2337th Council meeting

- JUSTICE, HOME AFFAIRS AND CIVIL PROTECTION -

Brussels, 15 and 16 March 2001

President :  
Mr Thomas BODSTRÖM  
Minister for Justice

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For further information call 02 285 84 15, 02 285 64 23, 02 285 63 19

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PARTICIPANTS

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

**Belgium:**
- Mr Marc VERWILGHEN: Minister for Justice
- Mr Antoine DUQUESNE: Minister for the Interior

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

**Germany:**
- Mrs Herta DÄUBLER-GMELIN: Federal Minister for Justice
- Mr Otto SCHILY: Federal Minister for the Interior

**Greece:**
- Mr Michalis STATHOPOULOS: Minister for Justice
- Mr Michalis CHRISOCHÓDIS: Minister for Public Order

**Spain:**
- Mr Mariano RAJOY BREY: First Deputy Prime Minister and Minister for the Interior

**France:**
- Mrs Marylise LEBRANCHU: Keeper of the Seals, Minister for Justice
- Mr Christian PAUL: State Secretary to the Minister for the Interior

**Ireland:**
- Mr Denis O'CLEARY: Permanent Representative

**Italy:**
- Mr Franco CORLEONE: State Secretary for Justice
- Mr Massimo BRUTTI: State Secretary for the Interior

**Luxembourg:**
- Mr Nicolas SCHMIT: Permanent Representative

**Netherlands:**
- Mr Benk KORTHALS: Minister for Justice
- Mr Klaas DE VRIES: Minister for the Interior and Overseas Territories

**Austria:**
- Mr Dieter BÖHMDOFRER: Minister for Justice
- Mr Ernst STRASSER: Federal Minister for the Interior

**Portugal:**
- Mr António COSTA: Minister for Justice
- Mr Nuno S. TEIXEIRA: Minister for the Interior

**Finland:**
- Mr Johannes KOSKINEN: Minister for Justice
- Mr Ville ITÄLÄ: Minister for the Interior

**Sweden:**
- Mr Thomas BODSTRÖM: Minister for Justice
- Mrs Maj-Inger KLINGVALL: Minister at the Ministry of Foreign Affairs, with responsibility for International Development Co-operation, Migration and Immigration

**United-Kingdom:**
- Mr Jack STRAW: Secretary of State for the Home Office: Home Secretary
- Mrs Barbara ROCHE: Minister of State, Home Office

**Commission:**
- Mr António VITORINO: Member
Also participating in the Mixed Committee:

**Iceland:**
Ms Solveig PETURSDOTTIR
Minister for Justice

**Norway:**
Mr Øystein M LAND
State Secretary for Justice


Participants of the Applicant countries of Central and Eastern Europe, Cyprus, Malta and Turkey (meeting on 16 March):

**Bulgaria:**
Mr Teodossii SIMEONOVO
Minister of Justice
Mr Emanouil YORDANOV
Minister of the Interior

**Cyprus:**
Mr Nicos KOSHIS
Minister of Justice and Public Order
Mr Christodoulos CHRISTODOULOU
Minister of the Interior

**Czech Republic:**
Mr Stanislav GROSS
Minister of the Interior

**Estonia:**
Mr Tarmo LOODUS
Minister of Internal Affairs

**Hungary:**
Mr Sándor PINTÉR
Minister of the Interior

**Latvia:**
Mrs Solvita HERBACCVICA
Under-Secretary of State to the Ministry of Justice
Mr Mareks SEGLINS
Minister of the Interior

**Lithuania:**
Mr Gintautas BARTKUS
Minister of Justice
Mr Vytautas MARKEVICIUS
Minister of the Interior

**Malta:**
Mr Austin GATT
Minister of Justice
Mr Tonio BORG
Minister for Home Affairs

**Poland:**
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Secretary of State, Ministry of Justice
Mr Piotr STACHANCZYK
Under-Secretary of State at the Ministry of the Interior

**Romania:**
Mrs Rodica STANOIU
Minister of Justice
Mr Ioan RUS
Minister of the Interior

**Slovak Republic:**
Mr Ján ČARNOGURSKÝ
Minister of Justice
Mr Ladislav PITTNER
Minister of the Interior

**Slovenia:**
Mr Ivo BIZJAK
Minister of Justice
Mr Rado BOHINC
Minister of the Interior

**Turkey:**
Mr Seref UNAL
Under-Secretary of State at the Ministry of Justice
Mr Saim ÇOTUR
Under-Secretary of State at the Ministry of the Interior
TEMPORARY PROTECTION

The Council took note of the progress report from the Presidency on a proposal for a directive on minimum standards for giving temporary protection in the case of a mass influx of displaced persons in need of international protection and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

The Council instructed COREPER to pursue actively work on this proposal in order to enable the Council to reach agreement at its May session.

