



**COUNCIL OF
THE EUROPEAN UNION**



11653/08 (Presse 205)

(OR. fr)

PRESS RELEASE

2887th Council meeting

Justice and Home Affairs

Brussels, 24 and 25 July 2008

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11653/08 (Presse 205)

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Main results of the Council

*The Council held a policy debate on two Commission proposals concerning the **conditions of entry and residence of third-country nationals for the purposes of highly qualified employment and sanctions against employers of illegally staying third-country nationals**. These two proposals form part of the EU's general policy on migration and aim to combat a major pull factor for illegal immigration and the exploitation of migrants.*

*It agreed on a general approach to a **draft Decision on the strengthening of Eurojust**. The purpose of the text is to strengthen Eurojust through the following steps: creating a common minimum basis of powers for national members, creating an emergency coordination mechanism, improving the transmission of information to Eurojust, improving the national base of Eurojust, and strengthening judicial cooperation with third countries by enabling Eurojust to post liaison magistrates to those countries.*

*The Council also agreed on a general approach to a draft Decision **on the European Judicial Network in criminal matters**.*

Finally, the Council took note that the United Kingdom wished to accept, in its entirety, the Regulation on the law applicable to contractual obligations (Rome I).

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- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

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Minister for Justice
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Austria:

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Minister for the Interior

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State Secretary for the Interior, attached to the Minister for the Interior

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Slovakia:

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State Secretary at the Ministry of Justice

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State Secretary to the Minister for Justice

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Commission:

Mr Jacques BARROT

Vice-President

ITEMS DEBATED**EUROPEAN PACT ON IMMIGRATION AND ASYLUM**

The Council took note of progress on this item, following the first ministerial debate on the subject at the JHA informal meeting in Cannes on 7 and 8 July.

The Presidency proposes that the Member States adopt the Pact at the European Council in October, in order to express at the highest political level the common principles that are to guide migration policies at national and at EU level, as well as strategic guidelines to be pursued to flesh them out.

This Pact is one of the priorities set by the Presidency, in order to form a base for a true common European policy on immigration and asylum, given the challenges of the coming years and the necessary solidarity and cooperation in the management of migratory flows.

The ministers with responsibility for EU immigration held their first debate at their informal meeting in Cannes, and the French Presidency noted a broad measure of agreement between delegations on the draft text.

The Draft Pact submitted to Ministers proposes five key political commitments:

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

Each of these commitments has specific and strategic objectives.

The Council also took note of the presentation by the Vice-President of the Commission, Jacques Barrot, of two Commission communications on a common immigration policy for Europe and an action plan on asylum respectively. The Council noted a broad degree of complementarity between these communications and the draft Pact.

The objective of the first communication is to draw up a European immigration policy by acting, in an area without physical controls at internal borders, on the basis of a common vision of how to manage legal migration and integration and to combat illegal immigration, whilst continuing to defend universal values such as the protection of refugees, respect for human dignity and tolerance.

The communication identifies 10 principles which are to serve as a basis for the integration of national policies, organised around three concepts: prosperity, solidarity and security. They are illustrated by specific examples of application:

- prosperity (clear, transparent and fair rules; matching skills and needs; integration),
- solidarity (transparency, trust and cooperation; efficient and coherent use of available means; partnership with third countries),
- security (visa policy that serves the interests of Europe and its partners, integrated border management, stepping up the fight against illegal immigration and zero tolerance for trafficking in human beings, sustainable and effective return policies).

The Action Plan lists the measures that the Commission intends to propose in order to carry out the second phase of the Common European Asylum System (CEAS). The first phase of the CEAS (1999-2004) saw the adoption of a large number of legal instruments fixing common minimum standards in areas such as reception conditions for asylum-seekers, asylum procedures and the conditions to be fulfilled in order to be recognised as needing international protection, and rules for determining the Member State responsible for examining a request for asylum (the "Dublin system").

The Action Plan proposes to improve the definition of standards of protection at EU level, by amending existing legal instruments in order to achieve the ambitious objectives laid down in the Hague programme. It nevertheless recognises that legal convergence must be accompanied by suitable practical cooperation measures (exchange of information and best practice, joint training courses, etc.) to achieve convergence of decisions on asylum and, therefore, an equivalent level of protection throughout the EU. A European Support Office for asylum questions will be set up to coordinate the practical cooperation measures. The Action Plan also provides for a number of instruments designed to encourage solidarity with those Member States whose asylum systems are under severe pressure. Finally, it proposes ways to assist third countries sheltering a large number of refugees, in particular by setting up a resettlement programme at EU level and by extending existing regional protection programmes.

