on the other, go hand in hand in the same direction and are mutually reinforced.

All actions taken in the future should be centred on the citizen of the Union and other persons for whom the Union has a responsibility. The Union should, in the years to come, work on the following main priorities:

***Promoting citizenship and fundamental rights:*** European citizenship must become a tangible reality. The area of freedom, security and justice must, above all, be a single area in which fundamental rights and freedoms are protected. The enlargement of the Schengen area must continue. Respect for the human person and human dignity and for the other rights set out in the Charter of Fundamental Rights of the European Union and the European Convention for the protection of Human Rights and fundamental freedoms are core values. For example, the exercise of these rights and freedoms, in particular citizens' privacy, must be preserved beyond national borders, especially by protecting personal data. Allowance must be made for the special needs of vulnerable people. Citizens of the Union and other persons must be able to exercise their specific rights to the fullest extent within, and even, where relevant, outside the Union.

***A Europe of law and justice:*** The achievement of a European area of justice must be consolidated so as to move beyond the current fragmentation. Priority should be given to mechanisms that facilitate access to justice, so that people can enforce their rights throughout the Union. Training of and cooperation between public professionals should also be improved, and resources should be mobilised to eliminate barriers to the recognition of legal decisions in other Member States.

***A Europe that protects:*** An internal security strategy should be developed in order to further improve security in the Union and thus protect the lives and safety of citizens of the Union and to tackle organised crime, terrorism and other threats. The strategy should be aimed at strengthening cooperation in law enforcement, border management, civil protection, disaster management as well as judicial cooperation in criminal matters in order to make Europe more secure. Moreover, the Union needs to base its work on solidarity between Member States and make full use of Article 222 TFEU.

*Access to Europe in a globalised world:* Access to Europe for businessmen, tourists, students, scientists, workers, persons in need of international protection and others having a legitimate interest to access the Union's territory has to be made more effective and efficient. At the same time, the Union and its Member States have to guarantee security for their citizens. Integrated border management and visa policies should be construed to serve these goals.

*A Europe of responsibility, solidarity and partnership in migration and asylum matters:* The development of a forward-looking and comprehensive Union migration policy, based on solidarity and responsibility, remains a key policy objective for the Union. Effective implementation of all relevant legal instruments needs to be undertaken and full use should be made of relevant Agencies and Offices operating in this field. Well-managed migration can be beneficial to all stakeholders. The European Pact on Immigration and Asylum provides a clear basis for further development in this field. Europe will need a flexible policy which is responsive to the priorities and needs of Member States and enables migrants to take full advantage of their potential. The objective of establishing a common asylum system in 2012 remains and people in need of international protection must be ensured access to legally safe and efficient asylum procedures. Moreover, in order to maintain credible and sustainable immigration and asylum systems in the Union, it is necessary to prevent, control and combat illegal immigration as the Union faces increasing pressure from illegal migration flows, and particularly the Member States at its external borders, including at its Southern borders in line with the conclusions of the European Council of October 2009.

***The role of Europe in a globalised world – the external dimension:*** The importance of the external dimension of the Union's policy in the area of freedom, security and justice underlines the need for increased integration of these policies into the general policies of the Union. This external dimension is essential to address the key challenges we face and to provide greater opportunities for citizens of the Union to work and do business with countries across the world. This external dimension is crucial to the successful implementation of the objectives of this programme and should in particular be taken into account in, and be fully coherent with all other aspects of the Union's foreign policy.

## **1.2. The tools**

If the next multi-annual programme is to be implemented successfully, the following tools are important.

### *1.2.1. Mutual trust*

**Mutual trust** between authorities and services in the different Member States and decision-makers is the basis for efficient cooperation in this area. Ensuring trust and finding new ways to increase reliance on, and mutual understanding between, the different legal systems in the Member States will thus be one of the main challenges for the future.

### 1.2.2. Implementation

Increased attention needs to be paid in the coming years to the full and effective implementation, enforcement and evaluation of existing instruments. Legal transposition should be ensured using, to their fullest extent, wherever necessary, existing institutional tools.

The time taken to respond to the needs of citizens and businesses must also be shorter in the future. The Union should focus on identifying the needs of citizens and practitioners and the appropriate responses. The development of action at Union level should involve Member States' expertise and consider a range of measures, including non-legislative solutions such as agreed handbooks, sharing of best practice (*inter alia*, making best use of the European Judicial Networks) and regional projects that address those needs, in particular where they can produce a fast response.

### 1.2.3. Legislation

In general, new legislative initiatives, by the Commission or by Member States where the Treaty so provides<sup>1</sup>, should be tabled only after verification of the respect for the principles of proportionality and subsidiarity, a thorough preparation, including prior impact assessments, also involving identifying needs and financial consequences and using Member States' expertise. It is crucial to evaluate the implications of new legislative initiatives on the four freedoms under the Treaty and to ensure that such initiatives are fully compatible with internal market principles.

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<sup>1</sup> For ease of reading, the Programme only attributes the Commission the right of initiative. This is without prejudice to the possibility that Member States take initiatives in accordance with Article 76 TFEU.

The European Council considers that the development of legislation in the area of freedom, security and justice is impressive, but it has shortcomings in terms of overlapping and a certain lack of coherence. At the same time, the quality of legislation including the language used in some of the legal acts could be improved.

A horizontal review of the adopted instruments should be considered, where appropriate, in order to improve consistency and consolidation of legislation. Legal coherence and ease of accessibility is particularly important. Better regulation and better law-making principles should be strengthened throughout the decision-making procedure. The interinstitutional agreement on better law-making between the European Parliament, the Council and the Commission<sup>1</sup> should be fully applied. All Union institutions at all stages of the interinstitutional procedure should make an effort to draft Union legislation in clear and comprehensible language.

#### *1.2.4. Increased coherence*

The European Council invites the Council and the Commission to enhance the internal co-ordination in order to achieve greater coherence between external and internal elements of the work in the area of freedom, security and justice. The same need for coherence and improved coordination applies to the Union agencies (Europol, Eurojust, Frontex, European Police College (CEPOL), the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), the future European Asylum Support Office (EASO) and the European Union Agency for Fundamental Rights). The Council should exercise more political oversight over the agencies, for example, by drawing conclusions on annual reports. Special rules in relation to some agencies apply as regards oversight by the European Parliament.

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<sup>1</sup> OJ C 321, 31.12.2003, p. 1.

### *1.2.5. Evaluation*

The Lisbon Treaty provides that measures may be taken so that the Member States, in cooperation with the Commission, shall undertake an objective and impartial evaluation of the implementation of the policies in the area of freedom, security and justice, in particular to promote the full application of the principle of mutual recognition. The European Parliament and the national parliaments are to be informed of the content and results of the evaluations. The European Council considers that such evaluation mechanisms should avoid duplication and, in the long term, encompass all policies in that area. There should also be an efficient system of follow-up to such evaluations.

There has to be an evaluation of the effectiveness of the legal instruments adopted at Union level. Evaluation is also necessary to determine any obstacles to the proper functioning of the European judicial area. It should focus on specific problems and therefore facilitate full application of the mutual recognition principle. Judicial cooperation in criminal matters should be pursued as the first policy for evaluation. However other policies will have to follow such as respect for asylum procedures in relevant legislation. Evaluation procedures should be adapted to the policy in question where necessary.



The European Council invites the Commission to:

- submit one or several proposals under Article 70 TFEU concerning the evaluation of the Union policies referred to in Title V of TFEU. That proposal (or proposals) should, where appropriate, include an evaluation mechanism based on the well-established system of peer-evaluation. Evaluation should be carried out periodically, should include an efficient follow-up system, and should facilitate better understanding of national systems in order to identify best practice and obstacles to cooperation. Professionals should be able to contribute to the evaluations. The Council should, in principle, have a leading role in the evaluation process, and in particular in its follow-up.

Duplication with other evaluation mechanisms should be avoided, but synergies and cooperation should be sought, in particular with the work of the Council of Europe. The Union should take an active part in and should contribute to the work of the monitoring bodies of the Council of Europe.

#### *1.2.6. Training*

In order to foster a genuine European judicial and law enforcement culture, it is essential to step up training on Union-related issues and make it systematically accessible for all professions involved in the implementation of the area of freedom, security and justice. This will include judges, prosecutors, judicial staff, police and customs officers and border guards.

The objective of systematic European Training Schemes offered to all persons involved should be pursued. The ambition for the Union and its Member States should be that a substantive number of professionals by 2015 will have participated in a European Training Scheme or in an exchange programme with another Member State, which might be part of training schemes that are already in place. For this purpose existing training institutions should in particular be used.

Member States have the primary responsibility in this respect, but the Union must give their efforts support and financial backing and also be able to have its own mechanisms to supplement national efforts. The European Council considers that EU and international cooperation aspects should be part of national curricula. For training of judges, prosecutors and judicial staff it is important to safeguard judicial independence while at the same time the emphasis should be placed on the European dimension for professionals that use European instruments frequently. CEPOL and Frontex should play a key role in training of law enforcement personnel and border guards with a view to ensuring a European dimension in training. Training of border guards and customs officers is of special importance with a view to fostering a common approach to an integrated border management. Solutions at European level could be sought, with a view to strengthening European Training Schemes. E-learning programmes and common training materials must also be developed to train professionals in the European mechanisms.

The European Council invites the Commission to:

- propose an Action Plan for raising substantially the level of European training schemes and exchange programmes systematically in the Union. The Plan should propose how to ensure that one third of all police involved in European police cooperation and half of the judges, prosecutors and judicial staff involved in European judicial cooperation as well as half of other professionals involved in European cooperation could be offered European Training Schemes;
- examine what could be defined as a European Training Scheme, and to suggest in the Action Plan how to develop this idea with a view to giving it a European dimension;
- set up specific "Erasmus"-style exchange programmes, which could involve non-Member States and in particular candidate countries and countries with which the Union has concluded Partnership and Cooperation Agreements;
- ensure that participation in joint courses, exercises and exchange programmes is decided on the basis of tasks and is not dependent on sector-specific criteria.

### *1.2.7. Communication*

The achievements in the area of freedom, security and justice are generally of great importance to citizens, businesses and professionals. The European Council therefore calls on all Union institutions, in particular the Commission as well as on the Member States, to consider ways to better communicate to citizens and practitioners the concrete results of the policy in the area of freedom, security and justice. It asks the Commission to devise a strategy on how best to explain to citizens how they can benefit from the new tools and legal frameworks, for instance through the use of e-Justice and the e-Justice Portal.

### *1.2.8. Dialogue with civil society*

The European Council encourages the Union institutions, within the framework of their competences, to hold an open, transparent and regular dialogue with representative associations and civil society. The Commission should put in place specific mechanisms, such as the European Justice Forum, to step up dialogue in areas where such mechanisms are appropriate.

### *1.2.9. Financing*

The European Council emphasises that the Stockholm Programme should be financed within the headings and ceilings of the current financial framework. Many of the measures and actions in this programme can be implemented through a more effective use of existing instruments and funds.

The European Council notes that the current financial perspectives expire at the end of 2013. It underlines its intention to reflect the goals of the Stockholm Programme. This programme does not however prejudice the negotiations on the next financial perspective.

The European Council also considers that procedures for application to the financing programmes should, while taking account of the experience of Member States, be transparent, flexible, coherent and streamlined and made more easily accessible to administrations, established partners and practitioners through the active dissemination of clear guidelines, a mechanism for identifying partners and accurate programming. The European Council requests the Commission to examine appropriate means of achieving that goal.

Within the next financial perspectives, it should be examined how best to design the financial instruments in order to ensure a suitable support for operational projects developed outside the Union which enhance the Union's security, in particular in the field of fighting against organised crime and terrorism. Careful consideration should be given to ways and means to speed up the Union's reaction to urgent events in this area in terms of financial assistance and how to provide technical assistance for the global implementation of international conventions, such as those relating to terrorism.

### *1.2.10. Action Plan*

In light of the Stockholm Programme, the European Council invites the Commission to present promptly an Action Plan in the first six months of 2010 to be adopted by the Council. This Action Plan will translate the aims and priorities of the Stockholm Programme into concrete actions with a clear timetable for adoption and implementation. It should include a proposal for a timetable for the transformation of instruments with a new legal basis.

### *1.2.11. Review of the Stockholm Programme*

The European Council invites the Commission to submit a mid-term review before June 2012 of the implementation of the Stockholm Programme. Trio Presidency programmes and Commission legislative programmes should be published as soon as possible so as to enable national parliaments to have early sight of proposals.

## **2. PROMOTING CITIZENS' RIGHTS: A EUROPE OF RIGHTS**

### **2.1. A Europe built on fundamental rights**

The Union is based on common values and respect for fundamental rights. After the entry into force of the Lisbon Treaty, the rapid accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms is of key importance. This will reinforce the obligation of the Union, including its institutions, to ensure that in all its areas of activity, fundamental rights and freedoms, are actively promoted. The case-law of the Court of Justice of the European Union and the European Court of Human Rights will be able to continue to develop in step, reinforcing the creation of a uniform European fundamental and human rights system based on the European Convention and those set out in the Charter of Fundamental Rights of the European Union.

The European Council invites:

- the Commission to submit a proposal on the accession of the Union to the European Convention for Protection of Human Rights and Fundamental Freedoms as a matter of urgency;
- the Union institutions and the Member States to ensure that legal initiatives are and remain consistent with fundamental rights and freedoms throughout the legislative process by way of strengthening the application of the methodology for a systematic and rigorous monitoring of compliance with the European Convention and the rights and freedoms set out in the Charter of Fundamental Rights.

The European Council invites the Union institutions to:

- make full use of the expertise of the European Union Agency for Fundamental Rights and to consult, where appropriate, with the Agency, in line with its mandate, on the development of policies and legislation with implications for fundamental rights, and to use it for the communication to citizens of human rights issues affecting them in their everyday life;
- pursue the Union's efforts to bring about the abolition of the death penalty, torture and other inhuman and degrading treatment;



- continue to support and promote Union and Member States' activity against impunity and fight against crimes of genocide, crimes against humanity and war crimes; in that context, promote cooperation between the Member States, third countries and the international tribunals in this field, and in particular the International Criminal Court (ICC), and develop exchange of judicial information and best practices in relation to the prosecution of such crimes through the European Network of Contact Points in respect of persons responsible for crimes of genocide, crimes against humanity and war crimes.