EXAMINING VISA APPLICATIONS; BORDER CHECKS AND SURVEILLANCE - DETAILED PROVISIONS AND PRACTICAL PROCEDURES

The Council took note that the unanimity required for the adoption of Council Regulations reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications and for carrying out border checks and surveillance had not been forthcoming.

The Council instructed COREPER to pursue, as a matter of urgency, the examination of the outstanding question raised by one delegation concerning the Council's prerogative to reserve the right to exercise implementing powers for a five year transitional period, as provided for by Article 202 EC Treaty, with a view to enabling the Council to adopt the regulations as soon as possible and in any case before 25 March 2001, date of the full implementation of the Schengen Acquis in the Nordic Countries.
PREPARATION OF THE INFORMAL MEETING WITH CANDIDATE COUNTRIES

Ministers held a brief discussion to prepare the informal meeting on 16 March with JHA Ministers from the Candidate Countries.

CIVIL CRISIS MANAGEMENT

The Council held an exchange of views on civil crisis management with the participation of the Secretary General/High Representative Javier Solana, as part of the preparations for the Police capabilities commitment conference on 10 May 2001.
The Council held a public debate - transmitted by TV to the press and wider public - on the fight against drugs through law enforcement.

The Council debate shed light on the seriousness of the current drug situation in Europe and made it clear that although much is already being done, the fight against drugs must be intensified and made more effective, in particular with a view to accelerating the implementation of the Tampere conclusions and the EU Action Plan on Drugs 2000-2004.

The debate focused on three main issues, namely legislation, law enforcement and EU action vis-à-vis Candidate Countries. The Council emphasised, in particular on the basis of a paper submitted by the UK delegation, the priority of establishing the definition of minimum penalties for drug trafficking, rapid ratification of the EU convention on mutual legal assistance and targeted, co-ordinated action vis-à-vis Candidate Countries. The Council welcomed the intention of the Commission to present in April 2001 proposals on the before-mentioned minimum penalties and expressed strong support for the efforts of the Commission in Candidate Countries, notably through the PHARE Programme. From the outset it was clearly indicated that law enforcement is a part of a comprehensive approach in which demand reduction has an important role.
CRIME PREVENTION - AN EU CRIME PREVENTION POLICY

The Council reached an agreement on a European crime prevention policy and its constituent elements, including a provisional agreement - pending examination of the European Parliament opinion - on the European crime prevention network, the main vehicle of the European crime prevention policy, and confirmed a provisional agreement on the substantive content of a Commission proposal for a Council decision establishing a programme of incentives and exchanges, training and co-operation for the prevention of crime (Hippocrates).

The European crime prevention policy consists of the following elements:

− the European crime prevention network,
− a proposal by the Commission for a financing programme Hippocrates\(^1\) and a Forum on organised crime,
− a future report by Europol and the Commission on organised crime and prevention,
− conclusions from a Conference on prevention that was held in February 2001 in Sundsvall.

\(^1\) The name was chosen because Hippocrates believed that it is better to prevent than to cure.
ENVIRONMENTAL CRIME

The Council reached a preliminary agreement concerning the objectives and, in principle, the substance of the Draft Framework Decision on the protection of the environment through criminal law and instructed the Council's relevant working groups to consider whether it would be necessary to complement the Framework Decision in the light of the Commission proposal on a draft directive on the protection of the environment through criminal law.

The Council agreed in due course to reconsult the European Parliament on the basis of the agreement reached by the Council. The Council noted requests from Ministers that discussions in the Council on the appropriate choice of legal base (3rd or a combined 1st and 3rd Pillar instrument) to reach the objectives on this issue had not been finalised.