CONDITIONS OF ENTRY AND RESIDENCE OF THIRD-COUNTRY NATIONALS FOR THE PURPOSES OF HIGHLY QUALIFIED EMPLOYMENT

The Council held a policy debate on two key aspects of the Commission proposal: the criteria to be adopted for third-country nationals concerned to be able to have access to highly qualified employment and the relationship between the arrangements set out in the proposal and national systems.

The Council was largely in favour of complementary application of the European Blue Card scheme and national arrangements for issuing residence permits for employment purposes.

On the question of the criteria to be adopted in order for nationals of countries concerned to be admitted, the delegations expressed different points of view, particularly on the question of pay and the professional experience to be taken into account when defining a highly qualified worker.

The Council asked its preparatory bodies to continue working on this proposal for a Directive.

The purpose of this proposal, presented by the Commission in October 2007, is to improve the European Union's ability to attract third-country nationals for the purpose of highly qualified employment. It aims not only to strengthen competitiveness under the Lisbon strategy, but also to limit the brain drain with regard to nationals of non-European countries. To this end, it aims to facilitate the admission of these nationals by harmonising conditions of entry and residence in the European Union, to simplify admission procedures and improve the legal status of those already present on the territory of the Member States.

Third-country nationals who satisfy the conditions laid down in the Directive may acquire a Blue Card, enabling them and members of their family to enter and stay in a Member State and to leave it, and to transit through the other Member States and have access to the labour market in the sector concerned. Furthermore, they will be able to enjoy equal treatment with nationals in a vast range of areas.

The proposal also aims to facilitate the mobility of holders of the Blue Card within the Union. After a period of residence and work in the Member State concerned, they will be able to go to another Member State to engage in highly qualified employment (subject to limits fixed by the authorities of that State concerning the number of nationals who may be admitted). The procedure is the same as that relating to admission to the first Member State.

The proposal for a Directive is one of the priorities on the French Presidency work programme.

SANCTIONS AGAINST EMPLOYERS OF ILLEGALLY STAYING THIRD-COUNTRY NATIONALS

The Council held a policy debate on two key issues in this proposal for a Directive: the inclusion of minimum rules for criminal sanctions against employers and inspections to be made in the sectors of activity most open to abuse.

In the public debate, most delegations considered that, in order to combat the employment of illegally resident third-country nationals effectively, the Directive had to provide for effective sanctions.

Most delegations were in favour of carrying out targeted high-quality inspections in the sectors of activity identified by each Member State as most open to abuse.

The proposal for a Directive, presented by the Commission on 16 May 2007, provides for a minimum harmonisation of administrative, financial and criminal sanctions against employers of illegally staying third-country nationals. The objective is to ensure that all the Member States establish similar sanctions against employers of such third-country nationals and apply them effectively. It is proposed that employers should be required to carry out checks before recruiting third-country nationals and that the Member States should be obliged to make a minimum number of inspections of companies established on their territory.

In the proposal it is envisaged that offences committed by employers would be punishable by effective, proportionate and dissuasive sanctions, which could be administrative (financial penalties, back payments, unpaid social security contributions) or criminal (under strict conditions concerning the seriousness of the offence).

Furthermore, provision is also made for measures (either at administrative or criminal level) in the case of legal persons.

The proposal contains an obligation for Member States to make checks on a minimum number of employers on their territory every year, on the basis of a risk analysis in the different economic sectors.

This proposal is part of the EU's general policy on migration and is intended to combat a significant pull factor for illegal immigration and exploitation of migrants.

RECEPTION OF IRAQI REFUGEES

The Council adopted the following conclusions:

- "1. The situation in Iraq has major humanitarian consequences: some 4,7 million Iraqis have been uprooted; the number of persons displaced within the country is today estimated by the UNHCR at over 2,7 million; according to the same source, some 2 million Iraqis are living in neighbouring States.
2. Against this background, the Council would refer to its conclusions of 26 and 27 May 2008, in which it expressed concern at the plight of displaced Iraqis inside Iraq and Iraqi refugees in neighbouring countries, in particular in Jordan and Syria. As stated at the Expanded Ministerial Conferences of the Neighbouring Countries of Iraq, the Government of Iraq and the international community have the obligation to protect and assist Iraqis displaced within their country and in neighbouring countries, by addressing their immediate and foreseeable needs and ensuring their safety.

The Council again urges the Iraqi Government to use its resources to help neighbouring countries cope with the additional burden of refugees and points out that it has undertaken to provide further contributions to assist in alleviating the humanitarian situation of those concerned.

The Council notes that, since 2006, Community financial support for refugees, returnees and displaced people within the country, including humanitarian aid and aid for development with a view to arriving at sustainable solutions, has amounted to EUR 86,48 million.