The Union is an area of shared values, values which are incompatible with crimes of genocide, crimes against humanity and war crimes, including crimes committed by totalitarian regimes. Each Member State has its own approach to this issue but, in the interests of reconciliation, the memory of those crimes must be a collective memory, shared and promoted, where possible, by us all. The Union must play the role of facilitator.

The European Council invites the Commission:

- to examine and to report to the Council in 2010 whether there is a need for additional proposals covering publicly condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes directed against a group of persons defined by reference to criteria other than race, colour, religion, descent or national or ethnic origin, such as social status or political convictions.

## 2.2. Full exercise of the right to free movement

The right to free movement of citizens and their family members within the Union is one of the fundamental principles on which the Union is based and of European citizenship. Citizens of the Union have the right to move and reside freely within the territory of the Member States, the right to vote and stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, protection of diplomatic and consular authorities of other Member States etc. When exercising their rights, citizens are ensured equal treatment to nationals under the conditions set by Union law. The effective implementation of relevant Union legislation is therefore a priority.

As noted by the European Parliament, Schengen cooperation, which has removed internal border controls within much of the Union, is a major achievement in the area of freedom, security and justice. The European Council recalls its attachment to the further enlargement of the Schengen area. Provided that all requirements to apply the Schengen *acquis* have been fulfilled, the European Council calls on the Council, the European Parliament and the Commission to take all necessary measures to allow for the abolition of controls at internal borders with the remaining Member States that have declared their readiness to join the Schengen area without delay.

Citizens of the Union must be assisted in administrative and legal procedures they are faced with when exercising the right to free movement. Within the framework of the Treaty, obstacles restricting that right in everyday life should be removed.

The European Council invites the Commission to:

- monitor the implementation and application of these rules in order to guarantee the right to free movement.

Obtaining a right of residence under Union law for the citizens of the Union and their family members is an advantage inherent in the exercise of the right to free movement. The purpose of that right is however not to circumvent immigration rules. Freedom of movement not only entails rights but also imposes obligations on those that benefit from it; abuses and fraud should be avoided. Member States should further safeguard and protect the right to free movement by working together, and with the Commission, to combat actions of a criminal nature with forceful and proportionate measures, with due regard to the applicable law.

The European Council therefore further invites the Commission to:

- monitor the implementation and application of these rules to avoid abuse and fraud;
- examine how best to exchange information, *inter alia*, on residence permits and documentation and how to assist Member States' authorities to tackle abuse of this fundamental right effectively.

With this aim in mind, Member States should also closely monitor the full and correct implementation of the existing *acquis* and tackle possible abuse and fraud of the right to free movement of persons and exchange information and statistics on such abuse and fraud. If systematic trends in abuse and fraud of the right to free movement are identified, Member States should report such trends to the Commission, which will suggest to the Council how these trends might be addressed through the most appropriate means.

### **2.3. Living together in an area that respects diversity and protects the most vulnerable**

Since diversity enriches the Union, the Union and its Member States must provide a safe environment where differences are respected and the most vulnerable protected. Measures to tackle discrimination, racism, anti-semitism, xenophobia and homophobia must be vigorously pursued.

#### *2.3.1. Racism and xenophobia*

The European Council invites the Commission to:

- report during the period of the Stockholm Programme on the transposition of Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law by 28 November 2013, and, if appropriate, to make proposals for amending it;
- make full use of the existing instruments, in particular the financing programmes to combat racism and xenophobia.

The Member States should implement that Framework Decision as soon as possible and at the latest by 28 November 2010.

### 2.3.2. *Rights of the child*

The rights of the child, namely the principle of the best interest of the child being the child's right to life, survival and development, non-discrimination and respect for the children's right to express their opinion and be genuinely heard in all matters concerning them according to their age and level of development as proclaimed in the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child, concern all Union policies. They must be systematically and strategically taken into account with a view to ensuring an integrated approach. The Commission Communication of 2006 entitled "Towards an EU Strategy on the rights of the child" reflect important considerations in this regard. An ambitious Union strategy on the rights of the child should be developed.

The European Council calls upon the Commission to:

- identify measures, to which the Union can bring added value, in order to protect and promote the rights of the child. Children in particularly vulnerable situations should receive special attention, notably children that are victims of sexual exploitation and abuse as well as children that are victims of trafficking and unaccompanied minors in the context of Union migration policy.

As regards parental child abduction, apart from effectively implementing existing legal instruments in this area, the possibility to use family mediation at international level should be explored, while taking account of good practices in the Member States. The Union should continue to develop criminal child abduction alert mechanisms, by promoting cooperation between national authorities and interoperability of systems.

### 2.3.3. *Vulnerable groups*

All forms of discrimination remain unacceptable. The Union and the Member States must make a concerted effort to fully integrate vulnerable groups, in particular the Roma community, into society by promoting their inclusion in the education system and labour market and by taking action to prevent violence against them. For this purpose, Member States should ensure that the existing legislation is properly applied to tackle potential discrimination. The Union will offer practical support and promote best practice to help Member States achieve this. Civil society will have a special role to play.

Vulnerable groups in particularly exposed situations, such as women who are the victims of violence or of genital mutilation or persons who are harmed in a Member State of which they are not nationals or residents, are in need of greater protection, including legal protection. Appropriate financial support will be provided, through the available financing programmes.

The need for additional proposals as regards vulnerable adults should be assessed in the light of the experience acquired from the application of the 2000 Hague Convention on the International Protection of Adults by the Member States which are parties or which will become parties in the future. The Member States are encouraged to join the Convention as soon as possible.

#### 2.3.4. *Victims of crime, including terrorism*

Those who are most vulnerable or who find themselves in particularly exposed situations, such as persons subjected to repeated violence in close relationships, victims of gender based violence, or persons who fall victim to other types of crimes in a Member State of which they are not nationals or residents, are in need of special support and legal protection. Victims of terrorism also need special attention, support and social recognition. An integrated and coordinated approach to victims is needed, in line with the Council conclusions on a strategy to ensure fulfilment of the rights of, and improve support for, persons who fall victims of crime.

The European Council calls on the Commission and the Member States to:

- examine how to improve legislation and practical support measures for the protection of victims and to improve the implementation of existing instruments;
- offer better support to victims in other ways, possibly through existing European networks that provide practical help, and put forward proposals to that end;
- examine the opportunity of making one comprehensive legal instrument on the protection of victims, by joining together Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims and Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings, on the basis of an evaluation of these two instruments.

Increased use of the financing programmes should be made in accordance with their respective legal frameworks.

## 2.4. Rights of the individual in criminal proceedings

The protection of the rights of suspected and accused persons in criminal proceedings is a fundamental value of the Union, which is essential in order to maintain mutual trust between the Member States and public confidence in the Union. The European Council therefore welcomes the adoption by the Council of the Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings, which will strengthen the rights of the individual in criminal proceedings when fully implemented. That Roadmap will henceforth form part of the Stockholm Programme.

The European Council invites the Commission to:

- put forward the foreseen proposals in the Roadmap for its swift implementation, on the conditions laid down therein;
- examine further elements of minimum procedural rights for suspected and accused persons, and to assess whether other issues, for instance the presumption of innocence, needs to be addressed, to promote better cooperation in this area.



## **2.5. Protecting citizen's rights in the information society**

When it comes to assessing the individual's privacy in the area of freedom, security and justice, the right to freedom is overarching. The right to privacy and the right to the protection of personal data are set out in the Charter of Fundamental Rights. The Union must therefore respond to the challenge posed by the increasing exchange of personal data and the need to ensure the protection of privacy. The Union must secure a comprehensive strategy to protect data within the Union and in its relations with other countries. In that context, it should promote the application of the principles set out in relevant Union instruments on data protection and the 1981 Council of Europe Convention for the Protection of Individuals with regards to Automatic Processing of Personal Data as well as promoting accession to that Convention. It must also foresee and regulate the circumstances in which interference by public authorities with the exercise of these rights is justified and also apply data protection principles in the private sphere.

The Union must address the necessity for increased exchange of personal data whilst ensuring the utmost respect for the protection of privacy. The European Council is convinced that the technological developments not only present new challenges to the protection of personal data, but also offer new possibilities to better protect personal data.

Basic principles such as purpose limitation, proportionality, legitimacy of processing, limits on storage time, security and confidentiality as well as respect for the rights of the individual, control by national independent supervisory authorities, and access to effective judicial redress need to be ensured and a comprehensive protection scheme must be established. These issues are also dealt with in the context of the Information Management Strategy for EU internal security referred to in Chapter 4.

The European Council invites the Commission to:

- evaluate the functioning of the various instruments on data protection and present, where necessary, further legislative and non-legislative initiatives to maintain the effective application of the above principles;
- propose a Recommendation for the negotiation of a data protection and, where necessary, data sharing agreements for law enforcement purposes with the United States of America, building on the work carried out by the EU-US High Level Contact Group on Information Sharing and Privacy and Personal Data Protection;
- consider core elements for data protection agreements with third countries for law enforcement purposes, which may include, where necessary, privately held data, based on a high level of data protection;

- improve compliance with the principles of data protection through the development of appropriate new technologies, improving cooperation between the public and private sectors, particularly in the field of research;
- examine the introduction of a European certification scheme for "privacy-aware" technologies, products and services;
- conduct information campaigns, in particular to raise awareness among the public.

On a broader front, the Union must be a driving force behind the development and promotion of international standards for personal data protection, based on relevant Union instruments on data protection and the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, and in the conclusion of appropriate bilateral or multilateral instruments.

## **2.6. Participation in the democratic life of the Union**

The European Council recalls that transparency of decision-making, access to documents and good administration contribute to citizens' participation in the democratic life of the Union. Furthermore, the Union citizens' initiative introduced by Article 11 TEU will create a new mechanism for civic participation. That mechanism should be realized rapidly.

The European Council invites the Commission to:

- examine how best to ensure transparency of decision-making, access to documents and good administration of justice in the light of the new opportunities provided by the Lisbon Treaty and to make appropriate proposals to that end.

With a view to the European elections in 2014, careful consideration should be given to how to encourage citizens to vote. Voter turnout has diminished by 20 % since 1979 while at the same time the powers of the European Parliament as co-legislator have increased considerably. Measures such as making it easier to register on the electoral roll should be explored.

In addition, the European Council invites the Commission, before December 2012, to:

- report to the European Council on national practices and traditions on elections to the European Parliament, and propose, on the basis of the report, how to achieve a common election day for elections to the European Parliament. In the light of that report, the European Council will consider how to take this issue forward.

## **2.7. Entitlement to protection in non-Member States**

A citizen of the Union travelling to or living in a third country where his or her Member State is not represented is entitled to protection by the diplomatic and consular authorities of any Member State under the same conditions as the nationals of that Member State. This right, enshrined in the Treaties, is not well publicised, and more effort is needed to ensure its full application. Targeted communication campaigns could be conducted in connection with this right.

The European Council invites the Commission to:

- consider appropriate measures establishing coordination and cooperation necessary to facilitate consular protection in accordance with Article 23 TFEU.

## **3. MAKING PEOPLE'S LIVES EASIER: A EUROPE OF LAW AND JUSTICE**

The European Council declared at its meeting in Tampere in 1999 that enhanced mutual recognition of judicial decisions and judgments and the necessary approximation of legislation would facilitate co-operation between authorities and the judicial protection of individual rights and that the principle of mutual recognition should be the cornerstone of judicial cooperation in both civil and criminal matters. This principle is now expressed in the Treaty.

In the Hague Programme, adopted in 2004, the European Council noted that in order for the principle of mutual recognition to become effective, mutual trust needed to be strengthened by progressively developing a European judicial culture based on the diversity of legal systems and unity through European law. The judicial systems of the Member States should be able to work together coherently and effectively in accordance with their national legal traditions.

The Union should continue to enhance mutual trust in the legal systems of the Member States by establishing minimum rights as necessary for the development of the principle of mutual recognition and by establishing minimum rules concerning the definition of criminal offences and sanctions as defined by the Treaty. The European judicial area must also allow citizens to assert their rights anywhere in the Union by significantly raising overall awareness of rights and by facilitating their access to justice.

In this respect, the European Council emphasises the horizontal importance of e-Justice, which is not confined to specific areas of law. It should be integrated into all areas of civil, criminal and administrative law in order to ensure better access to justice and strengthened cooperation between administrative and judicial authorities.

### **3.1. Furthering the implementation of mutual recognition**

The European Council notes with satisfaction that considerable progress has been achieved in implementing the two programmes on mutual recognition adopted by the Council in 2000 and emphasises that the Member States should take all necessary measures to transpose at national level the rules agreed at European level. In this context the European Council emphasises the need to evaluate the implementation of these measures and to continue the work on mutual recognition.

#### *3.1.1. Criminal law*

In the face of cross-border crime, more efforts should be made to make judicial cooperation more efficient. The instruments adopted need to be more "user-friendly" and focus on problems that are constantly occurring in cross-border cooperation, such as issues regarding time limits and language conditions or the principle of proportionality. In order to improve cooperation based on mutual recognition, some matters of principle should also be resolved. For example, there may be a need for a horizontal approach regarding certain recurring problems during negotiations on instruments. The approximation, where necessary, of substantive and procedural law should facilitate mutual recognition.

Mutual recognition could extend to all types of judgments and decisions of a judicial nature, which may, depending on the legal system, be either criminal or administrative.

Victims of crime or witnesses who are at risk can be offered special protection measures which should be effective within the Union.

The European Council considers that the setting up of a comprehensive system for obtaining evidence in cases with a cross-border dimension, based on the principle of mutual recognition, should be further pursued. The existing instruments in this area constitute a fragmentary regime. A new approach is needed, based on the principle of mutual recognition but also taking into account the flexibility of the traditional system of mutual legal assistance. This new model could have a broader scope and should cover as many types of evidence as possible, taking account of the measures concerned.

The European Council invites the Commission to:

- propose a comprehensive system, after an impact assessment, to replace all the existing instruments in this area, including Council Framework Decision 2008/978/JHA of 18 December 2008 on the European Evidence Warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters, covering as far as possible all types of evidence and containing deadlines for enforcement and limiting as far as possible the grounds for refusal;
- explore whether there are other means to facilitate admissibility of evidence in this area;



- explore whether certain investigative measures could be executed by law enforcement or judicial authorities of the requesting/issuing Member State in liaison and in agreement with the authorities of the executing state in accordance with Article 89 TFEU, and, where appropriate, make necessary proposals;
- explore if and how authorities of one Member State could obtain information rapidly from private or public entities of another Member State without use of coercive measures or by using judicial authorities of the other Member State;
- explore the results of the evaluation of the European Arrest Warrant, and, where appropriate, make proposals to increase efficiency and legal protection for individuals in the process of surrender, by adopting a step-by-step approach to other instruments on mutual recognition;
- prepare a comprehensive study on existing legal and administrative obstacles to cross-border enforcement of penalties and administrative decisions for road traffic offences, and to present, where necessary, further legislative and non-legislative initiatives to improve road safety in the Union.

