



**COUNCIL OF  
THE EUROPEAN UNION**

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**PRESIDENCY NOTE**

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From: Presidency  
To: COREPER  
Subject: Draft Multi-annual programme for an area of Freedom, Security and Justice serving the citizen (The Stockholm Programme)

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**The Stockholm Programme-  
An open and secure Europe serving the citizen**

**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 (JLS), 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 EU are now managed in a more coherent manner. Through the development of the Global approach to Migration, the external dimension of the EU'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 Fundamental Rights Agency and Frontex have reached operational maturity in their respective fields of activity. Cooperation in civil law is facilitating the everyday life of citizens and law enforcement cooperation provides for 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 and intensify cooperation with partner countries.

It is therefore time for a new agenda to enable the Union to build on the 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.

With the entry into force of the **Lisbon Treaty**, the Union will become more open, efficient and democratic. The Treaty facilitates the process of reaching the goals outlined in this programme, both for the institutions and for the Member States.<sup>1</sup>

## 1.1 Political priorities

The European Council considers that a 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 freedoms and integrity while guaranteeing security in Europe.** Striking the right **balance** between law enforcement measures and measures to safeguard individual rights, the rule of law, international protection rules is of paramount importance.

All actions taken in the future should be centred on the citizen and other persons for whom the EU has a responsibility, and should work towards the following main priorities:

**Promoting citizens' rights:** The area of freedom, security and justice must above all be a single area in which fundamental rights are protected. Respect for the human person and human dignity and for the other rights enshrined in the Charter of Fundamental Rights are core values. For example, the exercise of these freedoms and citizens' privacy must be preserved beyond national borders, especially by protecting personal data. Allowance must be made for the special needs of vulnerable people and citizens must be able to exercise their specific rights to the full, even outside the Union.

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<sup>1</sup> It is recalled that no decision relating to the Lisbon Treaty can be taken as long as the Treaty has not entered into force following ratification by all 27 Member States.

***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 people's access to the courts, so that they can enforce their rights throughout the Union. Cooperation between legal professionals should also be improved, and resources should be mobilised to put an end to barriers to the recognition of legal acts 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 European citizens. The strategy should be aimed at strengthening cooperation in police matters and law enforcement and making Europe more secure.

***A Europe of responsibility, solidarity and partnership in migration and asylum matters:*** The development of a forward-looking and comprehensive European migration policy remains a key policy objective for the European Union. Well-managed migration can be beneficial to all stakeholders. The European Pact on Immigration and Asylum is an important basis for further development in this field. Europe will need a flexible and demand-driven labour immigration policy, responsive to the needs of Member States' national labour markets. People in need of protection must be ensured access to legally safe and efficient asylum procedures. However, in order to maintain credible and sustainable immigration and asylum systems in the EU, it is necessary to deal with illegal migration.

***Europe in a Global world – the external dimension of freedom, security and justice:*** The importance of the external dimension of the EU's policy in the area of freedom, security and justice underlines the need for increased integration of policies in the area of freedom, security and justice into the general policies of the European 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 EU foreign policy.

## 1.2 The tools

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

**Mutual trust** between authorities and services in the different Member States as well as 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 systems in the Member States will thus be one of the main challenges for the future.

Increased attention needs to be paid in the coming years to the **full and effective implementation and enforcement of existing instruments**. Legal transposition should be ensured using, wherever necessary, existing institutional tools under the responsibility of the Commission. It should also be accompanied by practical support measures such as handbooks.

In general, **new legislative initiatives** should be tabled only after thorough preparation, including prior impact assessments, also involving Member States, identifying needs and financial consequences. The time taken to respond to the needs of citizens and businesses must also be shorter in the future.

The European Council considers that the development of legislation in the area of freedom, security and justice is impressive, but it has its shortcomings in terms of overlapping and a certain lack of coherence. At the same time, the **quality of the legislation** and the language used in some of the legal acts could be improved. A horizontal review of the instruments adopted should be considered, where appropriate, in order to **emphasize consistency and consolidation of legislation**. In specific areas, such as law enforcement cooperation and migration, consolidation should be preferred, aiming at conceptual and legal coherence. **Better regulation and lawmaking principles** should be strengthened throughout the decision-making procedure. The inter-institutional agreement on simplification reached between the EU institutions should be applied in full. All EU institutions at all stages of the inter-institutional procedure should make an effort to draft EU legislation **in clear language which is comprehensible to citizens**.

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**, 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, in the long term, such evaluation mechanisms should encompass all policies in the area, and invites the Commission to submit proposals to that end where appropriate. These proposals should also include an efficient system of follow-up to such evaluations, including by the Council. The objectiveness and impartiality of evaluations should be guaranteed inter alia by enabling relevant professional organisations and stakeholders to contribute to the evaluation process. The Commission is asked to reflect on the best means of ensuring this.

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 institutions, and in particular the Commission and the Member States, to consider ways to **better communicate the concrete results** of the policy in the area of freedom, security and justice to citizens and practitioners. New tools and legal instruments should be explained. It asks the Commission to devise a strategy on how best to communicate with citizens and to explain to them the added value of the work of the Union and the contents of the Stockholm Programme.

The European Council encourages the Union's 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 to step up dialogue in areas where such mechanisms do not yet exist.

The European Council emphasizes that the Stockholm Programme should be financed within the headings and ceilings of the current financial framework. Many of the measures and actions in the 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 examine the new financial perspectives in light of the goals set up under the Stockholm Programme. The 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 be streamlined and made more easily accessible and requests the Commission to examine appropriate means of achieving that goal.

In light of the Stockholm Programme, the European Council invites the Commission to present **an Action Plan in 2010**. This Action Plan will translate the aims and priorities of the Stockholm Programme into concrete actions with a clear timetable for adoption and implementation. With the new Treaty in mind, the European Council also invites the Commission to present a proposal for a timetable, to be examined by the Council, for the transformation of instruments with a new legal basis. The European Council invites the Commission to submit **a mid-term review** before June 2012 of the implementation of the Stockholm Programme.

## **2. Promoting citizens' rights: a Europe of rights**

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

The European 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 EU to the European Convention on Human Rights is of key importance. The Union, including its institutions, will be under a legal obligation to ensure that in all its areas of activity, fundamental and human rights 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 develop in step, reinforcing the creation of a uniform European fundamental and human rights system based on the European Convention and the Charter of Fundamental Rights, as incorporated into the legal framework of the Union.

The European Council invites the Commission to

- submit a proposal on the accession of the EU to the European Convention on Human Rights as a matter of urgency
- ensure that every legal initiative is consistent with fundamental rights by way of strengthening the methodology for a systematic and rigorous monitoring of compliance with the Convention and the Charter of Fundamental Rights

The European Council invites the EU institutions to

- make full use of the expertise of the European Union Agency for Fundamental Rights and to closely consult with the Agency during the legislative process of proposals with implications for fundamental rights.