3. The Council reaffirms that the main objective is to create the conditions to enable displaced persons inside Iraq and refugees in neighbouring countries to return safely to their homes, ensuring that the human rights of all Iraqis are protected and safeguarded and focusing particular attention on vulnerable groups.
4. The Council notes that some Member States are already taking in Iraqi refugees, particularly under their national resettlement programmes.

It considers it necessary to continue in this respect contacts with the Iraqi authorities, and with the UNHCR, in order to agree on the most appropriate forms of solidarity with all Iraqis.

It agrees to return to the question at its next session in the light of these contacts.

5. The Council would point to the potential for financing refugee resettlement under Decision No 573/2007/EC of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008 to 2013.¹
6. Lastly, the Council welcomes the presentation by the Commission on 17 June 2008 of the policy plan on asylum, under which the Commission intends to submit proposals in 2009 for the development of a Community resettlement programme in which Member States could take part on a voluntary basis."

¹ OJ L 144, 6.6.2007, p. 1.

EUROPEAN PNR

The Council held an exchange of views on the working method to be followed for the coming months, and on a number of topics, in relation to the proposal for a Framework Decision on the use of passenger name records (PNR) by Member States' law-enforcement authorities, submitted by the Commission on 17 November 2007 ([14922/07](#)).

Following the discussion, the Council confirmed its resolve to progress work on this proposal, involving partners such as the European Parliament, the personal data-control authorities and the Agency for Fundamental Rights.

It also agreed that work over the next few months should seek to gradually identify the essential features that the European PNR system should satisfy, on the basis of the following points in particular:

- priority to be given to the substance of the decision, with the legal basis being examined in the light of that substance;
- a balance to be sought between the need for a common tool and the flexibility which Member States may turn out to need;
- consideration based on operational use of data, which appears to be twofold: firstly in real time, resulting in action upon arrival of a flight, and secondly after the event, as part of investigations;
- examination of privacy protection in the light of the intended uses and with the incorporation of standards drawn up at European and national level;
- practical examination of technical arrangements for data collection, treatment of transit flights, the respective roles of passenger information units (PIUs) and relevant law-enforcement authorities, and the content of exchanges of information between PIUs.

The specific nature of the work to be carried out in the various areas in many cases makes it very helpful to bring into the discussions those with suitable technical competence. Involvement of the European Parliament in proceedings, by appropriate means, will also allow a constructive dialogue with that institution, which is particularly watchful as regards this proposal.

Since 9/11, law-enforcement authorities around the world have come to realise the added value of collecting and analysing so-called PNR data in combating terrorism and organised crime. PNR data are related to travel movements, usually flights, and include passport data, name, address, telephone numbers, travel agent, seat and other information. The PNR data of a certain passenger usually do not contain all PNR fields, but only those that are actually provided by the passenger at the time of the reservation and information received upon check-in and boarding. It must be noted that air carriers already capture the PNR data of passengers for their own commercial purposes, but that non-air carriers do not capture such data. The collection and analysis of PNR data allows the law enforcement authorities to identify high-risk persons and to take appropriate measures.

FUTURE GROUP (POLICE AND IMMIGRATION)

The Council took note of the Future Group's report on police and immigration and contributions from various Member States. It decided to forward the report and the contributions to the Commission so that it could take them into account when drawing up the programme to succeed the Hague Programme for the period from 2010 to 2014.

The report refers to new possibilities for action which could be envisaged in a new legal framework. That reference is of course completely without prejudice to the outcome of the process of ratification of the Lisbon Treaty.

At the informal meeting of EU Ministers for the Interior and Immigration in Dresden in January 2007, the German Minister for the Interior and the Vice-President of the Commission proposed the creation of an informal group at ministerial level with the objective of considering the future of the European area of justice, freedom and security. The findings and recommendations of the Future Group are meant to be an important contribution and a source of inspiration for the Commission's proposals for the next multi-annual programme (2010 to 2014) in the field of justice and home affairs.

The Future Group was co-chaired by the Vice-President of the Commission and the Minister for the Interior of the Presidency in office. It brought together the Interior Ministers of the two team Presidencies in office during the proceedings (Germany, Portugal and Slovenia; France, Czech Republic and Sweden) and a representative of the future Presidency team, i.e. Spain, Belgium and Hungary. The General Secretariat of the Council and the Parliament also took part.

The Future Group on police and immigration identified four cross-cutting challenges essential to safeguard and supplement the home affairs area:

- preserving the "European model" by balancing mobility, security and privacy;
- coping with the growing interdependence between internal and external security;
- ensuring the best possible flow of data within Europe-wide information networks;
- improving the convergence between the operational measures of national police forces.

CYBER CRIME

The Council welcomed the Presidency's idea of drawing up a plan to combat cyber crime in the EU.

This is one of the French Presidency's priorities and is tailored to the realities facing a number of Member States.