The Union should aim for the systematic exchange of information and, as a long term goal, mutual recognition of judgments imposing certain types of disqualification.

The European Council invites the Commission to:

- study the use of disqualification in the Member States and propose to the Council a programme of measures, including exchange of information on certain types of disqualifications and, by adopting a long term step-by-step approach, which accords priority to cases where disqualification is most likely to affect personal safety or business life.

In the field of judicial cooperation, the European Council emphasises the need for Member States and Eurojust to implement thoroughly Council Decision 2009/426 of 16 December 2008 on the strengthening of Eurojust, which, together with the Lisbon Treaty, offers an opportunity for the further development of Eurojust in the coming years, including in relation to initiation of investigations and resolving conflicts of competence. On the basis of an assessment of the implementation of this instrument, new possibilities could be considered in accordance with the relevant provisions of the Treaty, including giving further powers to the Eurojust national members, reinforcement of the powers of the College of Eurojust or the setting-up of a European Public Prosecutor.

### 3.1.2. *Civil law*

As regards civil matters, the European Council considers that the process of abolishing all intermediate measures (the *exequatur*), should be continued during the period covered by the Stockholm Programme. At the same time the abolition of the *exequatur* will also be accompanied by a series of safeguards, which may be measures in respect of procedural law as well as of conflict-of-law rules.

Mutual recognition should, moreover, be extended to fields that are not yet covered but are essential to everyday life, for example succession and wills, matrimonial property rights and the property consequences of the separation of couples, while taking into consideration Member States' legal systems, including public policy, and national traditions in this area.

The European Council considers that the process of harmonising conflict-of-law rules at Union level should also continue in areas where it is necessary, like separation and divorces. It could also include the area of company law, insurance contracts and security interests.

The European Council also highlights the importance of starting work on consolidation of the instruments adopted so far in the area of judicial cooperation in civil matters. First and foremost the consistency of Union legislation should be enhanced by streamlining the existing instruments. The aim should be to ensure the coherence and user-friendliness of the instruments, thus ensuring a more efficient and uniform application thereof.

The European Council invites the Commission to:

- assess which safeguards are needed to accompany the abolition of exequatur and how these could be streamlined;
- assess whether there are grounds for consolidation and simplification in order to improve the consistency of existing Union legislation;
- follow up on the recent study on the possible problems encountered with regard to civil status documents and access to registers of such documents.

In light of the findings, the Commission could submit appropriate proposals taking into account the different legal systems and legal traditions in the Member States. In the short term a system allowing citizens to obtain their own civil status documents easily could be envisaged. In the long term, it might be considered whether mutual recognition of the effects of civil status documents could be appropriate, at least in certain areas. Work developed by the International Commission on Civil Status should be taken into account in this particular field.

### **3.2. Strengthening mutual trust**

One of the consequences of mutual recognition is that rulings made at national level have an impact in other Member States, in particular in their judicial systems. Measures aimed at strengthening mutual trust are therefore necessary in order to take full advantage of these developments.

The Union should support Member States' efforts to improve the efficiency of their judicial systems by encouraging exchanges of best practice and the development of innovative projects relating to the modernisation of justice.

### *3.2.1. Training*

Training of judges (including administrative courts), prosecutors and other judicial staff is essential to strengthen mutual trust (see also Chapter 1.2.6). The Union should continue to support and strengthen measures to increase training in line with Articles 81 and 82 TFEU.

### *3.2.2. Developing networks*

The European Council considers that contacts between senior officials of the Member States in areas covered by Justice and Home Affairs are valuable and should be promoted by the Union in so far as possible. Such areas could be, depending on national structures, senior police chiefs or prosecutors, heads of training institutes, heads of prison administrations, general directors of customs administration. Where appropriate, these networks should also be informed of the work of the Standing Committee on Internal Security (COSI), or be able to take part in the development of the Organised Crime Threat Assessment and other strategic tools of the Union. Such networks should primarily meet using existing structures such as Europol, Eurojust and Frontex or at the invitation of the Presidency as host country. Other Networks of professionals existing in this area should also continue to receive Union support. Among those are the European Network of Councils for the Judiciary and the Network of the Presidents of the Supreme Judicial Courts of the European Union.

### 3.2.3. *Evaluation*

As in other areas, the development of mutual recognition in the judicial sphere must go hand in hand with improvements in evaluation, both ex-ante and ex-post (See also Chapter 1.2.5).

### 3.2.4. *Improving the tools*

The European Council calls for the enhancement of the operational capabilities of and tools for judges, prosecutors and all other actors involved in the field of justice. To that end, the European Council calls for the more active involvement of Eurojust and the European Judicial Networks in civil and criminal law to participate in improving cooperation and the effective application of Union law by all practitioners. Work should continue on improving the electronic tools that have so far been developed and the necessary resources should be provided for pursuing this work.

### 3.2.5. *Implementation*

A priority of the Union should be the implementation of decisions which have already been taken. This should be done in several ways: by accompanying the implementation of Union legislation more closely, through the better use of the financing instruments, by increasing the training of judges and other professionals and by enhancing evaluation mechanisms and practical measures.

Without prejudice to the role of the Commission and the Court of Justice of the European Union, implementation is primarily a matter for the Member States, but as mutual recognition instruments are common tools, the Union should better accompany implementation of them by enabling the sharing of experiences and best practices.

The European Council invites the Commission to:

- ensure the sharing of information by way of developing handbooks or national facts sheets together with experts in civil and criminal law and Member States, on the use of mutual recognition instruments, in the same manner as what has been done for the European Arrest Warrant. The aim should be to have a handbook or national fact sheet for each of the instruments that have been adopted so far at the end of the five-year period.

The European Council also considers that all modern means of electronic communication should be used to the fullest extent, and that the judicial authorities as soon as possible should be given means for secure electronic communications to enable safe correspondence. The Union should also put an emphasis on videoconferencing and on assisting the development of translation tools in order to make them as accurate as possible. These developments should be accompanied by and form part of the implementation of the e-Justice action plan. In addition, measures should be taken to enhance cooperation, while taking full account of data protection rules, between competent authorities so as to detect addresses where persons live as their habitual residence, in connection with service of documents.

### 3.2.6. *Detention*

The European Council considers that efforts should be undertaken to strengthen mutual trust and render more efficient the principle of mutual recognition in the area of detention. Efforts to promote the exchange of best practices should be pursued and implementation of the European Prison Rules, approved by the Council of Europe, should be supported. Issues such as alternatives to imprisonment, pilot projects on detention and best practices in prison management could also be addressed. The Commission is invited to reflect on this issue further within the possibilities offered by the Lisbon Treaty.

### **3.3. Developing a core of common minimum rules**

To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters, the Union may adopt common minimum rules. The European Council considers that a certain level of approximation of laws is necessary to foster a common understanding of issues among judges and prosecutors, and hence to enable the principle of mutual recognition to be applied properly, taking into account the differences between legal systems and legal traditions of Member States.



### 3.3.1. *Criminal law*

Criminal behaviour in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis should become the object of common definitions of criminal offences and common minimum levels of maximum sanctions. These are the serious criminal offences referred to in Article 83(1) TFEU. Priority should be given to terrorism, trafficking in human beings, illicit drug trafficking, sexual exploitation of women and children and child pornography and computer crime.

The European Council invites the Commission to:

- examine whether the level of approximation is sufficient in relation to the adopted framework decisions and report on the need to establish common definitions and sanctions and to consider submitting new legislative proposals where further approximation is needed.

The relationship between approximation of criminal offences or their definition and the double criminality rule in the framework of mutual recognition should be further explored. The Commission is invited to make a report to the Council on this issue. One of the issues may be the necessity and feasibility of approximation or definition of criminal offence for which double criminality does not apply.

Criminal law provisions should be introduced when they are considered essential in order for the interests to be protected and, as a rule, be used only as a last resort.

Minimum rules with regard to the definition of criminal offences and sanctions may also be established when the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy which has been subject to harmonisation measures.

The European Council stresses the importance of the coherence of criminal law provisions in the various Union instruments and invites the Council to:

- implement the work on model standard provisions in criminal law and the Council and the Commission to continue to reflect, together with the European Parliament, on how to improve the coherence of criminal law provisions in various Union instruments;

and the Commission to:

- examine the possibilities of using the existing programmes to finance pilot schemes in the Member States testing alternatives to imprisonment.

### 3.3.2. *Civil law*

The abolition of exequatur will be accompanied by a series of safeguards, especially regarding judgments taken by default, which may be measures in respect of procedural law as well as of conflict-of-law rules (for example the right to be heard, the servicing of documents, time required for providing opinions, etc). The main policy objective in the area of civil procedural law is that borders between Member States should not constitute an obstacle either to the settlement of civil matters or to initiating court proceedings, or to the enforcement of decisions in civil matters. With the Conclusions of the Tampere European Council and the Hague programme: strengthening freedom, security and justice in the European Union, major steps have been taken to reach this goal. However, the European Council notes that the effectiveness of Union instruments in this field still needs to be improved.

The European Council invites the Commission:

- as a first step, to submit a report on the functioning of the present Union regime on civil procedural law across borders, and on the basis of that report put forward a proposal aimed at improving the consistency of existing Union legislation;

- to assess, also in the course of upcoming reviews of existing regulations, the need to establish common minimum standards or standard rules of civil procedure for the cross-border execution of judgments and decisions on matters such as the serving of documents, the taking of evidence, review procedures and enforcement, the establishment of minimum standards in relation to the recognition of decisions on parental responsibility and, where appropriate, to submit proposals on these issues;
- to continue the work on common conflict-of-law rules, where necessary.

### **3.4. The benefits for citizens of a European judicial area**

#### *3.4.1. Providing easier access to justice*

Access to justice in the European judicial area must be made easier, particularly in cross-border proceedings. At the same time, efforts must continue to improve alternative methods of settling disputes, particularly in consumer law. Action is needed to help people overcome the language barriers that obstruct their access to justice.

The European Council considers that e-Justice presents an excellent opportunity to provide easier access to justice. The multiannual European e-Justice action plan, adopted at the end of November 2008 by the Council, sets the framework for developing European e-Justice activities until the end of 2013. The European e-Justice portal will be a way of keeping people better informed of their rights and giving them access to a range of information and services on the various judicial systems. Better use should be made of videoconferencing, for example to spare victims the effort of needless travel and the stress of participating in court proceedings. In accordance with data protection rules, some national registers will be gradually interconnected (for example registers on insolvency, interpreters, translators and wills). Some existing databases may also be partially integrated into the portal (for example the European Business Register and the European Land Information Service). In the medium term, some European and national cross-border procedures could be dealt with on-line (for example the European order for payment, the European small claims procedure and mediation). Furthermore, the use of electronic signatures should be promoted within the framework of the e-Justice project.

The European Council invites the Council, the Commission and the Member States to:

- create effective conditions to enable the parties to communicate with courts by electronic means in the context of legal proceedings. For that purpose, dynamic forms should be made available through the e-Justice portal as regards certain European procedures, such as the European order for payment procedure and the European small claims procedure. During this phase, electronic communication between judicial authorities should be improved decisively in the area of the application of e-Justice.

The European Council further encourages the Union institutions and the Member States to:

- devote efforts to the full implementation of the e-Justice action plan. In that context, the Commission is invited to put forward proposals within the framework of the financial perspectives for an adequate funding of e-Justice projects and in particular horizontal large-scale IT projects.

Certain formalities for the legalisation of documents also represent an obstacle or an excessive burden. Given the possibilities offered by the use of new technologies, including digital signatures, the Union should consider abolishing all formalities for the legalisation of documents between Member States. Where appropriate, thought should be given to the possibility of creating, in the long term, authentic European documents.

The European Council invites the Commission to:

- examine the possibility of dispensing with the formalities for the legalisation of documents between Member States, and submit a proposal to that effect.

### 3.4.2. *Supporting economic activity*

The European judicial area should serve to support economic activity in the single market.

The European Council invites the Commission to:

- assess the need for, and the feasibility of, providing for certain provisional, including protective, measures at Union level, to prevent for example the disappearance of assets before the enforcement of a claim;
- put forward appropriate proposals for improving the efficiency of enforcement of judgments in the Union regarding bank accounts and debtors' assets, based on the 2006 and 2008 Green Papers.

When devising measures of this kind, account should be taken on the impact they will have on the right to privacy and the right to the protection of citizens' personal data.

The European Council reaffirms that the common frame of reference for European contract law should be a non-binding set of fundamental principles, definitions and model rules to be used by the law-makers at Union level to ensure greater coherence and quality in the law-making process. The Commission is invited to submit a proposal on a common frame of reference.

The current financial crisis has emphasised the need to regulate financial markets and to prevent abuse. There is also a need to study further measures regarding business law, and to create a clear regulatory environment allowing small and medium enterprises in particular to take full advantage of the internal market so that they can grow and operate across borders as they do in their domestic market. There is a need to explore whether common rules determining the law applicable to matters of company law, rules on insolvency for banks and transfer of claims could be devised. The issue of contractual law also needs to be examined further.

The European Council invites the Commission to:

- consider whether there is a need to take measures in these areas, and, where appropriate, to put forward proposals in this respect.



### **3.5. Increasing the Union's international presence in the legal field**

#### *3.5.1. Civil law*

The European Council considers that clearly defining Union external interests and priorities in the area of judicial cooperation in civil matters is very important with a view to interacting with third countries in a secure legal environment.

The 1988 Lugano Convention on Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters is open to the accession by other States and the Union should assess, in cooperation with the other Contracting Parties, which third countries could be encouraged to accede to it.

The Union should use its membership of The Hague Conference on Private International Law to actively promote the widest possible accession to the most relevant Conventions and to offer as much assistance as possible to other States with a view to the proper implementation of these instruments. The European Council invites the Council, the Commission and the Member States to encourage all partner countries to accede to those Conventions which are of particular interest to the Union.