The Union is an area of shared values, values which are incompatible with the crimes of totalitarian regimes. In the interests of reconciliation, the memory of crimes against humanity must be a collective memory, shared by us all. The Union must play the role of facilitator, respecting the approach that each Member State adopts.

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

The right to free movement of citizens within the European Union is one of the fundamental principles on which the Union is based. When exercising that right, citizens are ensured equal treatment while respecting the law in the State in which they are staying or residing.

The European Council invites the Council and the Commission to

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

With this aim in mind, Member States should closely monitor possible abuse and fraud of the right of free movement of persons and exchange information and statistics on such abuse. If systematic trends in abuse of the right to free movement are identified, Member States should report such trends to the Commission, which will consider how they might be addressed in the most appropriate way.

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

Since diversity enriches the Union, the EU 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 the 2008 Framework Decision on racism and xenophobia by 28 November 2013.

The European Council calls upon the Commission to

- make full use of the existing instruments, in particular the financing programmes to combat racism and xenophobia.

The Member States should implement the Framework Decision as soon as possible.

### **2.3.2 Rights of the child**

The rights of the child – i.e. the principle of the primacy of the interests of the child, the child's right to life, survival and development, non-discrimination and respect for the child's opinions – as proclaimed in the Charter and the United Nations Convention on the Rights of the Child, concern all EU policies. They must be systematically and strategically taken into account, as described in the Commission Communication “Towards an EU Strategy on the rights of the child” (2006).

Measures therefore need to be identified to which the Union can contribute added value. Children in particularly vulnerable situations should receive special attention, notably in the context of immigration policy (unaccompanied minors, victims of trafficking, etc.) and sexual exploitation and abuse.

### **2.3.3 Vulnerable groups**

The EU 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, the EU will target aid to ensure that the existing legislation is properly applied to tackle potential discrimination against Roma. Civil society will have a special role to play.

Other vulnerable groups in particularly exposed situations, or persons who fall victim to crime or are incapacitated 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 Daphne Programme in particular. The EU will also act in this direction in its external policy.



The need for additional proposals in this area should be assessed in the light of the experience acquired from the application of the 2000 Hague Convention on the International Protection of Adults.

#### **2.3.4 Victims of crime**

Those who are most vulnerable or who find themselves in particularly exposed situations, such as persons subjected to repeated violence in close relationships, 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. The EU and its Member States should examine how to improve legislation on support for and protection of victims and its implementation. An important issue is how to offer better support to victims, possibly through European networks that provide practical help.

The European Council invites the Commission to

- put forward proposals in line with what is set out in the Council conclusions on a strategy to ensure fulfilment of the rights of and improve support for persons who fall victim to crime.

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 the individual 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 European Union. The European Council therefore welcomes [the adoption by the Council of] the Roadmap on the rights of the individual 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 present multi-annual programme.

The European Council invites the Commission to

- come forward with appropriate proposals for its swift implementation, on the conditions laid down therein.

## 2.5 Protection of personal data and privacy

The right to privacy and the right to the protection of citizens' personal data are guaranteed by the Charter of Fundamental Rights. The Union must therefore respond to the challenge posed by the increasing exchange of citizens' personal data and the need to ensure the protection of privacy. The Union must secure a comprehensive strategy to protect citizens' data within the EU and in its relations with other countries. It must also foresee and regulate the circumstances in which interference by public authorities with the exercise of these rights is justified.

The Union must strike the right balance between the demand for increased exchange of personal data and 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, proportionality and legitimacy of processing, limits on storage time, security and confidentiality need to be restated and a comprehensive protection scheme must be established.

The European Council invites the Commission to:

- evaluate the functioning of the various instruments which form the basis for the data protection regime in the EU (first pillar and third pillar) 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 data sharing agreement with the United States of America, based on the work carried out by the EU-US High Level Contact Group on data protection and data sharing,
- consider a legal instrument laying down the data protection principles regarding the transfer of privately held data to third States for law enforcement purposes
- improve compliance with the principles of data protection through the development of appropriate new technologies, based on greater public/private sector cooperation, 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 and in the conclusion of appropriate bilateral or multilateral instruments.

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

With a view to the European elections in 2014, careful consideration should be given to how to encourage citizens to vote. Measures such as making it easier to register on the electoral roll should be explored. In addition, it should be considered whether 9 May could become a common election day for elections to the European Parliament.

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

A Union citizen travelling to or living in a non-EU 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 State. This fundamental right, enshrined in the Treaties, remains widely misunderstood, and more effort is needed to ensure its full application. Targeted communication campaigns could be conducted in connection with this right.

## **3. Making people's lives easier: a Europe of law and justice**

The European Council declared at its meeting in Tampere in 1999 that judgments and decisions should be mutually respected and enforced throughout the Union 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 EU 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. 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 emphasizes 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 reinforced cooperation between administrative and judicial authorities.

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

Mutual recognition should extend to all types of judgments - civil, criminal or administrative. It should also apply to all stages of the procedure. 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 emphasizes 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 emphasizes the need to evaluate the implementation of these measures.

#### **3.1.1 Criminal and administrative 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. In order to improve cooperation based on mutual recognition, some matters of principle should also be resolved. For example, there is a need for a horizontal approach regarding certain recurring problems during negotiations on the adopted instrument, e.g. Member States' authority structures and grounds for refusal.

Mutual recognition should extend to all types of judgments and decisions of a judicial nature, which may be criminal or administrative. For example, witnesses or victims of crime who are at risk can be offered special protection measures which may be recognised 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 which lacks efficiency and flexibility. 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 should have a broad scope and should cover all types of evidence, taking account of the measures concerned.

The European Council invites the Commission to propose

- a comprehensive legal instrument to replace all the existing instruments in this area, including the Framework Decision on the European Evidence Warrant, covering all types of evidence, including orders to hear persons by means of videoconferencing, and containing deadlines for enforcement and limiting as far as possible the grounds for refusal.

The Union should aim for the mutual recognition of judgments imposing some kind of disqualification and encourage the systematic exchange of information between Member States to this end.

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, by adopting a step-by-step approach which may go beyond the time span of the Stockholm Programme, according priority to cases where disqualification is most likely to affect personal safety or business life.

### 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. The abolition of the *exequatur* needs to 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 could, moreover, be extended to fields that are not yet covered but essential to everyday life, e.g. succession and wills, matrimonial property rights and the property consequences of the separation of couples, while taking into consideration Member States' national traditions in this area.