The Draft Framework Decision aims at establishing an acquis on criminal sanctions against environmental offences.

FIGHT AGAINST CYBERCRIME

The Council took note of a Commission communication on cybercrime "Creating a Safer Information Society by Improving the Security of Information Infrastructures and Combating Computer-related Crime" and agreed that the priorities listed in the communication, namely the need for an EU instrument to ensure that Member States have effective sanctions in place to combat child pornography on the Internet, the approximation of substantive law in the area of high tech crime and the promotion of the creation of specialised computer-crime police units at a national level where they do not already exist, are the areas that should be targeted for further work with a view to a follow-up discussion at the May JHA Council.
During the Commission's presentation of the above mentioned Communication which contains policy proposals as well as promises to make legislative proposals in this area, Commissioner VITORINO reported on the outcome of a hearing on cybercriminality that took place in Brussels on 17 March, and outlined plans for a European forum on cybercrime to be launched during the Belgian Presidency. At the hearing, the central question of the retention of traffic data dominated discussions.

ANY OTHER BUSINESS

– **Follow-up of the October ECOFIN/JAI Council on financial delinquency**

The Council heard a brief presentation from the Italian delegation on the need to strengthen EU coordination and input in the relevant international organisations involved in the fight against financial delinquency and a request to mandate the Presidency to initiate negotiations with a view to concluding agreements with certain countries in accordance with the Council conclusions of the October ECOFIN/JAI Council on financial delinquency.
MIXED COMMITTEE MEETING AT MINISTERIAL LEVEL

– Illegal Immigration via the Western Balkans

The Mixed Committee took note of the ongoing activities and the high level of concern expressed by all delegations regarding illegal immigration via the Western Balkans.

The Committee held a brief exchange of views during which delegations and the Commission lent support to the various bilateral and multilateral initiatives undertaken to stem the flow of illegal migrants entering the EU via the Balkan route and underlined the need for greater EU co-ordination in this area, in particular through the development of a common strategy based on prevention, inter alia in order to provide assistance to the authorities of the countries in the region.

The Presidency intends to report back to the Committee at its next session following a Troïka mission to Belgrade and Sarajevo on 27/28 March 2001 for bilateral meetings with the governments of the Federal Republic of Yugoslavia and Bosnia-Herzegovina and for a multilateral meeting with the relevant Ministers from Albania, Croatia, FYROM, the Federal Republic of Yugoslavia and Bosnia-Herzegovina, as part of the follow-up to the November 2000 Zagreb Summit.

The Balkan route, long used for drugs trafficking through and into Europe has now diversified into the smuggling and trafficking of persons. The Balkan route is widely used to bring nationals from China, Iran, Iraq, Afghanistan and Sri Lanka into the Member States, countries which all figure among the top 10 source countries of asylum seekers in the EU.
Draft Council Framework Decision on the strengthening of the penal framework to prevent the facilitation of unauthorised entry and residence

Draft Council Directive defining the facilitation of unauthorised entry, movement and residence

The Council held a detailed debate on the three outstanding key issues concerning a Draft Council Framework Decision on the strengthening of the penal framework to prevent the facilitation of unauthorised entry and residence and on a Draft Council Directive defining the facilitation of unauthorised entry, movement and residence. It was agreed that work should be continued on the two draft instruments with a view to reaching political agreement at the May JHA Council.

Consensus was reached on the question of making the offence of facilitating unauthorised entry and residence as defined in the Directive extraditable. However, two questions remain open, namely: the inclusion of a humanitarian clause and the exact scope of such a clause, and the minimum maximum sentence which shall apply in aggravating circumstances. Concerning this last point, it was concluded by the Presidency that certain compromise proposals made (a six year minimum maximum sentence and a declaration by those Member States intending to provide for a 10 year maximum sentence) should be further examined.
– *Information on the Application of the Schengen acquis in the Nordic States as from 25 March*

The Committee expressed its satisfaction at the effective level of implementation of the Schengen Acquis in the Nordic States in the light of the 26 February Council (General Affairs) confirmation of the 25 March 2001 as the date for abolishing the border controls of those countries' with the rest of the Schengen area.

The Presidency paid tribute to the five Nordic States' hard work in the past years to adapt to the Schengen Acquis. The results of these efforts have been approved by the visiting expert committees.