In cases where no legal framework is in place for relations between the Union and partner countries, and where the development of new multilateral cooperation is not possible from the Union's standpoint, the option of bilateral agreements should be explored, on a case-by-case basis.

The European Council invites the Council and the Commission to

- define a strategy in the area of civil matters for the coming years which is coherent with overall Union external action.

### 3.5.2. *Criminal law*

As regards the criminal law field, it will be necessary to identify priorities for the negotiations of mutual assistance and extradition agreements. The Union should actively promote the widest possible accession of the partner countries to the most relevant and functioning Conventions and to offer as much assistance as possible to other States with a view to the proper implementation of the instruments. The Union institutions should ensure, to the furthest extent possible, coherence between the Union and the international legal order. Where possible, synergy with the Council of Europe work should be considered.

The European Council calls upon the Commission, the Council and the European Parliament where appropriate to:

- develop a policy aimed at the establishment of agreements on international judicial cooperation with third countries of interest or within international organisations. In particular, the following criteria should be taken into account when deciding on the priority countries: strategic relationship, whether bilateral agreements already exist, whether the country in question adheres to Human Rights' principles, whether it cooperates with the Union in general and its Member States, and priorities of law enforcement and judicial cooperation;
- sponsor exchanges of best practice and the pooling of experience with non-Member States and, in particular with regard to enlargement countries, make full use of the instruments the Union has at its disposal to promote judicial reform and strengthen the rule of law, such as twinning schemes and peer reviews, also in cooperation with the Council of Europe;
- offer steady support to the justice systems in partner countries in order to promote the rule of law throughout the world;
- continue to promote the Rome Statute of the ICC principle of complementarity and compliance with Rome Statute obligations.

The European Council further invites the Commission to:

- submit to the Council in 2010 a list of countries that have requested to conclude agreements on mutual legal assistance and extradition with the Union as well as an assessment, based on the above mentioned principles of the appropriateness and urgency of concluding such agreements with these or other countries.

#### **4. A EUROPE THAT PROTECTS**

##### **4.1. Internal Security Strategy**

The European Council is convinced that the enhancement of actions at European level, combined with better coordination with actions at regional and national level, are essential to protection from trans-national threats. Terrorism and organised crime, drug trafficking, corruption, trafficking in human beings, smuggling of persons and trafficking in arms, *inter alia*, continue to challenge the internal security of the Union. Cross-border wide-spread crime has become an urgent challenge which requires a clear and comprehensive response. Action of the Union will enhance the work carried out by Member States' competent authorities and will improve the outcome of their work.

The European Council calls upon the Council and the Commission to

- define a comprehensive Union internal security strategy based, in particular, on the following principles:
  - clarity on the division of tasks between the Union and the Member States, reflecting a shared vision of today's challenges,
  - respect for fundamental rights, international protection and the rule of law,
  - solidarity between Member States,
  - reflection of a proactive and intelligence-led approach,
  - the need for a horizontal and cross-cutting approach in order to be able to deal with complex crises or natural or man-made disasters,
  - stringent cooperation between the Union agencies, including further improving their information exchange,
  - a focus on implementation and streamlining as well as on improvement of preventive action,

- the use of regional initiatives and regional cooperation,
- the aim of making citizens aware of the importance of the Union's work to protect them.

Developing, monitoring and implementing the internal security strategy should become one of the priority tasks of COSI set up under Article 71 TFEU. In order to ensure the effective enforcement of the internal security strategy, it shall also cover security aspects of an integrated border management and, where appropriate, judicial cooperation in criminal matters relevant to operational cooperation in the field of internal security.

The internal security strategy should also take into account the external security strategy developed by the Union as well as by other Union policies, in particular those concerning the internal market. Account should also be taken of the impact it may have on relations with the Union's neighbourhood and particularly with the candidate and potential candidate countries, since internal security is interlinked with the external dimension of the threats. In a global world, crime knows no borders. As the policies followed in the area of freedom, security and justice gradually reach maturity, they should support each other and grow in consistency. In the years to come they should fit smoothly together with the other policies of the Union.

The European Council asks the Commission:

- to consider the feasibility of setting up of an Internal Security Fund to promote the implementation of the Internal Security Strategy so that it becomes an operational reality.

## 4.2. Upgrading the tools for the job

Security in the Union requires an integrated approach where security professionals share a common culture, pool information as effectively as possible and have the right technological infrastructure to support them.

### 4.2.1. *Forging a common culture*

The European Council stresses the need to enhance mutual trust between all the professionals concerned at national and Union level. A genuine European law enforcement culture should be developed through exchange of experiences and good practice as well as the organisation of joint training courses and exercises in line with Chapter 1.2.6.

The European Council encourages Member States to devise mechanisms that gives incentives to professionals for taking up duties related to cross-border cooperation and thereby favour the creation of a Union-wide response at all levels.

### 4.2.2. *Managing the flow of information*

The European Council notes with satisfaction that developments over the past years in the Union have led to a wide choice and created an extensive toolbox for collecting, processing and sharing information between national authorities and other European players in the area of freedom, security and justice. The principle of availability will continue to give important impetus to this work.

The European Council acknowledges the need for coherence and consolidation in developing information management and exchange and invites the Council and the Commission to:

- implement the Information Management Strategy for EU internal security<sup>1</sup>, which includes a strong data protection regime. Development must be coherent with the priorities set for the area of freedom, security and justice and the internal security strategy, supporting the business vision for law enforcement, judicial cooperation, border management and public protection.

In this context, the European Council invites the Commission to:

- assess the need for developing a European Information Exchange Model based on the evaluation of the current instruments, including Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime and Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA (Prüm framework) and Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (the so-called "Swedish Framework Decision"). These assessments will determine whether these instruments function as originally intended and meet the goals of the Information Management Strategy.

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<sup>1</sup> See Council document 16637/09 JAI 873.



The Information Management Strategy for EU internal security is based on:

- business-driven development (a development of information exchange and its tools that is driven by law enforcement needs,
- a strong data protection regime consistent with the strategy for protection of personal data referred to in Chapter 2,
- a well targeted data collection, both to protect fundamental rights of citizens and to avoid an information overflow for the competent authorities,
- guiding principles for a policy on the exchange of information with third countries for law enforcement purposes,
- interoperability of IT systems ensuring full conformity with data protection and data security principles when developing such systems,
- a rationalisation of the different tools, including the adoption of a business plan for large IT systems,
- overall coordination, convergence and coherence.

The necessary Union and national structures need to be in place to ensure the implementation and management of the different information management tools. The European Council also calls for the establishment of an administration, as proposed by the Commission, having the competence and capacity to develop technically and manage large-scale IT systems in the area of freedom, security and justice, as referred to in the joint statements of the European Parliament, the Council and the Commission in December 2006 and October 2007. Possible additional tasks should be considered by the Council in the light of the Information Management Strategy.

Reflecting the discussions in the Council and the European Parliament, with a view to setting up an Union Passenger Names Record (PNR) system, the European Council calls upon the Commission:

- to propose an Union measure, that ensures a high level of data protection, on PNR for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime, based on an impact assessment.

#### *4.2.3. Mobilising the necessary technological tools*

The European Council, while ensuring consistency with the strategy for protection of personal data referred to in Chapter 2, stresses the need for new technologies to keep pace with and promote the current trends towards mobility, while ensuring that people are safe, secure and free.

The European Council invites the Council, the Commission, the European Parliament, where appropriate, and the Member States to:

- draw up and implement policies to ensure a high level of network and information security throughout the Union and improve measures aimed at protection, security preparedness and resilience of critical infrastructure, including Information and Communication Technology (ICT) and services infrastructure;
- promote legislation that ensures a very high level of network security and allows faster reactions in the event of cyber attacks.

The European Council also invites the Council and the Commission to:

- ensure that the priorities of the internal security strategy are tailored to the real needs of users and focus on improving interoperability. Research and development in the field of security should be supported by public-private partnerships.

The European Council invites:

- the Member States to implement the European Criminal Records Information System (ECRIS) as soon as possible;

- the Commission to assess whether the networking of criminal records makes it possible to prevent criminal offences from being committed (for example through checks on access to certain jobs, particularly those relating to children), and whether it is possible to extend the exchange of information on supervision measures;
- the Commission to propose, in addition to ECRIS, a register of third-country nationals who have been convicted by the courts of the Member States.

The European Council recalls the need for ensuring consistency with the strategy for the protection of personal data and the business plan for setting up large scale IT systems as referred to in Chapter 2, and calls on the Commission to:

- make a feasibility study on the need for, and the added value of, setting up a European Police Records Index system (EPRIS) and to make a report to the Council in the course of 2012 on the issue;
- to reflect on how to further develop the use of existing databases for law enforcement purposes, while fully respecting data protection rules, so as to make full use of new technologies with a view to protecting the citizens;
- examine how best to promote that Member States' competent authorities can exchange information on travelling violent offenders including those attending sporting events or large public gatherings.

### 4.3. Effective policies

#### 4.3.1. *More effective European law enforcement cooperation*

The prime objective of Union law enforcement cooperation is to combat forms of crime that have typically a cross-border dimension. Focus should not only be placed on combating terrorism and organised crime but also cross-border wide-spread crime that have a significant impact on the daily life of the citizens of the Union. Europol should become a hub for information exchange between the law enforcement authorities of the Member States, a service provider and a platform for law enforcement services.

The European Council encourages Member States' competent authorities to use the investigative tool of Joint Investigative Teams (JITs) as much as possible in appropriate cases. Europol and Eurojust should be systematically involved in major cross-border operations and informed when JITs are set up. The model agreement for setting up JITs should be updated. Europol and Eurojust should step up their cooperation further. Eurojust should ensure that its work is followed up at judicial level. Europol and Eurojust should expand their work with third countries especially by forging closer links with the regions and countries neighbouring the Union. Europol should work more closely with Common Security and Defence Policy (CSDP) police missions and help promote standards and good practice for European law enforcement cooperation in countries outside the Union. Cooperation with Interpol should be stepped up with a view to creating synergies and avoiding duplication.

The European Council invites the Commission, and, where appropriate, the Council and the High Representative of the Union for foreign affairs and security policy, to:

- examine how it could be ensured that Europol receives information from Member States law enforcement authorities so that the Member States can make full use of Europol capacities;
- examine how operational police cooperation could be stepped up, for example as regards incompatibility of communication systems and other equipment, use of undercover agents, and, where necessary, draw operational conclusions to that end;
- issue as soon as possible a reflection document on how best to ensure that the activities of Europol may be scrutinised and evaluated by the European Parliament, together with national parliaments in line with Articles 85 and 88 TFEU;
- consider developing a Police Cooperation Code which would consolidate existing instruments and, where necessary, amend and simplify them;
- make a proposal to the Council and the European Parliament to adopt a decision on the modalities of cooperation, including on exchange of information between Union agencies, in particular Europol, Eurojust and Frontex, which ensures data protection and security;

- propose measures on how the Union agencies in this area could conclude operational arrangements between themselves and how they should develop their participation in regional initiatives conducted by Member States and in regional bodies that further law enforcement cooperation;
- agree on common quality standards within the forensic field, *inter alia* to develop best practice for crime scene investigations;
- examine whether there are obstacles to cooperation between CSDP police missions and Europol and make appropriate proposals to eliminate such obstacles.

Pilot projects in cross-border regional cooperation dealing with joint operational activities and/or cross-border risk assessments, such as Joint Police and Customs Centres, should be promoted by the Union, *inter alia* through financing programmes.

The development of *ad hoc* law enforcement cooperation at sporting events or large public gatherings (for example. the 2012 Olympic Games, Euro 2012) should be implemented.

#### 4.3.2. *More effective crime prevention*

The best way to reduce the level of crime is to take effective measures to prevent them from ever occurring, including promoting social inclusion, by using a multidisciplinary approach which also includes taking administrative measures and promoting cooperation between administrative authorities, citizens of the Union that have similar experiences and are affected in similar ways by crime and related insecurity in their everyday lives.

The awareness of the links between local crime and organised crime and its complex cross-border dimensions is increasing. Member States have developed different methods to prevent crime and should be encouraged to share experiences and best practice and, in doing so, to add to the general knowledge and its respective effectiveness and efficiency, thereby avoiding the duplication of work.

In addition, the cross-border dimension underlines the importance of enhancing and developing knowledge at European level on how crime and criminality in the Member States is interconnected, to support Member States when taking individual or joint action, and to call for action by Union institutions when deemed necessary. With the Lisbon Treaty, cooperation within the area of crime prevention will be further recognized with a new legal basis.

The European Council invites Member States and the Commission to actively promote and support crime prevention measures focusing on prevention of mass criminality and cross-border crime affecting the daily life of our citizens in accordance with Article 84 TFEU.



The European Council invites the Commission to submit a proposal building on the evaluation of the work carried out within the European Crime Prevention Network (EUCPN) with a view to setting up an Observatory for the Prevention of Crime (OPC), the tasks of which will be to collect, analyse and disseminate knowledge on crime, including organised crime (including statistics) and crime prevention, to support and promote Member States and Union institutions when they take preventive measures and to exchange best practice. The OPC should build on the work carried out within the framework of the EUCPN and the evaluation of it. It should include or replace the EUCPN, with a secretariat located within an existing Union agency and functioning as a separate unit. The European Council invites the Commission to:

- submit a proposal on setting up the OPC by 2013 at the latest.

#### 4.3.3. *Statistics*

Adequate, reliable and comparable statistics (both over time and between Member States and regions) are a necessary prerequisite *inter alia* for evidence-based decisions on the need for action, on the implementation of decisions and on the effectiveness of action.

The European Council invites the Commission to:

- continue developing statistical tools to measure crime and criminal activities and reflect on how to further develop, after 2010, the actions outlined and partly implemented in the Union Action plan for 2006-2010 on developing a comprehensive and coherent Union strategy to measure crime and criminal justice, in view of the increased need for such statistics in a number of areas within the area of freedom, security and justice.

#### **4.4. Protection against serious and organised crime**

##### *4.4.1. Combating serious and organised crime*

As organised crime continues to become more globalised, it is increasingly important that law enforcement has the ability to work effectively across borders and jurisdictions. The Union can bring real added value to the fight against certain types of threat that require a high level of coordinated action. The fight against these criminal phenomena will involve systematic exchange of information, widespread use of the Union agencies and investigative tools and, where necessary, the development of common investigative and prevention techniques and increased cooperation with third countries.