The European Council considers that the process of harmonising conflict-of-law rules at Community level should also continue where necessary.

The European Council also highlights the importance of starting work on codification of the instruments adopted so far in the area of judicial cooperation in civil matters. Such a codification would greatly improve the accessibility and visibility of the instruments concerned, thus ensuring a more efficient and uniform application thereof. Work on the codification of private international law should begin as soon as possible.

The European Council invites the Commission to

- assess whether the safeguards to accompany the abolition of *exequatur* need to be streamlined and whether there are grounds for simplification,
- launch a study in order to gather evidence as to the kind of 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 traditions in the Member States. In the short term a system allowing citizens to obtain civil status documents easily and free of charge could be envisaged. In the long term, it could be considered whether mutual recognition of the effects of civil status documents could be appropriate, at least in certain areas.

## **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.

### **3.2.1 Training**

In order to foster a genuine European judicial culture, it is essential to step up training on EU-related issues and make it systematic for all legal professions. The objective should be pursued of a systematic European training scheme for all new judges (including administrative courts) and prosecutors. The ambition shall be to ensure that at least half of the Unions judges and prosecutors by 2015 have participated in a European training scheme or an exchange with another Member State.

Member States have the primary responsibility in this respect, and the Union must give their efforts support and financial backing. Solutions at European level should be sought, and for example the European Judicial Training Network could be strengthened and given a structure and resources to match. E-learning programmes and common training materials must also be developed to train legal professionals in the European mechanisms.

The European Council invites the Commission to

- reflect on how best to take this issue forward.

### **3.2.2 European Forum for Justice**

The European Council invites the Commission to further improve the activities of the European Forum for Justice as a privileged partner for debate on all matters relating to justice, including as a place for examining future proposals for legislation and for examining whether existing legislation functions properly. The European Forum for Justice should also be a place for the exchange of views with the EU institutions and the Member States.

### 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. In particular, there has to be an evaluation of the effectiveness of the legal instruments adopted at Community level. Evaluation is also necessary to determine any obstacles to the proper functioning of the European judicial area.

The European Council invites the Commission to

- submit a proposal under Article 70 of the Treaty of the Functioning of the EU (TFEU)<sup>2</sup> concerning the application of mutual recognition instruments in the Member States.

Evaluation should be carried out periodically, include an efficient follow-up system, and should facilitate better understanding of national systems in order to identify best practice.

Judges, prosecutors and lawyers should be able to contribute to the evaluations.

Duplication in particular of work in the Council of Europe should be avoided, but synergies should be researched and the Union should take an active part in and contribute to the work of the monitoring bodies of the Council of Europe.

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

### 3.2.4 Improving the tools

The European Council calls for the enhancement of the practical 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 the effective application of EU 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.

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<sup>2</sup> Article 61 c of the Lisbon Treaty.



### **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.

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

- develop Handbooks, together with experts in civil and criminal law and Member States, on the use of mutual recognition instruments, in the same manner as the Handbook on the European Arrest Warrant. The aim should be to have a handbook 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 full, and that the judicial authorities of the European Judicial Networks should be given a secure communications network to enable safe correspondence. The Community should also put an emphasis on videoconferencing and on assisting the development of translation tools. These developments should be accompanied by and form part of the implementation of the e-justice action plan.

### **3.3 Developing a core of common standards**

The Treaty provides that, where necessary to facilitate mutual recognition, the Union may adopt common minimum standards. The European Council considers that a certain level of approximation of laws is necessary to foster a common understanding of criminal law issues among judges and prosecutors, and hence to enable the principle of mutual recognition to be applied properly.

### 3.3.1 Criminal law

In criminal law, certain offences having a typically cross-border dimension should become the object of common incriminations and common minimum levels of maximum sanctions. These are the serious offences referred to in Article 83(1) TFEU<sup>3</sup>. Priority should be given to trafficking in human beings, terrorism, drug trafficking, sexual exploitation of children and child pornography and cyber-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 penalties.

In the long term, it should be considered whether it is necessary to approximate all or most offences for which double criminality does not apply in the mutual recognition instruments.

Criminal law provisions should be used only when they are considered necessary in order for the interests to be protected and when all other means to protect them prove insufficient. In particular, minimum rules with regard to the definition of criminal offences and sanctions may be established when it is essential to ensure the effective implementation of EU policy.

The European Council stresses the importance of the coherence of criminal law provisions in the various EU instruments and invites the Commission together with the Council to

- launch preparatory work on model standard provisions in criminal law. These should include general criminalising principles, which would guide preparatory work including whether to use criminal law or other measures to achieve the intended objectives.
- examine the possibilities of using the existing programmes to finance pilot schemes in the Member States testing alternatives to imprisonment.

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<sup>3</sup> Article 69 b of the Lisbon Treaty.

### **3.3.2 Civil law**

The abolition of exequatur needs to be accompanied by a series of safeguards, which may be measures in respect of procedural law as well as of conflict of law rules (e.g. 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 countries in Europe should not constitute an obstacle either to the settlement of civil law matters or to initiating court proceedings, or to the enforcement of decisions in civil matters. With the Tampere conclusions and the Hague programme, major steps have been taken to reach this goal. However, the European Council notes that the effectiveness of Community instruments in this field still needs to be improved. First and foremost the consistency of community legislation should be enhanced by streamlining the existing instruments. The aim should be to ensure the coherence and user-friendliness of the instruments. Reducing the number of instruments and integrating different approaches would help practitioners and citizens to apply the legislation and thus promote access to justice.

The European Council invites the Commission

- as a first step, to submit a report on the functioning of the present EU regime on civil procedural law across borders, and to put forward a proposal aimed at improving the consistency of existing Community legislation, and
- furthermore assess, also in the course of upcoming reviews of existing Regulations, the need to establish a set of standard rules of civil procedure on matters such as the service of documents, the taking of evidence, review procedures and enforcement, and, where appropriate, submit proposals to the Council and the European Parliament.

## **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. To achieve this, the existing measures on legal aid need to be strengthened. 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 European e-Justice action plan, adopted at the end of November 2008, 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 the medium term, some European and national cross-border procedures could be dealt with on-line (e.g. the European payment order, the European small claims procedure or mediation litigations). In accordance with data protection rules, some national registers will be gradually interconnected (e.g. insolvency registers for individuals and companies).

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, standard 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 EU institutions and the Member States to

- devote efforts to the full implementation of the e-Justice action plan. In that context, the European 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 EU should consider abolishing all formalities for the legalisation of authentic documents between Member States. Where appropriate, thought should be given to the possibility of creating authentic European documents.