The European Union has not been inactive in this field. Various texts have been adopted (for example, Framework Decision 2005/222/JHA on attacks against information systems) but these various instruments are not monitored in any joined-up fashion. Moreover, new topics requiring a common approach are constantly emerging.

The French Presidency has therefore put forward the idea of an action plan based, amongst other things, on the Council conclusions of November 2007 and the Commission communication entitled "Towards a general policy on the fight against cyber crime". The Presidency intends to submit the broad thrust of the plan to a forthcoming JHA Council.

By way of operational tools, the Presidency is chiefly proposing

- 1) the creation of a European platform for reporting offences detected on the Internet. France organised a seminar on the subject, PI@nets.eur, in Reims from 3 to 6 June 2008, where the broad outline of the project was set out. Europol could play a central role in implementing a project of this type; and
- 2) strengthening the "Check the web" project to combat terrorist propaganda and recruitment on the Internet and seeking a solution to the problem of roaming.

EUROJUST

The Council agreed on a general approach to a draft Decision on strengthening Eurojust.

At the meetings on 18 April and 6 June 2008, the Council had already agreed to a general approach on certain articles related to the composition and tasks of Eurojust, the status of its national members and its staff and on articles concerning the on-call coordination, the exercise of powers of national members of Eurojust, the Eurojust national coordination system and the exchange of information between Member States and national members.

This proposal for strengthening Eurojust was presented in January 2008 by Slovenia, France, the Czech Republic, Sweden, Spain, Belgium, Poland, Italy, Luxembourg, the Netherlands, Slovakia, Estonia, Austria and Portugal.

The objective of the proposal is to strengthen Eurojust by taking the following steps:

- creating a common minimum basis of national members' powers;
- creating an emergency coordination mechanism;
- improving the transmission of information to Eurojust;
- improving Eurojust's national base;
- strengthening judicial cooperation with third countries by allowing Eurojust to post liaison magistrates in these countries. The liaison magistrates working with Eurojust will report to the College of Eurojust, which will in turn report on their activities to the Council and the European Parliament in its annual report.

EUROPEAN JUDICIAL NETWORK IN CRIMINAL MATTERS

The Council agreed on a general approach on a draft Decision on the European Judicial Network in criminal matters.

The European Judicial Network was established by Joint Action 98/428/JHA of 29 June 1998. Over the years, its usefulness in facilitating judicial cooperation in criminal matters has been demonstrated. Following the EU's enlargements in 2004 and 2007, the European Judicial Network requires strengthening. Over the past five years, the Network has enjoyed preferential relations with Eurojust (following its creation by Decision 2002/187/JHA) based on consultation and complementarity. The five years of co-existence of Eurojust and the European Judicial Network have shown both the need to maintain the two structures and the need to clarify their relationship.

The European Judicial Network facilitates the establishment of the appropriate contacts between the contact points of the different Member States, in particular as regards action to combat serious crime. The contact points provide the European judicial authorities on a constant basis with certain basic information that enables them to draw up a request for judicial cooperation efficiently or improve judicial cooperation in general.

The European Judicial Network secretariat will ensure that the information supplied is made available on a continually updated website.

A secure telecommunications connection will be set up for the operational work of the European Judicial Network contact points. Installation of the secure telecommunications connection will be paid for from the EU budget.

Installation of this connection will allow the exchange of data and requests for judicial cooperation between Member States.

This proposal for creating a European Judicial Network in criminal matters was submitted in January 2008 by Slovenia, France, the Czech Republic, Sweden, Spain, Belgium, Poland, Italy, Luxembourg, the Netherlands, Slovakia, Estonia, Austria and Portugal.

EUROPEAN CRIMINAL RECORDS INFORMATION SYSTEM (ECRIS)

The Council took note of the Commission's presentation of a proposal for a Decision on the establishment of a European Criminal Records Information System (ECRIS).

The objective of the proposal is to devise a computerised system for exchanging information on convictions between the EU Member States.

The proposal defines the features of a standardised format for the electronic exchange of information from criminal records, in particular as regards information on offences leading to convictions and information on the content of the latter, as well other technical and general aspects of implementing the exchange of information.

The proposal is essential if the exchange of information from criminal records (already adopted) is to become a reality.

JURISDICTION AND LAW APPLICABLE IN MATRIMONIAL MATTERS (ROME III)

On 18 July 2006 the Commission submitted a proposal amending the Brussels IIa Regulation. The aim of the proposal, referred to as Rome III, is to enable spouses, in the context of proceedings for divorce or legal separation, to choose by agreement the place of jurisdiction and to designate the applicable law in respect of such disputes. Where no law is chosen by the spouses, the text would introduce conflict-of-law rules. The proposal provides for a number of connecting factors: divorce to be governed by the law of the country of habitual residence of the two spouses; failing that, by that of the country of habitual residence of the spouses if one of them still resides there; failing that, by that of the country of common nationality of the spouses; or, failing that, by the law of the forum. The conflict-of-law rules provided for in the proposal are intended to ensure that, wherever the spouses petition for divorce, the courts of a Member State normally apply the same substantive law (avoiding "forum shopping").