The European Council therefore calls upon the Council and the Commission:

- to adopt an organised crime strategy, within the framework of the Internal Security Strategy,
- set its priorities in crime policy by identifying the types of crime against which it will deploy the tools it has developed, while continuing to use the Organised Crime Threat Assessment Report (OCTA) and its regional versions.

Criminal phenomena to be tackled as a priority at European level should be selected. The European Council considers that the following types of crime deserve special priority in the years to come.

#### 4.4.2. *Trafficking in human beings*

Trafficking in human beings and smuggling of persons are very serious crimes involving violations of human rights and human dignity that the Union cannot condone. The European Council finds it necessary to strengthen and enhance the prevention and combating of trafficking and smuggling. This calls for a coordinated and coherent policy response which goes beyond the area of freedom, security and justice and, while taking account of new forms of exploitation, includes external relations, development cooperation, social affairs and employment, education and health, gender equality and non-discrimination. It should also benefit from a broad dialogue between all stakeholders, including civil society, and be guided by an improved understanding and research of trafficking in human beings and smuggling of persons at Union and at international level.

In this context, cooperation and coordination with third countries is of crucial importance. The Action-Oriented Paper on the fight against trafficking in human beings, adopted by the Council on 30 November 2009 should be used to its fullest extent.

It is necessary that the Union develops a consolidated Union policy against trafficking in human beings aiming at further strengthening the commitment of, and efforts made, by the Union and the Member States to prevent and combat such trafficking. This includes building up and strengthening partnerships with third countries, improving coordination and cooperation within the Union and with the mechanisms of the Union external dimension as an integral part of such a policy. Progress should also be monitored and COSI regularly informed of coordination and cooperation against trafficking. The fight against human trafficking must mobilise all means of action, bringing together prevention, law enforcement, and victim protection, and be tailored to combating trafficking into, within and out of the Union.

The European Council therefore invites the Council to consider establishing an EU Anti-Trafficking Coordinator (EU ATC) and, if it decides so, to determine the modalities therefore in such a way that all competences of the Union can be used in the most optimal way in order to reach a well coordinated and consolidated Union policy against trafficking in human beings.

The European Council calls for:

- the adoption of new legislation on combating trafficking and protecting victims;
- the Commission to examine whether ad hoc cooperation agreements with specific third countries to be identified by the Council could be a way to enhance fight against trafficking and to make proposals to that end. In particular, such agreements could involve full use of all leverage available to the Union, including use of financing programmes, cooperation for the exchange of information, judicial cooperation and migration tools;
- Europol, with the support of the Member States, to step up support for information gathering and strategic analysis, to be carried out in cooperation with the countries of origin and of transit;
- Eurojust to step up its efforts to coordinate investigations conducted by Member States' authorities into trafficking in human beings;

- the Commission:
  - to propose further measures to protect and assist victims through an array of measures including the development of compensation schemes, safe return and assistance with reintegration into society in their country of origin if they return voluntarily and those relating to their stay; the Union should establish partnerships with the main countries of origin;
  - to propose cooperative measures to mobilise consular services in the countries of origin with a view to preventing the fraudulent issuing of visas. Information campaigns aimed at potential victims, especially women and children, could be conducted in the countries of origin in cooperation with the authorities there;
  - to propose measures to make border checks more efficient in order to prevent human trafficking, in particular the trafficking of children.

#### 4.4.3. *Sexual exploitation of children and child pornography*

Protecting children against the danger of sexual abuse is an important element in the strategy of children's rights.

The European Council invites:

- the Council and the European Parliament to adopt new legislation on combating sexual abuse, sexual exploitation of children and child pornography;
- the Commission to accompany this legislation, once adopted, by measures supported under the Safer Internet Programme 2009-2013;
- The Commission to examine how Member States' competent authorities could exchange information on best practices;
- the Commission to explore how the Union could promote partnerships with the private sector on this subject and expand such public-private partnerships to the financial sector in order to disrupt the money transfers related to websites with child abuse content;
- the Commission to build on the child alert mechanism and explore the creation of an Union-wide child abduction Network in order to promote cooperation between the competent authorities of the Member States, with a view to ensuring interoperability;
- the Commission, in order to prevent child abuse, to explore ways to enhance cooperation between Member States' competent authorities in response to the movement of child sex offenders known to be an ongoing threat.

#### 4.4.4. *Cyber crime*

The Internet has considerably facilitated communication and promoted global development and interaction. At the same time, new, modern challenges have emerged in the form of cyber crime as criminal groups have taken effectively advantage of technologies. This in turn makes investigations more complicated for law enforcement authorities. The Union should therefore promote policies and legislation that ensure a very high level of network security and allow faster reactions in the event of cyber disruptions or cyber attacks.

As soon as possible, Member States should ratify the 2001 Council of Europe Convention on Cybercrime. This Convention should become the legal framework of reference for fighting cyber crime at global level. Europol could play a role as a European resource centre by creating a European platform for identifying offences which should also assist Member States national alert platforms to exchange best practices.

The European Council also calls upon the Member States to:

- give their full support to the national alert platforms in charge of the fight against cyber crime and emphasises the need for cooperation with countries outside the Union.



The European Council invites:

- the Commission to take measures for enhancing/improving public-private partnerships;
- Europol to step up strategic analysis on cyber crime.

The Union should also clarify the rules on jurisdiction and the legal framework applicable to cyberspace within the Union, including how to obtain evidence in order to promote cross-border investigations.

The European Council:

- calls upon the Member States to improve judicial cooperation in cyber crime cases;
- requests the Commission to make proposals for clarifying, where needed, the legal framework on investigations in the cyber space within the Union.

Cooperation should also become more efficient in relation to the sale of fake pharmaceuticals on the Internet.

#### 4.4.5. *Economic crime and corruption*

The Union must reduce the number of opportunities available to organised crime as a result of a globalised economy, in particular during a crisis that is exacerbating the vulnerability of the financial system, and allocate appropriate resources to meet these challenges effectively.

The European Council calls upon the Member States and, where appropriate, the Commission to:

- enhance the capacity for financial investigations and combine all available instruments in fiscal, civil and criminal law. Forensic financial analysis must be developed by pooling resources, in particular for training. The confiscation of assets of criminals should be made more efficient and cooperation between Asset Recovery Offices made stronger;
- to identify assets of criminals more effectively and seize them and, whenever possible, consider re-using them wherever they are found in the Union;
- further develop information exchange between the Financial Intelligence Units (FIUs), in the fight against money laundering. Within the framework of the European Information Management System, their analyses could feed a database on suspicious transactions, for example, within Europol;

- mobilise and coordinate sources of information to identify suspicious cash transactions and to confiscate the proceeds from crime in line with the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, for instance through legislation determining whether proceeds are legitimate or not;
- improve the prosecution of tax evasion and corruption in the private sector and the early detection of fraudulent market abuse (such as insider dealing and market manipulation), as well as the misappropriation of funds;
- facilitate the exchange of best practice in prevention and law enforcement, in particular within the framework of the Asset Recovery Office Network and the Anti-Corruption Network.

The European Council invites the Commission to:

- develop indicators, on the basis of existing systems and common criteria, to measure efforts in the fight against corruption, in particular in the areas of the *acquis* (public procurement, financial control, etc) and to develop a comprehensive anti-corruption policy, in close cooperation with the Council of Europe Group of States against Corruption (GRECO). The Commission should submit a report in 2010 to the Council on the modalities for the Union to accede to GRECO;

- with a view to preventing financial crime, consider measures to facilitate identification of beneficial owners behind assets and increase transparency of legal persons and legal arrangements;
- increase coordination between Member States in the framework of the United Nations Convention against Corruption (UNCAC), GRECO and the Organisation for economic co-operation and development (OECD) work in the field of combating corruption,
- to reflect on how to improve prevention of financial crime.

Counterfeiting poses a serious danger for consumers and economies. The Union must make further studies of this phenomenon and ensure that greater account is taken of law enforcement aspects in the work of the future European Observatory on Counterfeiting and Piracy. The European Council calls upon the Council and the European Parliament to consider as soon as possible legislation on criminal measures aimed at ensuring the enforcement of intellectual property rights.

#### 4.4.6. *Drugs*

The Union Drugs Strategy (2005-2012) advocates for a global, balanced approach, based on the simultaneous reduction of supply and demand. This strategy will expire during the Stockholm Programme. It must be renewed on the basis of a detailed evaluation of the EU Drugs Action Plan for 2009-2012, carried out by the Commission with the support of the European Monitoring Centre for Drugs and Drug Addiction and Europol.

This renewed Strategy should be founded on three principles:

- improving coordination and cooperation by using all available means under the Lisbon Treaty, and in particular in the Western Balkans, Latin America, Eastern Partnership countries, West Africa, Russia, Central Asia including Afghanistan and the United States;
- the mobilisation of civil society, in particular, by reinforcing initiatives such as the European Action on Drugs;
- contributing to research and comparability of information in order to obtain access to reliable data.

The European Council invites the Council and the Commission to ensure that the new Drugs Strategy supports the Union's Internal Security Strategy and dovetails with other related policy tools such as OCTA, the future Organised Crime Strategy and the Council conclusions on the fight against serious and organised crime.

#### **4.5. Terrorism**

The European Council considers that the threat from terrorists remains significant and is constantly evolving in response to both the international community's attempts at combating it and new opportunities that present themselves. We must not lower our guard against these heinous criminals.

Respect for the Rule of Law, fundamental rights and freedoms is one of the bases for the Union's overall counter-terrorism work. Measures in the fight against terrorism must be undertaken within the framework of full respect for fundamental rights and freedoms so that they do not give rise to challenge. Moreover, all the parties concerned should avoid stigmatising any particular group of people, and should develop intercultural dialogue in order to promote mutual awareness and understanding.

The Union must ensure that all tools are deployed in the fight against terrorism while fully respecting fundamental rights and freedoms. The European Council reaffirms its counter-terrorism strategy consisting of four strands of work - prevent, pursue, protect and respond - and calls for a reinforcement of the prevention strand.

The European Council reaffirms the importance of the role of the EU Counter Terrorism Coordinator in ensuring implementation and evaluation of the Counter Terrorist strategy, coordinating Counter Terrorist work within the Union, and fostering better communication between the Union and third countries.

The European Council calls upon:

- Member States to develop prevention mechanisms, in particular to allow the early detection of signs of radicalisation or threats, including threats from violent, militant extremism;

- the Commission, the Council and Member States to improve initiatives to counter radicalisation in all vulnerable populations on the basis of an evaluation of the effectiveness of national policies. Member States should identify best practices and specific operational tools to be shared with other Member States. New areas of work could include integration and the fight against discrimination;
- Member States, government institutions and the Commission, together with the civil society, to enhance their efforts and cooperate even more closely, especially at local level, in order to understand all the factors underlying the phenomenon and to promote strategies that encourage people to give up terrorism. To that end, a network of local professionals should be set up and networks for exchanging practices on prevention should be developed.

The European Council stresses the importance of better understanding the methods used for dissemination of terrorist propaganda, including on Internet. This will require better technical resources and know-how. Work on aviation and maritime security need to be developed, along with threat analysis, in close cooperation with transport operators in order to mitigate the impact on the travelling public. Greater attention should be paid to potential targets such as urban mass transit and high speed rail networks, as well as energy and water infrastructures.

The European Council considers that the instruments for combating the financing of terrorism must be adapted to the new potential vulnerabilities of the financial system, as well as cash smuggling and abuse of money services, and to new payment methods used by terrorists.

The European Council calls upon the Commission to:

- promote increased transparency and responsibility for charitable organisations with a view to ensuring compatibility with Special Recommendation (SR) VIII of the Financial Action Task Force (FATF);
- take into account new payment methods in the elaboration/update of Counter Terrorist Financing measures;
- examine the possibilities to track terrorist financing within the Union;
- present measures to improve feedback to financial institutions regarding the outcome of their cooperation in the fight against financing of terrorism.

The Union must ensure that its policies are in full compliance with international law, in particular, human rights law. It will play an active role in the fight against terrorism in different multilateral forums, and in particular in the United Nations (UN), where it will continue to work with partners towards a Comprehensive Convention on International Terrorism and towards enhancing the design, implementation and effectiveness of sanctions by the UN Security Council with a view to safeguarding fundamental rights and freedoms and ensuring fair and clear procedures. Cooperation with third countries in general and within international organisations need to be strengthened.



In order to be able to analyse the threats at European level, a methodology based on common parameters should be established. Full use should be made of Europol, SitCen and Eurojust in the fight against terrorism.

The EU Action Plan on Enhancing the security of Explosives should be implemented and better information on the safety of explosives provided. A legislative framework to address the dangers associated with precursors should be developed.

#### **4.6. Comprehensive and effective Union Disaster Management: reinforcing the Union's capacities to prevent, prepare for and respond to all kinds of disasters**

Natural and man-made disasters such as forest fires, earthquakes, floods and storms, as well as terrorist attacks, increasingly affect the safety and security of citizens and call for the further development of Union action in disaster management.

Union disaster management should be based on an integrated approach, covering the whole disaster cycle encompassing prevention, preparedness, response and recovery for actions both inside and outside the Union.

Union disaster management is built on two main principles: the responsibility of Member States for providing their citizens with the necessary protection in view of the existing risks and threats, and solidarity amongst the Member States to assist each other both before, during and after disasters, if catastrophes overwhelm national capacities or affect more than one Member State.

The European Council considers that future Union action should be guided by the objectives of reducing vulnerability to disasters by developing a strategic approach to disaster prevention and by further improving preparedness and response while recognising national responsibility. Guidelines for hazard and risk-mapping methods, assessments and analyses should be developed as well as an overview of the natural and man-made risks that the Union may face in the future. Continued efforts are necessary to strengthen the Union Civil Protection Mechanism and to improve the civil protection instruments, including the availability, interoperability and use of and support for the coordination of assistance also outside the Union's territory on occasions of serious emergencies involving citizens of the Union abroad. The Monitoring and Information Centre (MIC) should be reinforced in order to improve the coordination of Member States' assistance, provide mapping and analytical support to the Member States for the further identification and registration of national and multinational civil protection modules and develop training and exercises in order to contribute to an efficient Union disaster response.

Reducing vulnerability to attacks is one of the major objectives pursued with the Union action concerning the protection of Union Critical Infrastructure. Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European Critical Infrastructures and the assessment of the need to improve their protection, when implemented, should be analysed and reviewed in due course in order to consider the possible inclusion of additional policy sectors.