The European Council invites the Commission to

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

### **3.4.2 Supporting economic activity**

The European judicial area should serve to support economic activity in the single market, particularly in a period of crisis.

The European Council invites the Commission to

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

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

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

### **3.5.1 Civil law**

The European Council considers that clearly defining EU 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 Community should use its membership of The Hague Conference 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 the instruments. The European Council invites the Council, the Commission and the Member States to encourage all partner countries to accede to those Hague Conventions which are of particular interest to the Union.

The Lugano Convention is open to the accession of other States and it should be assessed, in cooperation with the other Contracting Parties, which third countries could be invited to accede to it.

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

The European Council invites the Council and the Commission to

- explore the possibility of drawing up an international instrument in the area of recognition and enforcement to allow a thorough control, including on jurisdiction, of any judgment given in a third country before it is recognised or enforced in a Member State.

### **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 European Council calls upon the Commission and the Council to:

- develop a policy aimed at the establishment of agreements on international judicial cooperation with third countries of interest. 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 the principles enshrined in the Charter of Fundamental Rights and priorities of law enforcement and judicial cooperation,

- sponsor exchanges of best practice and the pooling of experience with non-member countries 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,
- offer steady support to the justice systems in partner countries in order to promote the rule of law throughout the world,
- pursue the EU's efforts to bring about the abolition of the death penalty, torture and other inhuman and degrading treatment,
- continue to support and promote Union activity against impunity and to fight against genocide, war crimes and crimes against humanity, in that context, promote cooperation between the Member States, third countries and the international tribunals in this field.

The European Council further invites the Commission to

- submit to the Council in 2010 a full list of countries that have requested to conclude agreements on mutual legal assistance and extradition with the Union as well as an assessment 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 levels, are essential to protection from trans-national threats. Organised crime, terrorism, drug trafficking and trafficking in human beings continue to challenge the internal security of the EU. Cross-border widespread crime has become an urgent challenge which requires a clear and comprehensive response.

The European Council calls upon the Council and the Commission to

- define a comprehensive EU internal security strategy based on the following principles:
  - the division of tasks between the EU and the Member States, reflecting a shared vision of today's challenges,
  - respect for fundamental rights and international protection,
  - 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 EU agencies,
  - a focus on implementation and streamlining as well as the facilitation of preventive action,
  - the use of regional initiatives and regional cooperation.

The development of the internal security strategy should become one of the priority tasks of the Internal Security Committee (COSI) set up under Article 71 TFEU<sup>4</sup>. In order to ensure the legitimacy and effective enforcement of the internal security strategy, it is necessary to address its judicial dimension.

The internal security strategy should also take into account the external security strategy developed by the EU. Internal security is interlinked with the external dimension of the threats. In a global world, crime knows no borders.

## **4.2 Upgrading the tools for the job**

Security in the EU 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.

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<sup>4</sup> Article 61 d of the Lisbon Treaty.



#### **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 EU level. A genuine European law enforcement culture should be created.

The European Council calls upon the Council and the Commission to

- ensure that the exchange of experiences and good practice is intensified, and that joint training courses and exercises are enhanced with the ambition that one third of European law enforcement personnel is trained in European affairs over the next five years. Such training should be organised at national and European level. CEPOL should intensify its training activities with a view to giving concrete added value and ensuring a European dimension on training.
- set up specific, "Erasmus"-style exchange programmes, which could involve non-EU Member States and in particular candidate States 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 sectorial criteria,
- agree on common quality standards within the forensic field, inter alia to develop best practice for crime scene investigations.

The European Council considers that EU and international cooperation aspects should be part of national curricula. The European Council encourages Member States to devise national career mechanisms that reward officers for taking up duties related to cross-border cooperation and thereby favour the creation of an EU-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 EU 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 has given an 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 to

- [adopt and] implement an EU Information Management Strategy. 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 and judicial cooperation.

The EU information management strategy should entail

- business-driven development (a development of information exchange and its tools that is driven by law enforcement needs),
- a strong data protection regime,
- a well targeted data collection both to protect the rights of citizens and to avoid an information overflow for the competent authorities,
- the definition of guiding principles for a policy on the exchange of data with third States for security purposes,
- interoperability of IT systems 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 EU 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 agency, as proposed by the Commission, tasked with the operational management of large-scale IT-systems in the area of freedom, security and justice. Possible additional tasks should be considered in the light of the Information Management Strategy, especially the need for the clarification of roles in the decision-making and development process.

### 4.2.3 Mobilising the necessary technological tools

The European Council 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 and the Member States to

- draw up and implement policies to ensure a high level of network and information security throughout the European Union and improve security preparedness and resilience of critical infrastructure, including Information and Communication Technology (ICT) and services infrastructure, and
- 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 Commission to

- evaluate the exchange of information under the newly established European Criminal Records Information System (ECRIS). In the context of this evaluation, the Commission should assess whether the networking of criminal records makes it possible to prevent offences from being committed (e.g. through checks on access to certain jobs, particularly those relating to children),
- propose, in addition to ECRIS, a register of third-country nationals who have been convicted by the courts of the Member States.

## 4.3 Effective policies

### 4.3.1 More effective prevention and European law enforcement cooperation

The prime objective of EU law enforcement cooperation is to combat forms of crime that are typically cross-border in their dimension. Europol should become a hub for information exchange between the law enforcement authorities of the Member States, a service provider and a platform for networks in the field of police and customs cooperation.

Europol and Eurojust should be systematically involved in major cross-border operations and informed when joint investigative teams are set up. Europol should step up its links with Eurojust to ensure its work is followed up at judicial level and should expand its international dimension by forging closer links with the regions and countries neighbouring the Union; Europol should work more closely with European Security and Defence Policy (ESDP) police missions and help promote standards and good practice for European law enforcement cooperation in countries outside the EU.

The European Council invites the Commission to

- examine whether there are obstacles to cooperation between police missions and Europol and make appropriate proposals to eliminate such obstacles,
- consider developing a Police Cooperation Code which would consolidate existing legislation and, where necessary, amend and simplify it.

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 setting up of ad hoc law enforcement cooperation at sporting events or large public gatherings (e.g. the 2012 Olympics, Euro 2012) should be implemented.

In the field of judicial cooperation, the European Council emphasizes the need for Member States and Eurojust to implement thoroughly the decisions which have been taken recently before reflecting on increasing Eurojust's powers under the Lisbon Treaty in relation to the possibility of initiating criminal investigations and resolving conflicts of jurisdiction. Cooperation in this area should follow a step-by-step approach and, before any further steps are taken, implementation should be carried out and evaluated.