At its meeting on 5 and 6 June 2008, the Council noted that there was no unanimity on taking the Rome III Regulation forward and that insurmountable difficulties precluded such unanimity in the foreseeable future.

On 24 and 25 July 2008 the Council discussed the state of play on an instrument on jurisdiction and the law applicable in matrimonial matters (Rome III), particularly in the case of divorce.

It noted that at least eight Member States intended to ask the Commission to submit a proposal for enhanced cooperation and that others were likely to join in that cooperation following a Commission proposal.

Any request to the Commission by these States would be without prejudice to the rest of the procedure and, in particular, to the authorisation which the Council would subsequently be asked to grant.

Some Member States expressed doubt as to whether enhanced cooperation was appropriate in this case.

A few Member States stated that they did not intend to participate in the instrument but had no reservations regarding enhanced cooperation.

The Commission was ready to consider a formal request from at least eight Member States to submit a proposal for enhanced cooperation but did not wish to indicate beforehand what the content of that proposal might be. It stressed that it would consider the request in the light of the political, legal and practical aspects of a proposal of this nature.

FUTURE GROUP (JUSTICE)

The Council took note of the final report of the Future Group on justice and contributions from various Member States. It decided to forward the report and the contributions to the Commission so that it could take them into account when drawing up the programme to succeed the Hague Programme for the period from 2010 to 2014.

The report refers to new possibilities for action which could be envisaged in a new legal framework. That reference is of course completely without prejudice to the outcome of the process of ratification of the Lisbon Treaty.

At the initiative of the Portuguese Presidency of the Council of the EU (second half of 2007), a high-level consultative group on the future of European justice policy (known as the Future Group - Justice) was set up. This group was co-chaired by the Presidency of the Council and by the Vice-President of the Commission and made up of the six justice ministers of the two team Presidencies in office during the discussions (Germany, Portugal and Slovenia; France, Czech Republic and Sweden) and a representative of the next Presidency team (Spain, Belgium and Hungary). Ireland was invited as representative of the common law Member States. The General Secretariat of the Council and the Parliament also participated in discussions.

The Future Group (Justice) has identified five objectives for meeting future challenges in the area of justice:

- improving the protection of citizens;
- increasing legal certainty in family, commercial and civil law;
- promoting access to justice within the EU;
- advancing in the fight against organised crime;
- meeting future challenges in the external dimension of justice policies.

OTHER BUSINESS

– *UK participation in Rome I*

The Council noted that the United Kingdom wished to accept, in its entirety, the Regulation on the law applicable to contractual obligations (Rome I).

– *Training for the judiciary*

Mr Ernst HIRSCH BALLIN, the Netherlands Minister for Justice, stressed the importance of developing a proposal for training the judiciary.

OTHER ITEMS APPROVED**JUSTICE AND HOME AFFAIRS****Convictions in EU Member States**

The Council adopted a Framework Decision on taking into account convictions in the Member States of the European Union in the course of new criminal proceedings ([9675/07](#)).

This Decision is designed to determine the conditions under which, in the course of criminal proceedings against a person, previous convictions handed down against the same person for different facts in other Member States are taken into account.

This Framework Decision replaces Article 56 of the European Convention of 28 May 1970 on the International Validity of Criminal Judgments, concerning the taking into consideration of criminal judgments, as between the Member States parties to that Convention.

The Member States will have two years from entry into force of the Decision to comply with its provisions.

Insolvency proceedings

The Council adopted a Regulation amending the lists of insolvency proceedings and winding-up proceedings in Annexes A and B to Regulation (EC) No 1346/2000 on insolvency proceedings and codifying Annexes A, B and C to that Regulation. ([11223/08](#))

The amendments are designed to take account of amendments to Latvian legislation on insolvency notified by Latvia. In addition, the Regulation codifies Annexes A, B and C to the said Regulation, as with previous amendments, in order to increase legal certainty.

Eurojust - Cooperation Agreement with Switzerland

The Council approved an agreement between Eurojust and Switzerland in order to enhance cooperation in combating international crime ([9345/08](#)).

Eurojust - Cooperation with OLAF

The Council approved a draft Practical Agreement on arrangements of cooperation between Eurojust and the European Anti-Fraud Office (OLAF) ([9346/08](#)).

The purpose of the Agreement is to enhance the fight against fraud, corruption or any other criminal offence or illegal activities affecting the EU's financial interests and to define to this end the modalities for close cooperation between the Parties. The cooperation will take place with due regard to transparency, complementarity of tasks and coordination of efforts.