– *Illegal entry by sea*

The Council heard a presentation from the Netherlands on the question of illegal entry of aliens by ship. In this context, delegations were invited to reflect on the type of measures needed to minimise attempts to bring aliens into the Member States in this way and on agreements and measures which could be taken in the European context in cases where a vessel is bringing or threatening to bring a large number of illegal aliens into a Member State.

– *Any other business :*
  = *Relations with Switzerland*

The Council was informed on exploratory contacts at a technical level between the Commission and Switzerland concerning that country's request for participation in the Schengen Agreement and the Dublin Convention.

* * *
MEETING WITH THE CANDIDATE COUNTRIES

In the margin of the Council, Ministers held an informal meeting with the JHA Ministers from the Candidate Countries with the aim of strengthening practical co-operation between the two sides prior to accession, focusing in particular on the fight against organised crime - and more specifically trafficking in human beings and drugs - and asylum and illegal immigration issues.

The Ministers' discussions focused on the de-facto implementation of JHA legislation adopted in accordance with EU acquis in this area and the raising of awareness amongst the relevant services and authorities of the Candidate Countries of the actual implications of JHA related issues.

Both sides concluded that intensification of co-operation through exchange of expertise, training and financial assistance was necessary to boost the fight against organised crime, asylum abuse and illegal immigration. As regards the external borders of the Candidate Countries, it was agreed that potential security issues should be tackled via a concerted effort.
ITEMS APPROVED WITHOUT DEBATE

JUSTICE, HOME AFFAIRS AND CIVIL PROTECTION

Visa for third countries

The Council adopted a Regulation determining a list of third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.\(^1\)\(^2\)

Following political agreement reached on 1 December 2000, the Council reconsulted the European Parliament in view of the substantial amendments made to the Commission proposal during work within the Council and accepted certain modifications proposed by the European Parliament in its opinion given on 1 March 2001.

The regulation will enter into force on the 20\(^{th}\) day following its publication in the Official Journal of the European Community.

The Council will come back to this regulation in the near future on the basis of the report and recommendations to be presented by the Commission pursuant to Article 8 (in relation to Romania).

Standing of victims in criminal proceedings

The Council adopted a Framework Decision on the standing of victims in criminal proceedings, following an initiative of the Portuguese Representation.

The Framework Decision provides in particular that:

- Member States should approximate their laws and regulations to the extent necessary to attain the objective of affording victims of crime a high level of protection, irrespective of the Member State in which they are present.

- Victims' needs should be considered and addressed in a comprehensive, co-ordinated manner, avoiding partial or inconsistent solutions which may give rise to secondary victimisation. The provisions of this framework Decision are therefore not confined to attending to the victim's interests under criminal proceedings proper. They also cover certain measures to assist victims before or after criminal proceedings, which might mitigate the effects of the crime.

\(^1\) At the request of the Belgian delegation, the following declaration regarding Bulgaria was entered in the Council minutes: "La Belgique prend acte du rapport établi par la Commission sur la Bulgarie qui constate que celle-ci a déployé des efforts significatifs ces dernières années et s'est engagée à les poursuivre tant dans le domaine du régime des visas que dans le contexte plus large de sa préparation à l'adhésion à l'Union européenne."

\(^2\) The Spanish delegation abstained due to the inclusion of Colombia on the list of countries with a visa obligation.
- Measures to assist victims of crime, and in particular the provisions regarding compensation and mediation do not concern arrangements under civil procedure.

- The rules and practices as regards the standing and main rights of victims need to be approximated, with particular regard to the right to be treated with respect for their dignity, the right to provide and receive information, the right to understand and be understood, the right to be protected at the various stages of procedure and the right to have allowance made for the disadvantage of living in a different Member State from the one in which the crime was committed.

Data protection reports - negotiations with Europol: Norway, Iceland, Poland, Hungary

The Council decided, on the basis of individual reports submitted to it by the Europol Management Board that no obstacles exist for the Director of Europol to start negotiations with

- Norway,
- Iceland,
- Poland,
- Hungary

leading to an agreement, with each of these countries, including the transmission of personal data by Europol to each of them.