#### **4.3.2 Prevention**

The best way to reduce crime figures is to take effective measures to prevent them from ever occurring. European citizens have similar experiences and are affected in similar ways by crime 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 so doing, add to 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 EU 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 has therefore decided that an Observatory for the Prevention of Crime (OPC) should be set up, the tasks of which will be to collect, analyse and disseminate knowledge on crime (including statistics) and crime prevention, to support and promote Member States and EU institutions when they take preventive measures and to exchange best practice. The OPC should replace and build on the work carried out within the framework of the EU Crime Prevention Network (EUCPN), with a secretariat located within an existing EU agency, and be closely affiliated with Europol.

The European Council invites the Commission to

- submit a proposal on setting up the OPC by 2012 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 EU Action plan 2006-2010 on developing a comprehensive and coherent EU strategy to measure crime and criminal justice, in view of the increased need for such statistics in a number of areas within the field 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 European Council therefore calls upon the Council to

- set its priorities in crime policy by identifying the types of crime against which it will deploy the tools it has developed.

The Council should continue to use the Organised Crime Threat Assessment Report (OCTA) and select criminal phenomena to be tackled as a priority at European level. 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 is a very serious crime involving violations of human rights and human dignity that the EU cannot condone. The European Council finds it necessary to strengthen and enhance the prevention and combating of trafficking in human beings. This calls for a coordinated and coherent policy response going beyond the area of freedom, security and justice and including external relations, development cooperation, social affairs and employment, gender equality and non-discrimination. It should also benefit from a broad dialogue between all stakeholders, not least including civil society, and be guided by an improved understanding of trafficking in human beings at EU and international levels.

The European Council invites the Council to

- establish an EU Anti-Trafficking Coordinator (ATC).

Without prejudice to the role of the Commission, and inspired by the role and function of the CTC, the ATC should contribute to the development of a consolidated EU policy against trafficking aiming at further strengthening the commitment of and efforts made by the EU and the Member States to prevent and combat trafficking in human beings. This includes building up and strengthening partnerships with third countries and with the mechanisms of the EU external dimension as an integral part of such a policy. The ATC should monitor progress made and report regularly to COSI. 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 in human beings into, within and out of the EU.

The European Council invites:

- the Council to adopt the Commission proposal on combating trafficking in human beings and protecting victims,
- Europol, with the support of the Member States, to step up intelligence gathering and strategic analysis, to be carried out in cooperation with the countries of origin and 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 help victims through an array of measures including necessary decisions relating to their stay, the development of compensation schemes, safe return and assistance with reintegration into society in their country of origin if they return voluntarily; the EU should establish a partnership 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 to adopt the Commission proposal on combating sexual abuse, sexual exploitation of children and child pornography,
- the Commission to accompany this proposal, once adopted, by measures supported under the Safer Internet Programme 2009-2013.

#### **4.4.4 Cyber-crime**

The European Council considers that the Union should promote policies and legislation that ensure a very high level of network security and allow faster reactions in the event of cyber attacks. As soon as possible, Member States should ratify the 2001 Council of Europe Cyber-crime Convention. 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.



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 emphasizes the need for cooperation with countries outside the European Union.

Cooperation should be 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,
- provide for better coordination 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 of crime, for instance through legislation on proof of the legitimate origin of proceeds,
- improve the prosecution of tax evasion and private corruption 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.

Counterfeiting is a serious danger for consumers and economies. The Union must improve 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 Parliament to adopt as soon as possible the Commission proposal for a Directive on criminal measures aimed at ensuring the enforcement of intellectual property rights.

#### **4.4.6 Drugs**

The EU Drugs Strategy (2005-2012) advocates 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 Drugs Action Plan 2009-2012, carried out by the Commission with the support of the European Monitoring Centre for Drugs and Drug Addiction and Europol and monitored by COSI.

This 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, Africa, Russia and the United States,
- the mobilisation of civil society, in particular by reinforcing initiatives such as the Alliance on Drugs,
- contributing to research and 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 EU's Internal Security Strategy and dovetails with other related policy products such as the OCTA and the Council's 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 our attempts at combating it and new opportunities that present themselves. We must not lower our guard against these heinous criminals.

Respect for fundamental rights and freedoms is one of the bases for the Union's overall counter-terrorism work. It is therefore all the more important that measures taken in the fight against terrorism cannot be challenged on grounds of a lack of legitimacy or for infringement of human rights. Moreover, all the parties concerned should avoid stigmatising any particular community, and should develop intercultural and interfaith dialogue in order to promote awareness and understanding between different communities.

The Union must ensure that all tools are deployed in the fight against terrorism while fully respecting human rights. 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 calls upon:

- Member States to develop prevention mechanisms, in particular to allow the early detection of 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,
- civil society, Member States, government institutions and the Commission 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 a European Handbook containing the best practice of the Member States should be drawn up,
- and calls for the development of networks for exchanging practices on prevention.

The European Council stresses the importance of better surveying the dissemination of terrorist propaganda, including on the Internet.

Work on aviation and maritime security need to be developed, in step 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.

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 and to the new payment methods used by terrorists.

The European Council calls upon the Commission to:

- propose legal standards for charitable organisations to increase their transparency and responsibility so as to ensure 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 need for the Union to create possibilities to track terrorist financing,
- present measures to improve feedback to financial institutions regarding the outcome of their cooperation in the fight against terrorism financing.

The Union should 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, where it will continue to work with partners towards a universal convention against terrorism and ensure that freezing of assets decisions are taken while safeguarding fundamental rights. 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 with Europol. Full use should be made of Eurojust in the coordination of terrorist cases.

The European Union Action Plan on 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 EU Disaster Management: reinforcing the EU'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 EU action in disaster management.

EU 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.

EU 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 one other if catastrophes overwhelm national capacities. The European Council considers that future EU 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 EU may face in the future.

Continued efforts are necessary to strengthen the Community Civil Protection Mechanism and to improve the civil protection instruments, including the availability, interoperability and use of and support for the coordination of assistance. 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 EU disaster response.

Reducing vulnerability to attacks is one of the major objectives pursued with EU action concerning the protection of EU Critical Infrastructure. The Directive on Critical Infrastructure, when implemented, should be analysed and reviewed in due course in order to consider the possible inclusion of additional policy sectors.

The CBRN (chemical, biological, radiological and nuclear) risk, and in particular the threat of terrorist groups using CBRN materials, has led to action at national and EU levels. The overall goal of the policy on CBRN security is to present a prioritised, relevant and effective European strategy to enhance the protection of EU citizens 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 CBRN incidents, is vital.