COUNTER-TERRORISM**Combating the financing of terrorism**

The Council endorsed the recommendations made by EU Counter-Terrorism Coordinator Gilles de Kerchove concerning the main lines to be followed in combating the financing of terrorism ([11778/1/08](#)).

The recommendations take account of the work carried out by the Financial Action Task Force (FATF).

EXTERNAL RELATIONS**EU/Iraq - Partnership agreement on energy**

The Council approved a draft Memorandum of Understanding on a Strategic Partnership on Energy between the European Union and the Republic of Iraq.

The Memorandum of Understanding, which must now be negotiated with the Iraqi authorities, aims at increasing mutual cooperation in the field of energy, and especially at:

- contributing to the development of a medium to long-term energy policy for Iraq;
- enhancing cooperation on security of energy supplies between Iraq and the EU;
- contributing to the development of measures introduced by Iraq promoting renewable energy sources and energy efficiency;
- enhancing technological, scientific and industrial cooperation in the energy sphere.

Afghanistan - New EU Special Representative

The Council adopted a Joint Action appointing Mr Ettore F. Sequi European Union Special Representative (EUSR) for Afghanistan from 1 September 2008 in place of Mr Francesc Vendrell ([9981/08](#)).

The mandate of the EUSR is based on the policy objectives of the EU in Afghanistan. More specifically, the EUSR will:

- contribute to the implementation of the EU-Afghanistan Joint Declaration and the Afghanistan Compact as well as the relevant United Nations resolutions;
- encourage positive contributions from regional actors in Afghanistan and from neighbouring countries to the peace process in Afghanistan and thereby contribute to the consolidation of the Afghan State;
- support the role played by the United Nations; and
- support the work of the Secretary-General/High Representative in the region.

- provide the Head of the European Union Police Mission in Afghanistan with local political guidance.

(See also communiqué [S264/08](#) issued by High Representative Javier Solana on 24 July 2008.)

International Criminal Tribunal for the former Yugoslavia

The Council adopted two Decisions concerning measures in support of the effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY) with a view to:

- removing Mr Stojan Zupljanin's name from the list of persons who were indicted by the ICTY and whose economic resources were frozen pursuant to Common Position 2004/694/CFSP, following his detention and transfer to the custody of the ICTY on 21 June 2008 ([11577/08](#)); and
- removing the names of certain persons connected with Mr ZUPLJANIN from the list of persons banned from travelling within the EU pursuant to Common Position 2004/694/CFSP aimed at preventing the entry into the EU of persons who are engaged in activities which could help persons indicted by the ICTY to continue to evade justice ([11582/08](#)).

Anjouan (Comoros) - Repeal of restrictive measures

The Council adopted a Common Position repealing concerning restrictive measures against the illegal government of Anjouan in the Union of Comoros ([9193/08](#)).

This decision follows the restoration on 25 March 2008 of the authority of the Union of the Comoros in the island of Anjouan.

On 3 March 2008, the Council had adopted restrictive measures against the illegal government of Anjouan, in response to the latter's persistent refusal to work towards the creation of conditions which are favourable to stability and reconciliation in the Comoros - Common Position 2008/187/CFSP.

The Council also adopted a Regulation repealing Regulation No 243/2008, which implemented in the European Community the measures provided for in that Common Position by freezing the economic resources belonging to the persons concerned ([11570/08](#)).

Libya - Framework Agreement

The Council adopted a Decision authorising the Commission to negotiate a Framework Agreement with Libya on behalf of the Community and its Member States and approved negotiating directives to that end.

The aim of the negotiations will be to conclude an agreement with Libya on the basis of the policy of engagements with that country decided on by the Council in 2004. The Agreement should cover a broad range of areas of cooperation between the parties: political, social, economic, commercial and cultural.

EUROPEAN SECURITY AND DEFENCE POLICY

EUFOR TCHAD/RCA operation – EU/United Nations - compensation

The Council approved a declaration by the Member States of the EU ([11905/08](#)) concerning the renunciation of possible claims against the United Nations arising out of or in connection with the implementation of the Arrangement between the EU and the United Nations on cooperation between EUFOR TCHAD/RCA and the United Nations Mission in the Central African Republic and Chad (MINURCAT).

Approval of the declaration will enable the United Nations to adopt a reciprocal declaration.

EU Institute for Security Studies – Financial Rules

The Council approved the revised Financial Rules of the EU Institute for Security Studies ([10668/08](#)). The new rules update those adopted in 2005.

Kosovo - Participation by Switzerland in the EULEX KOSOVO mission

The Council adopted a Decision approving the conclusion of an Agreement with Switzerland on that country's participation of the Swiss Confederation in the rule of law mission EULEX KOSOVO conducted by the EU.