The chemical, biological, radiological and nuclear (CBRN) risk, and in particular the threat of terrorist groups using CBRN materials, has led to action at national and Union level. The overall goal of the policy on CBRN security is to present a prioritised, relevant and effective European strategy to enhance the protection of citizens of the Union from incidents involving CBRN materials. In order to achieve this goal, the implementation of the EU CBRN Action Plan based on an all-hazards approach, including actions to prevent, detect, prepare and respond to larger incidents with high risk CBRN materials, is vital.

Increasingly research will be of importance to support all areas of disaster management. Possibilities for research within the Seventh Framework Programme for research and technological development for the period 2007 to 2013 and within the following framework programmes need to be analysed and appropriate proposals should be made to support that goal.

Close cooperation with international organisations, in particular UN, which has an overall co-ordinating role in international humanitarian response should continue to be a priority for interventions in third countries, both on the ground and in terms of preparedness (training, joint exercises). In accordance with the 2007 European Consensus on Humanitarian Aid a strong Union coordination and role will enhance the overall international humanitarian response, including concerted efforts to improve the humanitarian system, and would also reinforce the Union ambition of working closely with other humanitarian actors. The safety and security of the Union requires continuous dialogue and cooperation with third countries, and in particular neighbouring countries and countries with a Member State perspective. The Union's increasing initiatives for strengthening regional cooperation, for example for the Mediterranean, the Baltic Sea area and the Black Sea Region, as well as the Eastern partnership, are designed to contribute to this.

## **5. ACCESS TO EUROPE IN A GLOBALISED WORLD**

### **5.1. Integrated management of the external borders**

The Union must continue to facilitate legal access to the territory of its Member States while in parallel taking measures to counteract illegal immigration and cross-border crime and maintaining a high level of security. The strengthening of border controls should not prevent access to protection systems by those persons entitled to benefit from them, and especially people and groups that are in vulnerable situations. In this regard, priority will be given to those in need of international protection and to the reception of unaccompanied minors. It is essential that the activities of Frontex and of the EASO are coordinated when it comes to the reception of migrants at the Union's external borders. The European Council calls for the further development of integrated border management, including the reinforcement of the role of Frontex in order to increase its capacity to respond more effectively to changing migration flows.

The European Council therefore:

- requests the Commission to put forward proposals no later than early 2010 to clarify the mandate and enhance the role of Frontex, taking account of the results of the evaluation of the Agency and the role and responsibilities of the Member States in the area of border control. Elements of these proposals could contain preparation of clear common operational procedures containing clear rules of engagement for joint operations at sea, with due regard to ensuring protection for those in need who travel in mixed flows, in accordance with international law as well as increased operational cooperation between Frontex and countries of origin and of transit and examination of the possibility of regular chartering financed by Frontex. In order to promote the proper enforcement of the applicable statutory framework for Frontex operations, the Commission should consider including a mechanism for reporting and recording incidents that can be satisfactorily followed up by the relevant authorities;
- invites Frontex itself to consider, within its mandate, establishing regional and/or specialised offices to take account of the diversity of situations, particularly the land border to the East and the sea border to the South. Creating such offices should in no account undermine the unity of the Frontex agency. Before creating such offices, Frontex should report to the Council on its intentions;

- invites the Commission to initiate a debate on the long-term development of Frontex. This debate should include, as was envisaged in the Hague programme, the feasibility of the creation of a European system of border guards;
- invites the EASO to develop methods to better identify those in need of international protection in mixed flows, and to cooperate with Frontex wherever possible;
- considers that the evaluation of the Schengen area will continue to be of key importance and that it therefore should be improved by strengthening the role of Frontex in this field;
- invites the Council and the Commission to support enhanced capacity building in third countries so that they can control efficiently their external borders.

The European Council looks forward to the continued phased development of the European Border Surveillance System (Eurosur) in the Southern and Eastern borders, with a view to putting in place a system using modern technologies and supporting Member States, promoting interoperability and uniform border surveillance standards and to ensuring that the necessary cooperation is established between the Member States and with Frontex to share necessary surveillance data without delay. This development should take into account the work in other relevant areas of the Integrated Maritime Policy for the European Union as well as being able in the medium term to allow for cooperation with third countries. The European Council invites the Commission to make the necessary proposals to achieve these objectives.

The European Council takes note of the ongoing studies of Member States and Frontex in the field of automated border control and encourages them to continue their work in order to establish best practice with a view to improving border controls at the external borders.

The European Council also invites Member States and the Commission to explore how the different types of checks carried out at the external border can be better coordinated, integrated and rationalised with a view to the twin objective of facilitating access and improving security. Moreover, the potential of enhanced information exchange and closer cooperation between border guard authorities and other law enforcement authorities working inside the territory should be explored, in order to increase efficiency for all the parties involved and fight cross-border crime more effectively.

The European Council considers that technology can play a key role in improving and reinforcing the system of external border controls. The entry into operation of the Second generation Schengen Information System II (SIS II) and the roll-out of the Visa Information system (VIS) therefore remains a key objective and the European Council calls on the Commission and Member States to ensure that they now become fully operational in keeping with the timetables to be established for that purpose. Before creating new systems, an evaluation of these and other existing systems should be made and the difficulties encountered when they were set up should be taken into account. The setting up of an administration for large-scale IT systems could play a central role in the possible development of IT systems in the future.

The European Council is of the opinion that an electronic system for recording entry to and exit from Member States could complement the existing systems, in order to allow Member States to share data effectively while guaranteeing data protection rules. The introduction of the system at land borders deserves special attention and the implications to infrastructure and border lines should be analysed before implementation.

The possibilities of new and interoperable technologies hold great potential for rendering border management more efficient as well as more secure but should not lead to discrimination or unequal treatment of passengers. This includes *inter alia* the use of gates for automated border control.

The European Council invites the Commission to:

- present proposals for an entry/exit system alongside a fast track registered traveller programme with a view to such a system becoming operational as soon as possible;
- to prepare a study on the possibility and usefulness of developing a European system of travel authorisation and, where appropriate, to make the necessary proposals;
- to continue to examine the issue of automated border controls and other issues connected to rendering border management more efficient.



## 5.2. Visa policy

The European Council believes that the entry into force of the Visa Code and the gradual roll-out of the VIS will create important new opportunities for further developing the common visa policy. That policy must also be part of a broader vision that takes account of relevant internal and external policy concerns. The European Council therefore encourages the Commission and Member States to take advantage of these developments in order to intensify regional consular cooperation by means of regional consular cooperation programmes which could include, in particular, the establishment of common visa application centres, where necessary, on a voluntary basis.

The European Council also invites:

- the Commission and Council to continue to explore the possibilities created by the conclusion of visa facilitation agreements with third countries in appropriate cases;
- the Commission to keep the list of third countries whose nationals are or are not subject to a visa requirement under regular review in accordance with appropriate criteria relating for example to illegal immigration, public policy and security, which take account of the Union's internal and foreign policy objectives;
- the Commission to strengthen its efforts to ensure the principle of visa reciprocity and prevent the (re)introduction of visa requirements by third countries towards any Member State and to identify measures which could be used prior to imposing the visa reciprocity mechanism towards those third countries.

The European Council, with a view to creating the possibility of moving to a new stage in the development of the common visa policy, while taking account of Member States competences in this area, invites the Commission to present a study on the possibility of establishing a common European issuing mechanism for short term visas. The study could also examine to what degree an assessment of individual risk could supplement the presumption of risk associated with the applicant's nationality.

## **6. A EUROPE OF RESPONSIBILITY, SOLIDARITY AND PARTNERSHIP IN MIGRATION AND ASYLUM MATTERS**

The European Council recognises both the opportunities and challenges posed by increased mobility of persons, and underlines that well-managed migration can be beneficial to all stakeholders. The European Council equally recognises that, in the context of the important demographic challenges that will face the Union in the future with an increased demand for labour, flexible migration policies will make an important contribution to the Union's economic development and performance in the longer term. The European Council is of the opinion that the long-term consequences of migration, for example on the labour markets and the social situation of migrants, have to be taken into account and that the interconnection between migration and integration remains crucial, *inter alia* with regard to the fundamental values of the Union. Furthermore, the European Council recalls that the establishment of a Common European Asylum System (CEAS) by 2012 remains a key policy objective for the Union.

The European Council calls for the development of a comprehensive and sustainable Union migration and asylum policy framework, which in a spirit of solidarity can adequately and proactively manage fluctuations in migration flows and address situations such as the present one at the Southern external borders. Serious efforts are needed to build and strengthen dialogue and partnership between the Union and third countries, regions and organisations in order to achieve an enhanced and evidence-based response to these situations, taking into account that illegal immigrants enter the Union also via other borders or through misuse of visa. An important objective is to avoid the recurrence of tragedies at sea. When tragic situations unfortunately happen, ways should be explored to better record and, where possible, identify migrants trying to reach the Union.

The European Council recognises the need to find practical solutions which increase coherence between migration policies and other policy areas such as foreign and development policy and trade, employment, health and education policy at the European level. In particular, the European Council invites the Commission to explore procedures that to a greater extent link the development of migration policy to the development of the post-Lisbon Strategy. The European Council recognises the need to make financial resources within the Union increasingly flexible and coherent, both in terms of scope and of applicability, to support policy development in the field of asylum and migration.

The European Council reaffirms the principles set out in the Global Approach to Migration as well as the European Pact on Immigration and Asylum. The European Council also recalls its conclusions of the June and October 2009 on this subject. It underlines the need to implement all measures in a comprehensive manner and evaluate them as decided. It recalls the five basic commitments set out in the Pact:

- to organise legal migration to take account of the priorities, needs and reception capacities determined by each Member State, and to encourage integration;
- to control illegal immigration by ensuring that illegal immigrants return to their countries of origin or to a country of transit;
- to make border controls more effective;
- to construct a Europe of asylum;
- to create a comprehensive partnership with the countries of origin and of transit in order to encourage the synergy between migration and development.

## **6.1. A dynamic and comprehensive migration policy**

### *6.1.1. Consolidating, developing and implementing the Global Approach to Migration*

The European Council has consistently underlined the need for Union migration policy to be an integral part of Union foreign policy and recognises that the Global Approach to Migration has proven its relevance as the strategic framework for this purpose. Based on the original principles of solidarity, balance and true partnership with countries of origin and of transit outside the Union and in line with what already has been accomplished, the European Council calls for the further development and consolidation of this integrated approach. The implementation of the Global Approach to Migration needs to be accelerated by the strategic use of all its existing instruments and improved by increased coordination. A balance between the three areas (promoting mobility and legal migration, optimising the link between migration and development, and preventing and combating illegal immigration) should be maintained. The principal focus should remain on cooperation with the most relevant countries in Africa and Eastern and South-Eastern Europe. Dialogue and cooperation should be further developed also with other countries and regions such as those in Asia and Latin America on the basis of the identification of common interests and challenges.

To this end, the European Council emphasises the following priorities:

- strategic, evidence-based and systematic use of all available instruments of the Global Approach to Migration - migration profiles, migration missions, cooperation platforms on migration and development and Mobility partnerships - for long-term cooperation on all dimensions of this policy in close partnership with selected third countries along priority migratory routes;
- continued and expanded use of the Mobility partnership instrument as the main strategic, comprehensive and long-term cooperation framework for migration management with third countries, adding value to existing bilateral frameworks. Success in implementing these partnerships requires improved coordination and substantial capacity-building efforts in countries of origin, of transit and of destination. The European Council calls for further development of the Mobility partnership instrument, while respecting their voluntary nature. Partnerships should be flexible and responsive to the needs of both the Union and the partner countries, and should include cooperation on all areas of the Global Approach to Migration;
- more efficient use of the Union's existing cooperation instruments to increase the capacity of partner countries, with a view to ensuring well-functioning infrastructures and sufficient administrative capacity to handle all aspects of migration, including improving their capacity to offer adequate protection and increasing the benefits and opportunities created by mobility.

The successful implementation of the Global Approach to Migration should be underpinned by regular evaluations, increased commitment and capacity as well as improved flexibility of the financial instruments of both the Union and the Member States available in this field.

#### *6.1.2. Migration and development*

The European Council underlines the need to take further steps to maximise the positive and minimise the negative effects of migration on development in line with the Global Approach on Migration. Effective policies can provide the framework needed to enable countries of destination and of origin and migrants themselves to work in partnership to enhance the effects of international migration on development.

Efforts to promote concerted mobility and migration with countries of origin should be closely linked with efforts to promote the development of opportunities for decent and productive work and improved livelihood options in third countries in order to minimize the brain drain.

To that end, the European Council invites the Commission to submit proposals before 2012 on:

- how to further ensure efficient, secure and low-cost remittance transfers, and enhance the development impact of remittance transfers, as well as to evaluate the feasibility of creating a common Union portal on remittances to inform migrants about transfer costs and encourage competition among remittance service providers;

- how diaspora groups may be further involved in the Union development initiatives, and how Member States may support diaspora groups in their efforts to enhance development in their countries of origin;
- ways to further explore the concept of circular migration and study ways to facilitate orderly circulation of migrants, either taking place within, or outside, the framework of specific projects or programmes including a wide-ranging study on how relevant policy areas may contribute to and affect the preconditions for increased temporary and circular mobility.

The European Council recognises the need for increased policy coherence at European level in order to promote the positive development effects of migration within the scope of the Union's activities in the external dimension and to align international migration more closely to the achievement of the Millennium Development Goals. The European Council calls on the Council to ensure that it acts in a coordinated and coherent manner in this field.

The connection between climate change, migration and development needs to be further explored, and the European Council therefore invites the Commission to present an analysis of the effects of climate change on international migration, including its potential effects on immigration to the Union.



### *6.1.3. A concerted policy in keeping with national labour-market requirements*

The European Council recognises that labour immigration can contribute to increased competitiveness and economic vitality. In this sense, the European Council is of the opinion that the Union should encourage the creation of flexible admission systems that are responsive to the priorities, needs, numbers and volumes determined by each Member State and enable migrants to take full advantage of their skills and competence. In order to facilitate better labour matching, coherent immigration policies as well as better integration assessments of the skills in demand on the European labour markets are carried out. These systems must have due regard for Member States' competences, especially for managing their labour markets, and the principle of Union preference.