Increasingly research will be of importance to support all areas of disaster management. Possibilities for research within the seventh research Framework programme 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 the United Nations, which has an overall co-ordinating role in international humanitarian response, and NATO/Partnership for Peace should continue to be a priority for interventions in third countries, both on the ground and in terms of preparedness (training, joint exercises). A strong EU coordination and role will enhance the overall international humanitarian response, including concerted efforts to improve the humanitarian system, and would also reinforce the EU ambition of working closely with other humanitarian actors. The safety and security of the EU requires continuous dialogue and cooperation with third countries, and in particular neighbouring countries. The Union's increasing initiatives for strengthening regional cooperation, e.g. for the Mediterranean, the Baltic Sea area and the Black Sea, as well as the Eastern partnership, are designed to contribute to this.

## **5. 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 an increased demand for labour, flexible immigration policies will make an important contribution to the Union's economic development and performance in the longer term. Furthermore, the European Council recalls that the establishment of a Common European Asylum System (CEAS) by 2012 remains a key policy objective for the EU.

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 policies for trade, employment, health and education 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 implementation of the Lisbon Strategy for growth and employment. The European Council recognises the need to make financial resources within the EU increasingly flexible, both in terms of scope and of applicability, to support policy development in the field of asylum and migration.

The European Council recognises the importance of the European Pact on Immigration and Asylum and underlines the need to implement the measures in the Pact. The European Council calls for the development of a comprehensive and sustainable European migration and asylum policy framework, which in a spirit of solidarity can adequately and proactively manage fluctuations in the migration flows and address situations such as the present one in the Mediterranean. Serious efforts are needed to build and strengthen dialogue and partnership between the EU and third countries, regions and organisations in order to achieve an enhanced response to these situations.

## 5.1 A dynamic migration policy

### 5.1.1 Consolidating, developing and implementing the EU Global Approach to Migration

The European Council has consistently underlined the need for EU migration policy to be an integral part of EU external policy and recognises that the EU 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 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 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 controlling 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 also be further developed with other regions, such as Latin America, the Caribbean and Asia.

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

- strategic and systematic use of all available instruments of the EU 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. The European Council recognises that Mobility partnerships add value to existing bilateral frameworks by facilitating broader cooperation, increasing transparency, improving policy coherence and ensuring cost-effective operations between partners. Success in implementing these partnerships requires improved coordination and substantial capacity-building efforts in countries of both origin and destination. The European Council calls for further development of the Mobility partnership instrument. Partnerships should be flexible and responsive to the needs of both the EU and the partner countries. In order to maintain a balanced approach, they should include cooperation on all areas of the Global Approach, and



- more efficient use of the Union's existing cooperation instruments to increase the capacity of the central, regional and local authorities 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 European Commission and the Member States available in this field.

### **5.1.2 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. Effective policies can provide the framework needed to enable countries of destination and origin and migrants themselves to work in partnership to enhance the effects of international migration on development.

Efforts to promote concerted mobility and migration 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 EU portal on remittances to inform migrants about transfer costs and encourage competition among remittance service providers, and
- how diaspora groups may be further involved in EU development initiatives, and how EU Member States may support diaspora groups in their efforts to enhance development in their countries of origin,
- ways to further develop the concept of circular migration and explore ways to facilitate both managed and spontaneous circulation of migrants, 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 EU's activities in the external dimension and to link 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 European Union.

### **5.1.3 A concerted policy in keeping up with 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 create flexible admission systems based on demand-driven labour migration policies that are responsive to the needs of Member States' national labour markets. These systems must have due regard for Member States' competences and the principle of Community preference.

The European Council invites:

- the Commission and Council 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,
- the Commission to evaluate existing policies that will *inter alia* improve skills recognition and labour matching in the European Union; the transparency of European on-line employment and recruitment information, training, information dissemination, and skills matching in the country of origin.

#### 5.1.4 A proactive policy based on a European status for migrants

The European Council believes that the objective of granting third-country nationals legally resident in the Member States of the EU a uniform level of rights comparable with that of Union citizens should remain the objective of a common immigration policy and should be implemented as soon as possible, and no later than 2014. The European Council also considers it important to review the current provisions concerning family reunification.

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

- an Immigration Code consolidating all legislation in the area of immigration, which would be based on an evaluation of the existing *acquis communautaire* and include, where necessary, amendments needed to simplify and/or extend the existing provisions and improve their implementation, and
- a revision of the directive on family reunification following a consultation process.

Moreover, the successful integration of legally resident third-country nationals remains the key to maximising the benefits of immigration. European cooperation can contribute to more effective integration policies in Member States. The objective of granting equal rights, responsibilities and opportunities for all is at the core of European cooperation in integration.

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 joint coordination mechanism using a common reference framework, which should improve structures and tools for European knowledge exchange,
- to improve coordination with other relevant policies, such as employment, education and social inclusion,
- towards the identification of joint practices and European modules to support the integration process, in particular the integration of newcomers, 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 (e.g. 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, and
- 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 web portal.

### **5.1.5 Effective policies to combat illegal immigration**

The European Council is convinced that effective action against illegal immigration remains essential when developing a common policy on legal immigration. The fight against human trafficking in particular must remain a key priority for this purpose. An effective and sustainable return policy is an essential element of a well-managed migration system within the Community. Member States should intensify their efforts to return illegally residing third-country nationals, and to allocate the necessary financial means for this purpose. Such a policy must be implemented with full respect for the principle of “non-refoulement” and for the fundamental rights and 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 the countries of origin and of transit within the framework of the Global Approach to Migration.

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

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

- continuous encouragement of voluntary return, including through the development of incentive systems and by using the possibilities offered by existing financial instruments,
- the conclusion of readmission agreements, on a case-by-case basis at EU or bilateral level, either separately or as a part of Mobility partnerships, with the principal countries of origin and of transit,
- the Commission to present an evaluation during 2010 of the EC readmission agreements and, on that basis, the Council to define a renewed strategy on readmission, including a common approach towards third countries that do not cooperate in readmitting their own nationals; increased practical cooperation between Member States, with the support of Frontex, concerning for example joint return flights, and the establishment of nationality of third-country nationals eligible for return,
- Member States to put into full effect the Community provisions pursuant to which a return decision issued by one Member State is applicable throughout the European Union and the effective application of the principle of mutual recognition of return decisions by recording entry bans in the SIS; and
- improving the exchange of information on developments at national level in the area of regularisation.

### **5.1.6 Unaccompanied minors**

Unaccompanied minors arriving in the Member States from third countries represent a particularly vulnerable group which requires special attention and dedicated responses. 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, cooperation with countries of origin, the question of age assessment and family tracing, and the need to pay particular attention to unaccompanied minors in the context of the fight against human trafficking. A comprehensive response at EU level should combine prevention and protection 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 both prevention and protection. The action plan should underline the need for cooperation with countries of origin, including cooperation to facilitate the return of minors.