TRADE POLICY**Anti-dumping measures - Solutions of urea and ammonium nitrate - Tartaric acid**

The Council adopted two Regulations:

- one amending Council Regulation (EC) No 1911/2006 of 19 December 2006 imposing a definitive anti-dumping duty on imports of solutions of urea and ammonium nitrate originating in Algeria, Belarus, Russia and Ukraine following an expiry review pursuant to Regulation (EC) No 384/96 ([11444/08](#)); and
- the other terminating the new exporter review of Regulation (EC) No 130/2006 imposing a definitive anti-dumping duty on imports of tartaric acid originating in the People's Republic of China ([11333/08](#)).

FISHERIES**Revision of fishing opportunities for certain fish stocks - 2008**

The Council adopted a Regulation to revise fishing opportunities for certain fish stocks for 2008 ([11552/08](#) + [11858/08 ADD1](#)). Adoption of this Regulation follows up the political agreement reached by the Council on 15 July 2008.

The Regulation aims at clarifying certain fishing zones mentioned in the Regulation on deep-sea fish stocks¹ and at correcting certain restrictions on fishing zones and footnotes contained in the basic Regulation on TACs and quotas².

The Regulation also transposes into Community law several agreements concluded between late 2007 and spring 2008 between the European Community and Iceland and between the European Community and the Faeroe Islands, Greenland, Iceland, Norway and the Russian Federation on the management of redfish in the Irminger Sea and adjacent waters in the NEAFC Convention Area in 2008³. It also transposes the Agreement between the Community and Iceland concerning capelin quotas for Icelandic vessels to be fished from the Community quota allocated under its Agreement with the Government of Denmark and the local Government of Greenland before 30 April 2008, and on redfish quotas for Community vessels fishing for redfish in the Icelandic Exclusive Economic Zone to be fished between July and December.

The Regulation also introduces the possibility for the Community to undertake trials on technical measures for towed gears to reduce the proportion, in number, of cod that is discarded to no more than 10 %. Finally, the Regulation modifies the cod TAC in the Celtic Sea.

Furthermore, the Regulation fixes and distributes between the Member States concerned the number of vessels authorised to fish for bluefin tuna of below the minimum size in the Atlantic, and their total allowable catch.

Economic crisis in the fisheries sector*

The Council adopted a Regulation instituting a temporary specific action aiming to promote the restructuring of the EU fishing fleets affected by the economic crisis ([11795/08](#) + [11906/08 ADD 1](#)). Adoption of the Regulation is further to the political agreement reached by the Council on 15 July 2008.

¹ Council Regulation (EC) No 2015/2006 fixes for 2007 and 2008 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks.

² Regulation No 40/2008.

³ Since the agreement concerned applies to the whole of 2008, implementation of the agreement must apply retroactively as from 1 January 2008.

The aim of the Regulation is twofold: to provide immediate, temporary aid to those fishermen most affected by the rise in the price of fuel, and to seek a sustainable solution to the in-built overcapacity of European fishing fleets, thereby creating the conditions for greater profitability in the sector.

The Regulation, which will remain in force until 31 December 2010, provides for temporary derogations from certain provisions of the European Fisheries Fund and includes general measures applicable to the fisheries sector and special measures for vessels participating in Fleet Adaptation Schemes. The various measures are described in greater detail on page 14 of press release [11470/08](#), p. 14.

TRANSPORT

Cooperation with the International Civil Aviation Organization

The Council adopted a Decision on the signature and provisional application of a Memorandum of Cooperation between the International Civil Aviation Organization (ICAO) and the European Community regarding security audits/inspections and related matters.

The Memorandum of Cooperation follows the negotiations conducted by the Commission with the ICAO in accordance with the negotiating brief issued by the Council on 30 November 2007 (*see press release [15891/07](#), p. 40*).

CUSTOMS UNION

Turkey - Trade in products covered by the ECSC Treaty

The Council approved a draft decision, which should be adopted by the Joint Committee established under the 1996 Agreement between the European Coal and Steel Community (ECSC) and Turkey on trade in products covered by the ECSC Treaty.

The aim of the decision is to replace the text of the protocol to the ECSC/Turkey Agreement by a new text in order to facilitate the work of users and customs administrations.

ENVIRONMENT

Persistent Organic Pollutants - Long-range Transboundary Air Pollution

The Council adopted a Decision authorising the Commission to participate in international negotiations concerning the introduction of the Protocol on Persistent Organic Pollutants (POPs) under the United Nations Economic Commission for Europe (UN-ECE) Convention on Long-range Transboundary Air Pollution.