The European Council invites:

- the Commission and Council to continue to implement the Policy Plan on Legal Migration;
- the Commission to consider how existing information sources and networks can be used more effectively to ensure the availability of the comparable data on migration issues with a view to better informing policy choices, which also takes account of recent developments;

- the Commission and the Council to evaluate existing policies that should, *inter alia*, improve skills recognition and labour matching between the Union and third countries and the capacity to analyze labour market needs, the transparency of European on-line employment and recruitment information, training, information dissemination, and skills matching in the country of origin;
- the Commission to assess the impact and effectiveness of measures adopted in this area with a view to determining whether there is a need for consolidating existing legislation, including regarding categories of workers currently not covered by Union legislation.

#### *6.1.4. Proactive policies for migrants and their rights*

The Union must ensure fair treatment of third country nationals who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting them rights and obligations comparable to those of citizens of the Union. This should remain an objective of a common immigration policy and should be implemented as soon as possible, and no later than 2014.

The European Council therefore invites the Commission to submit proposals for:

- consolidation of all legislation in the area of immigration, starting with legal migration, which would be based on an evaluation of the existing *acquis* and include amendments needed to simplify and/or, where necessary, extend the existing provisions and improve their implementation and coherence;
- evaluation and, where necessary, review of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, taking into account the importance of integration measures.

#### 6.1.5. *Integration*

The successful integration of legally residing third-country nationals remains the key to maximising the benefits of immigration. European cooperation can contribute to more effective integration policies in the Member States by providing incentives and support for the action of Member States. The objective of granting comparable rights, responsibilities, and opportunities for all is at the core of European cooperation in integration, taking into account the necessity of balancing migrants' rights and duties.

Integration is a dynamic, two-way process of mutual interaction, requiring not only efforts by national, regional and local authorities but also a greater commitment by the host community and immigrants.

Member States' integration policies should be supported through the further development of structures and tools for knowledge exchange and coordination with other relevant policy areas, such as employment, education and social inclusion. Access to employment is central to successful integration.

The European Council also invites the Commission to support Member States' efforts:

- through the development of a coordination mechanism involving the Commission and the Member States using a common reference framework, which should improve structures and tools for European knowledge exchange;
- to incorporate integration issues in a comprehensive way in all relevant policy areas;
- towards the identification of joint practices and European modules to support the integration process, including essential elements such as introductory courses and language classes, a strong commitment by the host community and the active participation of immigrants in all aspects of collective life;
- towards the development of core indicators in a limited number of relevant policy areas (for example employment, education and social inclusion) for monitoring the results of integration policies, in order to increase the comparability of national experiences and reinforce the European learning process;

- for improved consultation with and involvement of civil society, taking into account integration needs in various policy areas and making use of the European Integration Forum and the European website on Integration;
- to enhance democratic values and social cohesion in relation to immigration and integration of immigrants and to promote intercultural dialogue and contacts at all levels.

#### 6.1.6. *Effective policies to combat illegal immigration*

The European Council is convinced that effective action against illegal immigration remains essential when developing a common immigration policy. The fight against trafficking in human beings and smuggling of persons, integrated border management and cooperation with countries of origin and of transit, supported by police and judicial cooperation, in particular, must remain a key priority for this purpose. Our aim must be to prevent the human tragedies which result from the activities of traffickers.

An effective and sustainable return policy is an essential element of a well-managed migration system within the Union. The Union and the Member States should intensify the efforts to return illegally residing third-country nationals. Necessary financial means should be allocated for this purpose. Such a policy must be implemented with full respect for the principle of "*non-refoulement*" and for the fundamental rights and freedoms and the dignity of the individual returnees. Voluntary return should be preferred, while acknowledging the inevitable need for efficient means to enforce returns where necessary.

In order to create a comprehensive approach on return and readmission, it is necessary to step up cooperation with countries of origin and of transit within the framework of the Global Approach to Migration and in line with the European Pact on Immigration and Asylum, while recognising that all States are required to readmit their own nationals who are illegally staying on the territory of another State.

It is important to ensure that the implementation of the newly adopted instruments in the area of return and sanctions against employers, as well as the readmission agreements in force, is closely monitored in order to ensure their effective application.

The European Council believes that the focus should be placed on:

- encouraging of voluntary return, including through the development of incentive systems, training, reintegration and subsidies, and by using the possibilities offered by existing financial instruments;
- Member States:
  - to put into full effect the Union provisions pursuant to which a return decision issued by one Member State is applicable throughout the Union and the effective application of the principle of mutual recognition of return decisions by recording entry bans in SIS and facilitating exchange of information;
  - to improve the exchange of information on developments at national level in the area of regularisation, with a view to ensuring consistency with the principles of the European Pact on Immigration and Asylum;

- assistance by the Commission, Frontex and Member States on a voluntary basis, to Member States which face specific and disproportionate pressures, in order to ensure the effectiveness of their return policies towards certain third countries;
- more effective action against illegal immigration and trafficking in human beings and smuggling of persons by developing information on migration routes as well as aggregate and comprehensive information which improves our understanding of and response to migratory flows, promoting cooperation on surveillance and border controls, facilitating readmission by promoting support measures for return and reintegration, capacity building in third countries;
- the conclusion of effective and operational readmission agreements, on a case-by-case basis at Union or bilateral level;
- ensuring that the objective of the Union's efforts on readmission should add value and increase the efficiency of return policies, including existing bilateral agreements and practices;

- the presentation by the Commission of an evaluation, also of ongoing negotiations, during 2010 of the EC/EU readmission agreements and propose a mechanism to monitor their implementation. The Council should define a renewed, coherent strategy on readmission on that basis, taking into account the overall relations with the country concerned, including a common approach towards third countries that do not cooperate in readmitting their own nationals;
- increased practical cooperation between Member States, for instance by regular chartering of joint return flights, financed by Frontex and the verification of the nationality of third-country nationals eligible for return, and the procurement from third countries of travel documents;
- increased targeted training and equipment support;
- a coordinated approach by Member States by developing the network of liaison officers in countries of origin and of transit.



### 6.1.7. *Unaccompanied minors*

Unaccompanied minors arriving in the Member States from third countries represent a particularly vulnerable group which requires special attention and dedicated responses, especially in the case of minors at risk. This is a challenge for Member States and raises issues of common concern. Areas identified as requiring particular attention are the exchange of information and best practice, minor's smuggling, cooperation with countries of origin, the question of age assessment, identification and family tracing, and the need to pay particular attention to unaccompanied minors in the context of the fight against trafficking in human beings. A comprehensive response at Union level should combine prevention, protection and assisted return measures while taking into account the best interests of the child.

The European Council therefore welcomes the Commission's initiative to:

- develop an action plan, to be adopted by the Council, on unaccompanied minors which underpins and supplements the relevant legislative and financial instruments and combines measures directed at prevention, protection and assisted return. The action plan should underline the need for cooperation with countries of origin, including cooperation to facilitate the return of minors, as well as to prevent further departures. The action plan should also examine practical measures to facilitate the return of the high number of unaccompanied minors that do not require international protection, while recognising that the best interests for many may be the reunion with their families and development in their own social and cultural environment.

## 6.2. Asylum: a common area of protection and solidarity

The European Council remains committed to the objective of establishing a common area of protection and solidarity based on a common asylum procedure and a uniform status for those granted international protection. While CEAS should be based on high protection standards, due regard should also be given to fair and effective procedures capable of preventing abuse. It is crucial that individuals, regardless of the Member State in which their application for asylum is lodged, are offered an equivalent level of treatment as regards reception conditions, and the same level as regards procedural arrangements and status determination. The objective should be that similar cases should be treated alike and result in the same outcome.

### 6.2.1. *A common area of protection*

There are still significant differences between national provisions and their application. In order to achieve a higher degree of harmonisation, the establishment of CEAS, should remain a key policy objective for the Union. Common rules, as well as a better and more coherent application of them, should prevent or reduce secondary movements within the Union, and increase mutual trust between Member States.

The development of a Common Policy on Asylum should be based on a full and inclusive application of the 1951 Geneva Convention relating to the Status of Refugees and other relevant international treaties. Such a policy is necessary in order to maintain the long-term sustainability of the asylum system and to promote solidarity within the Union. Subject to a report from the Commission on the legal and practical consequences, the Union should seek accession to the Geneva Convention and its 1967 Protocol.

The EASO will be an important tool in the development and implementation of the CEAS and should contribute to strengthening all forms of practical cooperation between the Member States. Therefore the Member States should play an active role in the work of the EASO. It should further develop a common educational platform for national asylum officials, building in particular on the European Asylum Curriculum (EAC). Enhancing the convergence and ongoing quality with a view to reducing disparities of asylum decisions will be another important task.

The Dublin System remains a cornerstone in building the CEAS, as it clearly allocates responsibility for the examination of asylum application.

The European Council accordingly invites:

- the Council and the European Parliament to intensify the efforts to establish a common asylum procedure and a uniform status in accordance with Article 78 TFEU for those who are granted asylum or subsidiary protection by 2012 at the latest;
- the Commission to consider, once the second phase of the CEAS has been fully implemented and on the basis of an evaluation of the effect of that legislation and of the EASO, the possibilities for creating a framework for the transfer of protection of beneficiaries of international protection when exercising their acquired residence rights under Union law;

- the Commission to undertake a feasibility study on the Eurodac system as a supporting tool for the entire CEAS, while fully respecting data protection rules;
- the Commission to consider, if necessary, in order to achieve the CEAS, proposing new legislative instruments on the basis of an evaluation;
- invites the Commission to finalise its study on the feasibility and legal and practical implications to establish joint processing of asylum applications.

#### *6.2.2. Sharing of responsibilities and solidarity between the Member States*

Effective solidarity with the Member States facing particular pressures should be promoted.

This should be achieved through a broad and balanced approach. Mechanisms for the voluntary and coordinated sharing of responsibility between the Member States should therefore be further analyzed and developed. In particular as one of the keys to a credible and sustainable CEAS is for Member States to build sufficient capacity in the national asylum systems, the European Council urges the Member States to support each other in building sufficient capacity in their national asylum systems. The EASO should have a central role in coordinating these capacity-building measures.

The European Council therefore invites the Commission to examine the possibilities for:

- developing the above mentioned mechanism for sharing responsibility between the Member States while assuring that asylum systems are not abused, and the principles of the CEAS are not undermined;
- creating instruments and coordinating mechanisms which will enable Member States to support each other in building capacity, building on Member States own efforts to increase their capacity with regard to their national asylum systems;
- using, in a more effective way, existing Union financial systems aiming at reinforcing internal solidarity;
- the EASO to evaluate and develop procedures that will facilitate the secondment of officials in order to help those Member States facing particular pressures of asylum seekers.

### 6.2.3. *The external dimension of asylum*

The Union should act in partnership and cooperate with third countries hosting large refugee populations. A common Union approach can be more strategic and thereby contribute more efficiently to solving protracted refugee situations. Any development in this area needs to be pursued in close cooperation with the United Nations High Commissioner for Refugees (UNHCR) and, if appropriate, other relevant actors. The EASO should be fully involved in the external dimension of the CEAS. In its dealings with third countries, the Union has the responsibility to actively convey the importance of acceding to, and implementing of, the 1951 Geneva Convention and its Protocol.

Promoting solidarity within the Union is crucial but not sufficient to achieve a credible and sustainable common policy on asylum. It is therefore important to further develop instruments to express solidarity with third countries in order to promote and help building capacity to handle migratory flows and protracted refugee situations in these countries.

The European Council invites:

- the Council and the Commission to enhance capacity building in third countries, in particular, their capacity to provide effective protection, and to further develop and expand the idea of Regional Protection Programmes, on the basis of the forthcoming evaluations. Such efforts should be incorporated into the Global Approach to Migration, and should be reflected in national poverty reduction strategies and not only be targeting refugees and internally displaced persons but also local populations;

- the Council, the European Parliament and the Commission to encourage the voluntary participation of Member States in the joint Union resettlement scheme and increase the total number of resettled refugees, taking into consideration the specific situation in each Member State;
- the Commission to report annually to the Council and the European Parliament on the resettlement efforts made within the Union, to carry out a mid-term evaluation during 2012 of the progress made, and to evaluate the joint Union resettlement programme in 2014 with a view to identifying necessary improvements;
- the Council and the Commission to find ways to strengthen Union support for the UNHCR;
- the Commission to explore, in that context and where appropriate, new approaches concerning access to asylum procedures targeting main countries of transit, such as protection programmes for particular groups or certain procedures for examination of applications for asylum, in which Member States could participate on a voluntary basis.

## **7. EUROPE IN A GLOBALISED WORLD – THE EXTERNAL DIMENSION OF FREEDOM, SECURITY AND JUSTICE**

The European Council emphasises the importance of the external dimension of the Union's policy in the area of freedom, security and justice and underlines the need for the increased integration of these policies into the general policies of the Union. The external dimension is crucial to the successful implementation of the objectives of this programme and should in particular be fully coherent with all other aspects of Union foreign policy.

The Union must continue to ensure effective implementation, and to conduct evaluations also in this area. All action should be based on transparency and accountability, in particular, with regard to the financial instruments.

As reiterated by the 2008 European Security Strategy report, internal and external security are inseparable. Addressing threats, even far away from our continent, is essential to protecting Europe and its citizens.

The European Council invites the Council and the Commission to ensure that coherence and complementarity are guaranteed between the political and the operational level of activities in the area of freedom, security and justice. Priorities in external relations should inform and guide the prioritisation of the work of relevant Union agencies (Europol, Eurojust, Frontex, CEPOL, EMCDDA and EASO).



Member States' Liaison officers should be encouraged to further strengthen their cooperation, sharing of information and best practices.

The European Council underscores the need for complementarity between the Union and Member States' action. To that end, increased commitment from the Union and the Member States is required.

### **7.1. A reinforced external dimension**

The European Council has decided that the following principles will continue to guide the Union action in the external dimension of the area of freedom, security and justice in the future:

- The Union has a single external relations policy,
- The Union and the Member States must work in partnership with third countries,
- The Union and the Member States will actively develop and promote European and international standards,
- The Union and the Member States will cooperate closely with their neighbours,
- The Member States will increase further the exchange of information between themselves and within the Union on multilateral and bilateral activities,

- The Union and the Member States must act with solidarity, coherence and complementarity,
- The Union will make full use of all ranges of instruments available to it,
- The Member States should coordinate with the Union so as to optimise the effective use of resources,
- The Union will engage in information, monitoring and evaluation, *inter alia* with the involvement of the European Parliament,
- The Union will work with a proactive approach in its external relations.