## **5.2 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 combined with 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 the same level of treatment as regards reception conditions, procedural arrangements and status determination.

### **5.2.1 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 a Common European Asylum System (CEAS) should remain a key policy objective for the EU. Common rules could prevent or reduce secondary movements within the Schengen area, and increase mutual trust between Member States.

The CEAS should be based on a full and inclusive application of the Geneva Convention on the status of refugees and other relevant international treaties. Such a system is necessary in order to maintain the long-term sustainability of the asylum system and to promote solidarity within the EU. To reinforce this, the European Union should seek accession to the Geneva Convention and its 1967 Protocol.

Promoting solidarity within the EU is crucial but not sufficient to achieve a credible and sustainable common asylum policy. 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 countries of transit and origin.

The European Asylum Support Office (EASO) will be an important tool in the harmonisation of the asylum policy and should therefore coordinate all forms of cooperation between the Member States as foreseen and outlined in the Hague Programme and the European Pact on Migration. In particular the European Asylum Curriculum (EAC) should be further developed and become a common educational platform for national asylum officials. Monitoring the quality of asylum decisions will be another important task.

The Dublin System should remain 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 Parliament to intensify the efforts to establish a common asylum procedure and a uniform status for those who are granted asylum or subsidiary protection by 2012 at the latest,
- the Commission to consider introducing an evaluation mechanism in order to facilitate the alignment of asylum systems in the Member States and, if necessary in order to achieve a Common European Asylum System, propose new legislative instruments,
- the Commission to submit an evaluation of the European Asylum Support Office to the Council no later than five years after its establishment; a review of the tasks of the Office could be included,
- the Commission to create a mechanism for monitoring the quality of asylum decision-making, and
- the Commission, to consider, after an evaluation of existing legislation, the possibilities for creating a mechanism for the mutual recognition of decisions granting protection.

## **5.2.2 Sharing of responsibilities and solidarity between the Member States**

The European Council stresses the need to promote solidarity with Member States facing particular pressures. Mechanisms for sharing responsibility between the Member States should therefore be further analyzed and possibly developed. This should be done through a broad and balanced approach. In particular as one of the keys to a credible and sustainable CEAS is 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 European Asylum Support Office should have a central role in coordinating these capacity-building measures.

The European Council invites:

- the Commission to examine the possibilities for developing a mechanism for sharing responsibility between the Member States while assuring that asylum systems are not abused,
- the Council and the Commission to create instruments and coordinating mechanisms which will enable Member States to support each other in capacity building with regard to their national asylum systems,
- the Commission to use, in a more effective way, existing EU financial systems aiming at reinforcing internal solidarity, and
- the Council and the Commission to evaluate and develop procedures that will facilitate the secondment of officials in order to help those Member States facing a massive influx of asylum seekers.

## **5.2.3 The external dimension of asylum**

It is of the utmost importance that the EU should show solidarity, act in partnership and cooperate with third countries hosting large refugee populations. A common EU 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 UNHCR. The European Asylum Support Office should be fully involved in the external dimension of the CEAS.



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,
- the Council and the Commission to encourage the participation of Member States in the joint EU resettlement scheme and increase the total number of resettled refugees,
- the Commission to report annually to the Council and the European Parliament on the resettlement efforts made within the EU, to carry out a mid-term evaluation during 2012 of the progress made, and to evaluate the joint EU resettlement programme in 2014 with a view to identifying necessary improvements and further developing the resettlement programme,
- the Council and the Commission to develop methods to identify those who are in need of international protection in "mixed flows", and
- the Council and the Commission to find ways to strengthen EU support for the UNHCR, both politically and financially.

## **6. Europe in a global world – the external dimension of freedom, security and justice**

The European Council emphasizes the importance of the external dimension of the EU'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 European 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 EU foreign policy.

Building on the Strategy for Justice, Home Affairs and External Relations adopted in 2005 and other relevant *acquis* in this field, such as the Global Approach to Migration, EU external cooperation should focus on areas where EU activity provides added value, in particular:

- *Migration and asylum*, with a view to increasing EU dialogue and cooperation with countries of origin and transit in order to improve their capacity to better manage migration flows and to ensure protection and to benefit from the positive effects of migration on development,

- *Security*, by engaging with third countries to combat serious and organised crime, drugs, trafficking in human beings, inter alia by focusing the EU's counter-terrorism activities primarily on prevention and by protecting critical infrastructures,
- *Information exchange* that flows securely, efficiently and with adequate data protection standards between the EU and third countries, and
- *Justice*, to promote the rule of law and human rights, fight corruption, promote security and stability and create a safe and solid environment for business, trade and investment.

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

- *Countries with a European membership perspective* for which the main objective would be to assist them in transposing the EU acquis,
- *European neighbourhood countries, and other key partners* with whom the EU should cooperate on all issues in the area of freedom, security and justice,
- *EEA/Schengen states* have a close relationship with the EU. This motivates closer cooperation, based on mutual trust and solidarity to enhance the positive effects of the internal market as well as to promote EU internal security,
- *the United States of America, the Russian Federation and other key partners* with which the EU should cooperate on all issues in the area of freedom, justice and security, and
- *Other countries of priority*, in terms of their contribution to EU strategic or geographical priorities, including cooperation within regional international organisations.

The European Union must continue to provide the instruments required to define priority regions and key areas of cooperation, to ensure effective implementation, and to conduct evaluations. All action should be based on transparency and accountability, in particular with regard to the financial instruments.

The European Council invites the Council and the Commission to

- improve internal coordination in order to achieve greater coherence between external and internal cooperation in the area of freedom, security and justice, in close cooperation and in coherence with relevant EU agencies (Europol, Eurojust, Frontex, CEPOL, the Lisbon Drugs Observatory, the European Asylum Support Office and the Fundamental Rights Agency).

EU 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 EU and Member States' action. To that end, increased commitment from the Union and the Member States is required.

## **6.1 A reinforced external dimension**

The European Council has decided that the following principles should guide European Union action in external relations in 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 promote international standards,
- The Union and the Member States will cooperate closely with their neighbours ,
- The Member States will increase further the exchange of information with the Union on multilateral and bilateral activities,
- The Union and the Member States must act with solidarity, coherence and complementarity,
- The Union will make use of all ranges of instruments available to it,
- The Member States should coordinate with the Union so as to maximise resources,
- The Union will engage in information, monitoring and evaluation, inter alia in collaboration with the European Parliament

The European Council considers that the JLS policies should be better integrated into the general policies of the Union. The core principle is that there is a single policy framework of the Union in external relations. The adoption of the Lisbon Treaty offers new possibilities for the European Union to act more efficiently in external relations. The new double-hatted High Representative and the European External Action Service will ensure better coherence between traditional external policy instruments and internal 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 JLS competence in EU delegations in strategic partner countries. Furthermore, the legal personality of the Union will enable the Union to act with increased strength in international organisations.