Salaries and allowances for Europol staff - staff regulations applicable to Europol employees

The Council adopted two decisions:

- Adjusting the basic salaries and allowances applicable to Europol staff
- Amending the staff regulations applicable to Europol employees (on initiative of the Swedish delegation)

C.SIS management report 1999

The Member States concerned by the C.SIS meeting within the Council approved the management report concerning the implementation of the C.SIS installation and operation budget for 1999.
State responsible for examining a request for asylum - agreement with Iceland or Norway

The Council adopted a Decision concerning the conclusion of an Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or Iceland or Norway.

This agreement reproduces basically the obligations and rights contained in the Dublin Convention (concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum) and the EURODAC regulation (concerning the comparison of fingerprints for the effective application for the Dublin Convention). This Agreement is connected to the entry into force of the Schengen Agreement in the Nordic States from 25 March 2001.

GHB and Ketamine (new synthetic drugs) - Council conclusions

The Council adopted the following conclusions:

- on GHB:

"The Council

- on the basis of the opinion of the European Commission on the risk assessment of GHB, recommends active monitoring of GHB during 2001.

- invites EMCDDA and Europol to monitor in the framework of their respective work programmes any new supplementary information in the fields of consumption, trafficking and public health related problems, and particularly to collate information:
  - clinical effects (deaths, overdose cases, hospital admissions) associated with GHB;
  - prevalence and patterns of non-medical use and behaviours of users;
  - seizures and any other information on the type of products in use (powder, tablets, liquid, etc.);
  - the role of organised crime in the production, diversion and trafficking of GHB;
  - the use of internet for marketing of GHB for non-medical purposes.

- invites the Member States to forward to the EMCDDA relevant legal texts and information on related control measures as well as information on the real extent of therapeutic use of GHB.

- invites the Commission to inform the Council on the state of negotiations with the chemical industry for possible mechanisms in order to limit the diversion of these products and their precursors and on the state of information of the pharmaceutical industry.

- encourages the Member States to share information on preventive and risk reduction measures related to non-medical use of GHB including appropriate messages targeting users of GHB.

- invites the EMCDDA and Europol to present a progress report to the Horizontal Working Party on Drugs, preferably before 31 December 2001."
- on **Ketamine** :

"The Council

- encourages EMCDDA and Europol to continue monitoring the trends in recreational ketamine use in the framework of their respective work programmes;
- suggests that possible improvements in the control of diversion be discussed with the chemical and pharmaceutical industry, bearing in mind the importance of ensuring the continued availability of ketamine for medical and veterinary use;
- welcomes proposals for research on the effects of ketamine use to be considered by the Fifth Framework Program for Research and Development;
- shall take into account the outcome of the risk assessment of ketamine when it organises the assessment of the Joint Action on New Synthetic Drugs called for in point 2.2.5 of the EU Action Plan on Drugs 2000-2004 (9283/00 CORDROGUE 32 + COR 1)."

**Colour codes on the registration certificates of motor vehicles - Council conclusions**

The Council adopted the following conclusions:

"The Council of the European Union,

Points to the importance of better combating the development of organised crime and of better protecting public and private interests in police and/or judicial inquiries;

Considers that it is important to facilitate checks intended particularly to combat fraud and illegal trade in stolen vehicles, and to facilitate the identification of a vehicle (make, type, model) and its owner in police and/or judicial inquiries conducted following the discovery of a chip of paint at the scene of a crime (fatal accident or grievous bodily harm, "hit and run" or "ram-raiding", etc.);

Considers that there are genuine operational grounds for specifying the colour and its alphanumeric code on the registration certificates of vehicles registered in an EU Member State;

Bearing in mind the work carried out by the European Network of Forensic Science Institutes (ENFSI) on the subject;

Recognises that the procedure for specifying a colour code on the registration certificate of a new vehicle would require inclusion of this information on the certificate of conformity supplied by the car manufacturer when the vehicle is first put into circulation;

Notes that Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles already states that the colour of the vehicle may be specified but that it is only an option, leaving implementation to the judgement of the Member States;

Invites the European Commission to study the possibility of submitting a proposal for an amendment to Directive 1999/37/EC intended to introduce compulsory indication of an adjective and alphanumeric code specifying the colour of the vehicle on the registration certificates of motor vehicles registered in an EU Member State, taking into account the guidelines mentioned in the Annex."