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3085th Council meeting

### **Justice and Home Affairs**

Brussels, 12 May 2011

President      **Sándor PINTÉR,**  
Minister for the Interior of Hungary

# **P R E S S**

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## **Main results of the Council**

*The Council discussed migration issues in relation to developments in the **Southern Neighbourhood Region**. Ministers addressed, in particular, the follow-up to the Council conclusions on the management of migration from the Southern Neighbourhood of 11-12 April 2011 and the Commission communication on migration of 4 May 2011.*

*The Council also had a first exchange of views on the Commission's evaluation of and future strategy for **EU readmission agreements with third countries**, published in February 2011.*

*The Council took note of a Commission presentation on its evaluation of the **EU data retention directive**, published in April 2011. At the request of Belgium and in light of the nuclear accident in Japan, the Council was then briefed by the Commission on the situation in Japan, and had an exchange of views on how to strengthen further the **Union's ability to respond to nuclear incidents**, mainly within the EU Civil Protection Mechanism.*

*Preceding the Council session, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) discussed migration issues in relation to developments in the **Southern Neighbourhood Region** as described above. It also looked at the state-of-play of discussions on the revision of the **Frontex regulation**, the rules concerning the European external borders agency Frontex.*

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<sup>1</sup> • Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.

• Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).

• 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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**Commission:**

Ms Cecilia MALMSTRÖM

Member

**ITEMS DEBATED**

**Southern Neighbourhood Region**

The Council discussed the follow-up to the Council conclusions on the management of migration from the Southern Neighbourhood of 11-12 April 2011 ([8909/11](#)) and the Commission communication on migration of 4 May 2011 ([9731/11](#)) which was broadly welcomed by member states.

The Presidency highlighted three aspects of the Communication for the purpose of the discussion - those aspects of the communication that address the strengthening of the Schengen Area ("Schengen governance"), a new partnership with the countries of the Southern Neighbourhood, and asylum policy.

During the discussions, ministers expressed their unanimous position that the free movement of persons is one of the main achievements of the European *acquis* and that it must be preserved. The Council was also unanimously calling for reinforcing the control of the EU's external borders and for increased cooperation with third countries in the Southern Neighbourhood Region as well as in the Eastern Partnership Region. This increased cooperation should build on both mobility and security aspects, on the basis of a differentiated approach and appropriate conditionality.

Over lunch, ministers reiterated their commitment to establish a Common European Asylum System (CEAS) by 2012.

Underlining that the situation in the Southern neighbourhood and its migratory consequences continues to be a cause of common concern, which requires measures to be taken as a matter of urgency, as well as responses in the medium and long term, the Council conclusions adopted in April set out a number of guidelines for further action. These guidelines concern legislative work and practical cooperation inside the EU as well as cooperation with third countries and international organisations.

After the April Council, the Hungarian presidency also decided to call an extraordinary meeting of ministers responsible for home affairs and migration which took place today (12 May).

The European Commission was requested to present proposals for a comprehensive approach to migration - including with the countries of the Southern neighbourhood region - to be endorsed by the European Council on 24 June 2011.

The Commission communication on migration was a first step in this regard. It presents a number of ideas and initiatives on various aspects of migration, including:

- strengthened border control and a revision of the Schengen governance to address irregular immigration, to ensure that each member state effectively controls its part of the EU's external borders, and to build trust in the effectiveness of the EU system of migration management;
- the completion of the Common European Asylum System (CEAS) by 2012;
- better targeted legal migration into the EU to facilitate the immigration of persons with skills needed in the EU so as to fill expected labour and skills shortages;
- exchange of best practices for successful integration of migrants; and
- a strategic approach for relations with third countries on issues related to migration, mobility and security.

These initiatives come in addition to the urgent short-term measures already taken by the Commission and supported by EU member states to deal with the migration situation in North Africa (technical and financial support to assist people in Libya and at its borders, mainly to Tunisia and Egypt, in close cooperation with the United Nations High Commissioner for Refugees (UNHCR) and other international and non-governmental organisations) as well as with the migration pressures on Southern EU member states, above all Italy and Malta (Frontex joint operation Hermes 2011, financial assistance through various European funds, relocation of asylum seekers).

The main next steps are:

- various Commission initiatives and proposals on migration, asylum and integration end May / early June (see Commission communication) in the light of the Council discussions;
- JHA Council on 9-10 June;
- European Council on 24 June.

The European Council addressed migration related developments in the Southern neighbourhood region already twice: in its declaration of 11 March 2011 ([EUCO 7/11](#), points 10-12) and its conclusions of 24-25 March 2011 ([EUCO 10/11](#), points 18-26).



**EU readmission agreements: Commission evaluation**

The Council took note of the Commission presentation of its evaluation of and future strategy for EU readmission agreements with third countries, published in February 2011 ([7044/11](#)). After this first exchange of views, the competent Council preparatory bodies were asked to continue examining the communication and to work on Council conclusions to be adopted at the Council meeting in June.