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 EU and Member States' action. This will require a further commitment from the Community and the Member States. The European Council therefore asks the High Representative to report on ways to ensure complementarity by December 2011 at the latest.

## **6.2 Human rights**

The Lisbon Treaty offers the Union new instruments as regards the protection of fundamental rights and freedoms, including the rights of minorities and children's rights, 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 invites the High Representative to establish a Human Rights Action Plan to promote its values in the external dimension. The Plan should contain specific measures in the short, medium and long term, and designate who is responsible for carrying out the actions.

## **6.3 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 needs to be stepped up.

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 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 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. Framework agreements should be entered into with the United States and the Russian Federation on the exchange of information while ensuring that adequate data protection safeguards exist. Operational agreements by Eurojust, Europol, as well as working arrangements with Frontex, should be strengthened.

## **6.4 More secure access to the territory**

### **6.4.1 Management of the external borders**

The Union must continue to facilitate legal access to the territory of the 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 people entitled to benefit under them. The European Council calls for the clarification and enhancement of the role of FRONTEX and the further development of integrated border management.

The European Council therefore

- requests the Commission to put forward proposals 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. 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 for this purpose, based on operational needs, while maintaining efficient use of resources.

The reinforcement of FRONTEX could include e.g. an enhanced role for the Agency in the planning, participation in and evaluation of joint operations as well as joint return operations and enabling it to acquire its own resources.

The European Council looks forward to the continued development of the European Border Surveillance System (Eurosur) with a view to ensuring that the necessary cooperation is established between the Member States and with FRONTEX to share surveillance data relating to the eastern and southern borders no later than 2013. This development should take into account the work in other relevant areas of the Integrated Maritime Policy for the European Union.

The possibilities of new technologies hold great potential for rendering border management more efficient as well as more secure. This includes inter alia the use of gates for automated border control. The European Council takes note of the ongoing studies of Frontex in this field and encourages the Agency to continue its work in order to establish best practice.

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.

#### **6.4.2 Information systems**

The European Council considers that technology can play a key role in improving and reinforcing the system of external border controls. The roll-out of the SIS II and VIS systems 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.

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.

The European Council invites the Commission to

- present proposals for such a system alongside a fast track registered traveller programme with a view to such a system becoming operational in 2015,
- to prepare a study on the possibility and usefulness of developing a European system of travel authorisation.

### 6.4.3 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 visa 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.

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 which take account of the Union's internal and external policy objectives.

The European Council, with a view to creating the possibility of moving to a new stage in the development of the common visa policy, invites the Commission to

- present a study on the possibility of establishing a common European Schengen visa, including a European issuing mechanism. That study should also examine the possibility of supplementing the presumption of risk associated with the applicant's nationality with an assessment of individual risk, including the systems which would need to be put in place to facilitate this.

### 6.5 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 extradition and mutual legal assistance as well as in the field of civil law, should be used more frequently. 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. A framework model agreement could be created which should be used as much as possible.

## 6.6 Geographical priorities

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 are needed to combat organised crime and corruption, to guarantee fundamental rights and to build administrative capacities in border management, law enforcement and the judiciary in order to make the European perspective a reality.

The EU needs to intensify its cooperation with **Turkey** to meet the common challenge of managing migration flows. Taking into account geographical realities and building on Turkey's efforts as a candidate country, this cooperation should focus inter alia on international burden sharing, joint responsibility and common understanding.

The European Council emphasizes that the **European Neighbourhood Policy** offers future opportunities for the Union to 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 in the partner countries. The broad range of policy instruments at the Union's disposal should be utilised in a coordinated and efficient manner. As regards the Eastern Partnership countries, the EU is holding out the prospect of concluding Association Agreements (with substantial JLS parts) with those countries and supporting the mobility of citizens and visa liberalisation in a secure environment. The European Council invites the Commission to develop and submit before the end of 2010 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. The European Council has decided to review the plan by the end of 2012, and in particular to assess its impact on the ground.



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, law enforcement and judicial cooperation. The European Council invites the Commission 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 has decided to review the Plan by the end of 2012, and in particular to assess its impact on the ground.

The European Union should continue to work closely with its strategic partners the United States of America (USA) and the Russian Federation. Over the next five years and beyond, new strategic partnerships need to be further developed with countries such as China, India, Japan and Brazil. This will be facilitated by the entry into force of the Lisbon Treaty.

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. The framework agreement on data protection needs to be negotiated and concluded rapidly. As soon as possible, all Member States should be granted access to the US Visa Waiver Programme. 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 future cooperation with the **Russian Federation**. A framework agreement on information exchange should be concluded in that context. The visa dialogue must continue.

The dialogues with **China** and **India** on counter-terrorism aspects should be broadened and cover other priority areas such as intellectual property rights and judicial cooperation. The dialogue with India on migration should be intensified and cover all migration-related aspects. Agreements on judicial cooperation should be entered into, ensuring that the Union will continue to require that the death penalty is an issue where no compromises can be made. 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, such as entering into agreements on judicial cooperation.

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 EU Global Approach to Migration, the dialogue on migration should be deepened and intensified with African Partners. Efforts should be made to conclude re-admission agreements with Libya, Turkey, Morocco and Egypt.

With other countries and regions, including key countries of origin and transit, the approach will be differentiated, favouring in particular dialogue at regional level. With most Latin-American and Caribbean countries, the dialogue on migration, drugs trafficking and money laundering should be pursued within the regional framework (**EU-LAC**) and within the framework of the FATF. The implementation of the Action Oriented Paper on drug trafficking will have to be pursued with **Afghanistan**, and work will have to continue with the **Central Asian countries** along the trafficking routes to Europe. **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).

As regards these countries and regions, the European Council asks the High Representative, together with the Commission, to examine which regions or countries should be given special attention, financial or other assistance or with which agreements, including on judicial cooperation, should be concluded. It asks the High Representative to report to it by December 2010 on the measures that should be taken by 2014 in relation to such regions or countries.

## **6.7 International organisations and promotion of international standards**

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

The Union should continue to promote international standards and the ratification of international conventions, in particular those developed under the auspices of the United Nations and the Council of Europe. Careful consideration should be given to the creation of a focused JLS rapid reaction financing mechanism in the areas of migration, border management, the fight against terrorism and transnational crime. Such a financing mechanism, managed by the Commission, should be ready to provide technical assistance with the global implementation of international conventions. The importance of the work of the Council of Europe should not be underestimated. 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 signed in 2006.

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