The European Council considers that the policies in the area of freedom, security and justice should be well integrated into the general policies of the Union. The adoption of the Lisbon Treaty offers new possibilities for the Union to act more efficiently in the external relations. The High Representative of the Union for foreign affairs and security policy, who is also a Vice President of the Commission, the European External Action Service and the Commission will ensure better coherence between traditional external policy instruments and internal policy instruments with significant external dimensions, such as freedom, security and justice. Consideration should be given to the added value that could be achieved by including specific competence in the area of freedom, security and justice in Union delegations in strategic partner countries. Furthermore, the legal personality of the Union should enable the Union to act with increased strength in international organisations.

The Council recognises that CSDP and many external actions in the area of freedom, security and justice have shared or complementary objectives. CSDP missions also make an important contribution to the Union's internal security in their efforts to support the fight against serious transnational crime in their host countries and to build respect for the rule of law. The European Council encourages greater cooperation and coherence between the policies in the area of freedom, security and justice and CSDP to further these shared objectives.

The new basis under the Treaty for concluding international agreements will ensure that the Union can negotiate more effectively with key partners. The European Council intends to capitalise on all these new instruments to the fullest extent.

The European Council underscores the need for complementarity between the Union and Member States' action. This will require a further commitment from the Union and the Member States. The European Council therefore asks the Commission to report on ways to ensure complementarity by December 2011 at the latest.

## **7.2. Human rights**

The Lisbon Treaty offers the Union new instruments as regards the protection of fundamental rights and freedoms both internally and externally. The values of the Union should be promoted and strict compliance with and development of international law should be respected. The European Council calls for the establishment of a Human Rights Action Plan to promote its values in the external dimension of the policies in the area of freedom, security and justice. This Plan should be examined by the European Council and should take into account that internal and external aspects of Human Rights are interlinked, for instance as regards the principle of *non-refoulement* or the use of death penalty by partners that the Union cooperates with. The Plan should contain specific measures in the short, medium and long term, and designate who is responsible for carrying out the actions.

### 7.3. Continued thematic priorities with new tools

The European Council considers that the key thematic priorities identified in the previous strategy remain valid, i.e. the fight against terrorism, organised crime, corruption, drugs, the exchange of personal data in a secure environment and managing migration flows. The fight against trafficking in human beings and smuggling of persons needs to be stepped up.

Building on the Strategy for the external dimension of JHA: Global freedom, security and justice adopted in 2005 and other relevant *acquis* in this field, such as the Global Approach to Migration, Union external cooperation should focus on areas where Union activity provides added value, in particular:

- *Migration and asylum*, with a view to increasing Union dialogue and cooperation with countries of origin and of transit in order to improve their capacity to carry out border control, to fight against illegal immigration, to better manage migration flows and to ensure protection as well as to benefit from the positive effects of migration on development; return and readmission is a priority in the Union's external relations;
- *Security*, by engaging with third countries to combat serious and organised crime, terrorism, drugs, trafficking in human beings and smuggling of persons, *inter alia* by focusing the Union's counter-terrorism activities primarily on prevention and by protecting critical infrastructures, internal and external security are inseparable. Addressing threats, even far away from our continent, is essential to protecting Europe and its citizens;

- *Information exchange* that flows securely, efficiently and with adequate data protection standards between the Union and third countries;
- *Justice*, to promote the rule of law and human rights, good governance, fight against corruption, the civil law dimension, promote security and stability and create a safe and solid environment for business, trade and investment;
- *Civil protection and disaster management*, in particular to develop capacities of prevention and answers to major technological and natural catastrophes as well as to meet threats from terrorists.

The European Council invites the Commission to:

- examine whether *ad hoc* cooperation agreements with specific third countries to be identified by the Council could be a way of enhancing the fight against trafficking in human beings and smuggling of persons and making proposals to that end. In particular, such agreements could involve full use of all leverage available to the Union, including the use of existing financing programmes, cooperation in the exchange of information, judicial cooperation and migration tools.

The threat of terrorism and organised crime remains high. It is therefore necessary to work with key strategic partners to exchange information while continuing to work on longer-term objectives such as measures to prevent radicalisation and recruitment, as well as the protection of critical infrastructures. Operational agreements by Eurojust, Europol, as well as working arrangements with Frontex, should be strengthened.

#### **7.4. Agreements with third countries**

The Lisbon Treaty provides for new and more efficient procedures for the conclusion of agreements with third countries. The European Council recommends that such agreements, in particular, as regards judicial cooperation as well as in the field of civil law, should be considered to be used more frequently, while taking account of multilateral mechanisms. It notes however that Member States will maintain the option of entering into bilateral agreements which comply with Union law, and that a legal framework has been created for certain bilateral agreements in civil law as well.

Protection of personal data is a core activity of the Union. There is a need for a coherent legislative framework for the Union for personal data transfers to third countries for law enforcement. A framework model agreement consisting of commonly applicable core elements of data protection could be created.

## 7.5. Geographical priorities and international organisations

Union action in external relations should focus on key partners, in particular:

- Candidate countries and countries with a European Union membership perspective for which the main objective would be to assist them in transposing the acquis;
- European neighbourhood countries, and other key partners with whom the Union should cooperate on all issues in the area of freedom, security and justice;
- EEA/Schengen states have a close relationship with the Union. This motivates closer cooperation, based on mutual trust and solidarity to enhance the positive effects of the internal market as well as to promote Union internal security;
- the United States of America, the Russian Federation and other strategic partners with which the Union should cooperate on all issues in the area of freedom, security and justice;
- Other countries or regions of priority, in terms of their contribution to EU strategic or geographical priorities;
- International organisations such as the UN and the Council of Europe with whom the Union needs to continue to work and within which the Union should coordinate its position.

In the **Western Balkans**, Stabilisation and Association Agreements are progressively entering into force and notable progress has been made in the area of visa policy, with visa facilitation and readmission agreements in place and a comprehensive visa liberalisation dialogue already achieved for some countries and still under way for others. Further efforts, including use of financial instruments, are needed to combat organised crime and corruption, to guarantee fundamental rights and freedoms and to build administrative capacities in border management, law enforcement and the judiciary in order to make the European perspective a reality.

The Union and **Turkey** have agreed to intensify their cooperation to meet the common challenge of managing migration flows and to tackle illegal immigration in particular. This cooperation should focus on joint responsibility, solidarity, cooperation with all Member States and common understanding, taking into account that Turkey neighbours the Union's external borders, its negotiation process and the Union's existing financial assistance in relevant areas, including border control. Concluding the negotiations on the readmission agreement with Turkey is a priority. Until then, already existing bilateral agreements should be adequately implemented.

The European Council emphasises that the **European Neighbourhood Policy** (ENP) offers future opportunities for the Union to act in a coordinated and efficient manner and contribute to strengthen capacity and institution-building for an independent and impartial judiciary, law enforcement authorities and anti-corruption efforts, as well as increasing and facilitating the mobility of citizens of the partner countries. As regards the Eastern Partnership countries, the Union is holding out the prospect of concluding Association Agreements (with substantial parts concerning the area of freedom, security and justice) with those countries and supporting, the mobility of citizens and, as a long-term perspective, visa liberalisation in a secure environment.



The European Council calls for the development before the end of 2010 of a plan on how to take cooperation with the Eastern Partnership countries forward, comprising freedom, security and justice aspects of the Eastern Partnership as well as chapters on freedom, security and justice of the ENP Action Plans (or their successor documents) of the countries concerned. This plan should also list the gradual steps towards full visa liberalisation as a long-term goal for individual partner countries on a case-by-case basis, as well as describe the conditions for well-managed and secure mobility, mentioned in the Joint Declaration of the Prague Eastern Partnership Summit. The European Council will review the plan by the end of 2012, and in particular to assess its impact on the ground.

The Union should increase its efforts to support stability and security of **the Black Sea Region** as a whole and enhance further **the Black Sea Synergy** regional cooperation initiative. Activities should in particular focus on border management, migration management, customs cooperation and the rule of law as well as fight against cross-border crime.

As regards the **Union for the Mediterranean**, it will be necessary to enhance the work started in the context of the Barcelona process and the Euro-Mediterranean Partnership, in particular regarding migration (maritime), border surveillance, preventing and fighting drug trafficking, civil protection, law enforcement and judicial cooperation. The European Council invites the Commission in cooperation with the High Representative of the Union for foreign affairs and security policy to submit such a plan in 2010 and asks Coreper to prepare as soon as possible the decisions to be taken by the Council. The European Council will review the Plan by the end of 2012, and in particular to assess its impact on the ground.

As regards the situation in the Mediterranean area, the European Council considers that a stronger partnership with third countries of transit and of origin is necessary, based on reciprocal requirements and operational support, including border control, fight against organised crime, return and readmission. Rapid action to face the challenges in this region is a priority.

Cooperation has been intensified with the USA in the past 10 years including on all matters relating to the area of freedom, security and justice. Regular Ministerial Troika and Senior officials' meetings are held under each Presidency. In line with what has been laid down in the "Washington Statement" adopted at the Ministerial Troika meeting in October 2009, the dialogue should continue and be deepened.

Ongoing cooperation in the fight against terrorism and transnational crime, border security, visa policy, migration and judicial cooperation should be pursued. An agreement on the protection of personal data exchanged for law enforcement purposes needs to be negotiated and concluded rapidly. The Union and the USA will work together to complete visa-free travel between the USA and the Union as soon as possible and increase security for travellers. Joint procedures should be set up for the implementation of the agreements on judicial cooperation, and regular consultations need to take place.

The Common Space for an area of freedom, security and justice and the new agreement currently under negotiation will provide the framework for intense and improved future cooperation with the **Russian Federation**. Building also on the outcomes of the bi-annual Permanent Partnership Councils on freedom, security and justice, the Union and Russia should continue to cooperate within the framework of the visa dialogue and on legal migration, while tackling illegal immigration, enhance common fight against organised crime and particularly operational cooperation, and improve and intensify judicial cooperation. An agreement, which should satisfy high standards of data protection, should be made with Eurojust as soon as possible. A framework agreement on information exchange should be concluded in that context. The visa dialogue must continue. The visa facilitation and readmission agreement should be implemented fully.

The European Council notes that the 2007 **EU-Africa** Joint Strategy and Action Plan define the scope of cooperation in the areas of counter-terrorism, transnational crime and drug trafficking. Both within the EU-Africa Partnership on Mobility, Migration and Employment (MME) and the Global Approach to Migration, and the follow up process of the Rabat, Paris and Tripoli conferences, the dialogue on migration should be deepened and intensified with African Partners, focussing on countries along the irregular migration routes to Europe with a view to assisting those countries in their efforts to draw up migration policies and responding to illegal immigration at sea and on the borders. Efforts should be made to enhance cooperation, including the swift conclusion of readmission agreements, with Algeria, Morocco and Egypt, and, in line with the European Council conclusions of October 2009, with Libya.

**West Africa** has recently developed into a major hub for drug trafficking from South America to Europe and will require enhanced attention and assistance to stem drug trafficking as well as other transnational crime and terrorism (within the Sahel).

The dialogues with **China** and **India** on counter-terrorism aspects should be broadened and cover other priority areas such as intellectual property rights, migration, including fight against illegal immigration and judicial cooperation. When agreements on judicial cooperation are entered into, the Union will continue to require that the death penalty is an issue where no compromises can be made. The dialogue with India on migration should be intensified and cover all migration-related aspects. With regard to China, the dialogue on Human Rights must be continued. The dialogue with **Brazil** will have to become deeper and wider in the years to come. The Strategic Partnership and the Joint Action Plan should be implemented more efficiently and more specific measures should be considered.

With other countries and regions the Union will cooperate regionally or bilaterally as appropriate. The dialogue with Latin-American and Caribbean countries, on migration, drugs trafficking, money laundering and other fields of mutual interest should be pursued within the regional framework (**EU-LAC**) and within the framework of the FATF. Work will have to continue with the **Central Asian countries** along the trafficking routes to Europe.

Efforts should also be made to enhance cooperation with **Afghanistan** on drugs, including the implementation of the Action Oriented Paper on drug trafficking, and with Afghanistan and **Pakistan** on terrorism and migration issues.

As regards **Afghanistan and Iraq**, focus should be kept on effectively addressing the refugee situation through a comprehensive approach. Efforts should be made to address illegal immigration flows and to conclude readmission agreements with them as well as with **Bangladesh**.

#### **7.6. International organisations and promotion of European and international standards**

The European Council reiterates its commitment to effective multilateralism that supplements the bilateral and regional partnership with third countries and regions.

The UN remains the most important international organisation for the Union. The Lisbon Treaty creates the basis for more coherent and efficient Union participation in the work of the UN and other international organisations.

The Union should continue to promote European and international standards and the ratification of international conventions, in particular those developed under the auspices of the UN and the Council of Europe.

The work of the Council of Europe is of particular importance. It is the hub of the European values of democracy, human rights and the rule of law. The Union must continue to work together with the Council of Europe based on the Memorandum of Understanding between the Council of Europe and the European Union signed in 2007 and support its important conventions such as the Convention on Action against Trafficking in Human Beings and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

For law enforcement cooperation, Interpol is an important partner for the Union. Civil law cooperation is in particular made in the framework of the Hague Conference on Private International Law. The Union should continue to support the Conference and encourage its partners to ratify the conventions where the Union is or will become a Party or where all Member States are Parties.

## LIST OF ABBREVIATIONS

CBRN	Chemical, Biological, Radiological and Nuclear
CEAS	Common European Asylum System
CEPOL	European Police College
COSI	Standing Committee on Internal Security
CSDP	Common Security and Defence Policy
EAC	European Asylum Curriculum
EASO	European Asylum Support Office
ECRIS	European Criminal Records Information System
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
ENP	European Neighbourhood Policy
EPRIS	European Police Records Index System
EU	European Union
EU ATC	EU Anti-Trafficking Coordinator
EUCPN	European Crime Prevention Network
Eurosur	European Border Surveillance System
FATF	Financial Action Task Force

FIUs	Financial Intelligence Units
GRECO	Council of Europe Group of States against Corruption
ICC	International Criminal Court
ICT	Information and Communication Technology
JITs	Joint Investigative Teams
MIC	Monitoring and Information Centre
OCTA	Organised Crime Threat Assessment
OECD	Organisation for Economic Co-operation and Development
OPC	Observatory for the Prevention of Crime
PNR	Passenger Name Record
SIS II	Second generation Schengen Information System
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
UNCAC	United Nations Convention against Corruption
UNHCR	United Nations High Commissioner for Refugees
VIS	Visa Information System

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