In the context of the Stockholm Programme, the European Council asked the Commission:

- to evaluate the implementation of the agreements in force;
- to suggest means for better monitoring them;
- to assess the progress or lack of progress of ongoing negotiations; and
- to draw conclusions and provide recommendations for a comprehensive future readmission policy.

Readmission agreements with key third countries of origin or transit constitute a cornerstone for an effective migration management and, in particular, for an efficient return policy of third-country nationals illegally present in the EU.

Since 2000 the Council has issued 19 negotiating directives for readmission agreements with third countries, out of which 13 have already entered into force.<sup>1</sup> The most recent agreement was concluded with Georgia. It entered into force on 1 March 2011.<sup>2</sup> There are also ongoing negotiations with Turkey<sup>3</sup>, Cape Verde and Morocco. In the cases of China and Algeria, formal negotiations have not yet started.

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<sup>1</sup> In chronological order: Hong Kong, Macao, Sri Lanka, Albania, Russia, Ukraine, FYROM, Bosnia and Herzegovina, Montenegro, Serbia, Moldova, Pakistan, Georgia.

<sup>2</sup> See this press release.

<sup>3</sup> In February, the Council reached political agreement on a draft EU-Turkey readmission agreement which now awaits signature by both parties and also adopted Council conclusions (see the press release of the February Council, p. 7).

Greater cooperation in the area of mobility, for example aiming at visa facilitation for the nationals of the third country concerned, constitute an important incentive during the negotiation phase of readmission agreements. Therefore, readmission agreements often go hand-in-hand with visa facilitation agreements which make it easier and cheaper for third country nationals, in particular those who travel most, to acquire short stay visas for travels to and throughout the EU. A short stay visa is a visa for an intended stay of no more than 90 days per period of 180 days.

So far, the EU has concluded visa facilitation agreements with eight countries, all of which also have concluded readmission agreements with the EU.<sup>1</sup> Besides that, negotiations on visa facilitation are ongoing with Cape Verde.

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<sup>1</sup> Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia (FYROM), the Republic of Moldova, Montenegro, Russia, Serbia and Ukraine.

**Data retention directive: Commission evaluation**

The Council took note of a Commission presentation on its evaluation of the EU data retention directive, published in April 2011 ([9324/11](#)).

The directive was adopted in 2006 and established data retention as a response to urgent security challenges, following major terrorist attacks in Madrid in 2004 and in London in 2005.

The Commission report from April 2011 concludes that retained telecommunications data play an important role in the protection of the public against the harm caused by serious crime. They provide vital evidence in solving crimes and ensuring justice. As criminal investigation tools, the use of data related to telephone numbers, IP address or mobile phone identifiers has, for example, resulted in convictions of offenders and acquittals of innocent persons.

The Commission, however, also underlines a number of shortcomings:

- Transposition of the directive has been uneven. As allowed by the directive, retention periods vary between six months and two years. In addition, the purposes for which data may be accessed and used, and the legal procedures for accessing the data, vary sometimes considerably between member states.
- As a consequence, a unified approach at EU level has not emerged,. This can create difficulties for telecommunication service providers, and in particular smaller operators. Operators are, for example, reimbursed differently across the EU for the cost of retaining and giving access to data.
- According to the Commission, the directive also does not in itself guarantee that data are stored, retrieved and used in full compliance with the right to privacy and protection of personal data, and this has led courts to annul the legislation transposing the directive in some member states. Whilst there are no concrete examples of serious breaches of privacy, the risk of data security breaches will remain, according to the Commission, unless further safeguards are put in place.

To remedy these shortcomings, the Commission intends to review the directive, in consultation with the police and the judiciary, industry, data protection authorities, and civil society with a view to proposing amendments to the existing rules by the end of 2011 or the beginning of 2012.

**Nuclear accident in Japan: Consequences for the EU Civil Protection Mechanism**

At the request of Belgium and in light of the nuclear accident in Japan, the Council was briefed by the Commission on the situation in Japan, and had an exchange of views on how existing preparedness and response mechanisms to nuclear incidents could be strengthened, mainly within the EU Civil Protection Mechanism.

The suggestions presented by Belgium include:

- to more closely involve national and international nuclear authorities in the activities of the work of the EU's Monitoring and Information Centre (MIC);
- to identify and improve reference scenarios for nuclear incidents (such as Chernobyl, Fukushima and others) and the specific means necessary to respond;
- to give priority to certain reference scenarios based on comprehensive and high quality risk assessments, alongside a more predictable availability of member states key assets (e.g. iodine tablets, alternative cooling systems, decontamination units, nuclear experts, robot modules etc.), including through the possible creation of an assets pool.

With a view to improving civil protection operations, the Commission proposed already last year the development of so-called reference scenarios for the main types of disasters, including CBRN (Chemical, Biological, Radiological and Nuclear) and cross-border terrorist attacks, inside and out the EU (see the Commission communication "Towards a stronger European disaster response: the role of civil protection and humanitarian assistance" ([15614/10](#))).