The aim of the Protocol is to control, reduce or eliminate discharges, emissions and leakage of POPs which have significant adverse effects on health and the environment because they are transported by air beyond frontiers over long distances. In principle, the Protocol provides for the elimination or reduction of the production, use and emissions of sixteen substances considered as POPs.

Furthermore, the Council adopted a Decision aimed at proposing the inclusion of endosulfan, trifluralin, dicofol and pentachlorophenol in the Protocol on Persistent Organic Pollutants (POPs) under the UN-ECE Convention on Long-Range Transboundary Air Pollution.

Regulatory procedure with scrutiny

The Council decided not to oppose a list of measures to be adopted by the Commission, with a view to amending legal acts in the field of the environment.

In accordance with the EU's regulatory procedure with scrutiny, the Council may oppose the adoption of legal acts by the Commission, justifying its opposition by indicating that:

- the proposed measures exceed the implementing powers provided for in the basic legal instrument, or that
- they are not compatible with the aim or the content of the basic instrument, or that
- they do not respect the principles of subsidiarity or proportionality.

This means that, unless the European Parliament opposes them, the Commission can adopt measures amending the following legal acts:

- Directive 2000/60/EC as regards the values of the Member State monitoring system classifications as a result of the intercalibration exercise
- the Decision concerning the non-inclusion of certain substances in Annex I, I A or I B to Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market
- the Decision setting a new deadline for the submission of dossiers for certain substances to be examined under the 10-year work programme referred to in Directive 98/8/EC.

In addition, the Council decided to oppose the adoption by the Commission of a series of measures amending:

- Directive 2000/60/EC as regards technical specifications for chemical analysis and monitoring of water status, and
- Directive 98/8/EC to include alphachloralose, bromadiolone, aluminium phosphide releasing phosphine, indoxacarb and thiacloprid as active substances in Annex I thereto.

INTERNAL MARKET

Regulatory procedure with scrutiny

The Council decided not to oppose the adoption by the Commission of a series of measures amending legal acts in the field of motor vehicles in order to:

- adapt to technical progress Directive 76/756/EEC concerning the installation of lighting and light-signalling devices on motor vehicles and their trailers; and

- replace Annexes I, III, IV, VI, VII, XI and XV to Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles ("Framework Directive").

TRANSPARENCY

Public access to documents - Opinions of the Council Legal Service

The Council adopted:

- the new reply to the confirmatory application made by Mr Maurizio TURCO (1/02), following the judgment of the Court of Justice of 1 July 2008 in joined Cases C–39/05 P and C–52/05 P ([11973/08](#));
- the reply to the letter sent to the Council by the European Ombudsman concerning complaint No 944/2008/OV made by Mr Martin OTTMANN ([9974/08](#));
- the reply to confirmatory application 07/c/01/08, the Swedish delegation having voted against ([9377/08](#));
- the reply to confirmatory application 08/c/02/08 made by Mr Martin OTTMANN ([11505/08](#));
- the reply to confirmatory application 09/c/01/08, the Danish, Netherlands, Finnish and Swedish delegations having voted against ([11510/08](#)).

The Council also took note of the consequences of the judgment of the Court of 1 July 2008 annulling the judgment of the Court of First Instance of 23 November 2004 in case *Turco/Council* (T-84/03), in which the Court of First Instance rejected the appeal against the Council decision of December 2002 refusing access to an opinion of the Council Legal Service on a proposal for a Council Directive laying down minimum standards for the reception of applicants for asylum in the Member States. The Court also annulled the decision refusing access.

The Court judgment has implications for the Council's future practice as regards releasing to the public written opinions of its Legal Service issued in the course of legislative proceedings.

Future requests by the public for access to written opinions of the Council Legal Service issued in the course of legislative proceedings will have to be considered in the light of the criteria established by the Court which state that, in principle, the Council will be required to disclose them. Only when an opinion is "*particularly sensitive in nature*" or has "*a particularly wide scope*" going beyond the context of the legislative process concerned will it be possible to refuse access to an opinion.

APPOINTMENTS

Committee of the Regions

The Council adopted a decision appointing members and alternate members of the Committee of the Regions for the remainder of the current term of office, which ends on 25 January 2010:

(a) as a member:

- Mr Klaus ZEH, Minister für Bundes- und Europaangelegenheiten und Chef der Staatskanzlei, Mitglied des Thüringer Landtags (change of mandate);

(b) as alternate members:

- Mr Fritz SCHRÖTER, Mitglied des Thüringer Landtags
- Mr Renzo TONDO, Presidente della Regione Friuli Venezia Giulia
- Mr Franco IACOP, Consigliere della Regione Friuli Venezia Giulia (change of mandate)
- Mr Alberto GARCÍA CERVIÑO, Director General de Asuntos Europeos y Cooperación al Desarrollo.