In addition, the existing Civil Protection legislation is currently subject to a review. A legislative proposal is expected to be presented by the Commission later this year.

**Mixed Committee - Frontex regulation**

In the margin of the Council session, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) discussed the following subjects:

Southern Neighbourhood Region

The committee discussed the issue as described in the separate item above.

It was also informed by the Cypriot delegation on a ministerial meeting on the subject in Nicosia on 19 April 2011. Participants included ministers and ministerial representatives from Cyprus, Greece, Italy, Malta and Spain.

Frontex regulation

The committee looked at the state-of-play of discussions on the revision of the rules concerning the European external borders agency Frontex. Negotiations with the European Parliament started in April. The goal is to reach agreement before the summer in line with the conclusions of the European Council of 24 March 2011.

Main issues outstanding include:

- monitoring in the context of return cooperation;
- the exact provisions concerning the financing of technical equipment;
- the involvement of third countries, EU agencies and international organisations in Frontex activities;
- specifications concerning a fundamental rights strategy of Frontex.

**OTHER ITEMS APPROVED**

**JUSTICE AND HOME AFFAIRS**

**EU Integrated Flood Management**

The Council adopted conclusions on integrated flood management within the European Union which aim to ensure the cooperation and the sharing of information among member states and between relevant authorities involved at national, regional and local levels in disaster and water management. The goal is to respond rapidly and effectively to emergency situations caused by floods. ([9241/11](#)).

**European medical and psychological experts' network for law enforcement (EMPEN)**

The Council adopted a resolution on the creation of EMPEN ([9044/11](#)), which will serve as a platform to promote the scientific activities of medical and psychological experts, as well as to exchange experiences and best practices in this field, including psychological assessment and psychological support/care for police officers.

**CEPOL 2010 Annual Report**

The Council endorsed the 2010 CEPOL (European Police College) annual report which includes a summary of activities, as well as CEPOL projects and external relations. ([8539/11](#)).

**Police and Customs Cooperation Centres**

The Council adopted the European Best Practice Guidelines for Police and Customs Cooperation Centres (PCCC), which provide practical recommendations for setting up and operating these centres ([9105/11](#)).

The PCCCs are support bodies for exchanging information and providing assistance to the activities of the operational agencies responsible for police, border and customs tasks in the EU border areas. They bring together, on one site, all the security authorities of participating countries.

**ECONOMIC AND FINANCIAL AFFAIRS**

**Financial assistance for Romania**

The Council adopted two decisions (9064/11 and 9063/11) authorising continued mutual assistance to Romania and the provision of up to EUR 1,4 billion in precautionary medium-term financial support to help the country sustain its balance of payments.

The medium-term assistance is aimed at helping Romania adjust its fiscal and external deficits by strengthening credibility of the government's economic programme. It will be available for activation until 31 March 2013. If activated, the assistance will be provided in the form of a loan with a maximum average maturity of seven years.

The EU assistance will be provided in conjunction with EUR 3.6 billion in financial support from the IMF under a precautionary stand-by arrangement approved on 25 March 2011.

**INDUSTRY**

**Union for the Mediterranean - Ministerial conference**

The Council took note of preparations for the 8th Conference of the Ministers for Industry of the Union for the Mediterranean to be held on 11 and 12 May in Malta.

The meeting will follow those held under the Union for the Mediterranean in Nice (2008) and under the Barcelona Process in Rhodes (2006), Caserta (2004), Malaga (2002), Limassol (2000), Klagenfurt (1998) and Brussels (1996).

**TRANSPORT**

**Marine equipment**

The Council decided not to oppose the adoption by the Commission of an update to directive 96/98/EC on marine equipment, with a view to align it to new international standards ([8061/11](#)).

The amending act is subject to the regulatory procedure with scrutiny. This means that now that the Council has given its consent, the Commission may adopt it, unless the European Parliament objects.

**Air services agreement with Viet Nam\***

The Council authorised the conclusion of an air services agreement between the EU and Viet Nam, ([7170/5/09](#) + *COR 1*, [14876/1/10](#) and [8847/11](#)), following the consent given by the European Parliament.

The agreement, which was signed in October 2010, supersedes or complements the existing bilateral agreements between individual member states and Viet Nam, bringing their provisions into line with EU law, in particular as regards non-discriminatory access of all EU air carriers to routes between the EU and Viet Nam as well as competition rules.

**TRADE POLICY**

**Anti-dumping - Melamine - China**

The Council adopted on 10 May, by written procedure, a regulation imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of melamine originating in China ([9136/11](#)).

**Anti-dumping - Zeolite A powder - Bosnia and Herzegovina**

The Council adopted on 11 May, by written procedure, a regulation imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of zeolite A powder originating in Bosnia and Herzegovina ([9116/11](#)).

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