

13758/01 (Presse 409)

(OR. fr)

2385th Council meeting

- JUSTICE, HOME AFFAIRS AND CIVIL PROTECTION -

Brussels, 16 November 2001

President : **Antoine DUQUESNE**, Minister of the Interior
and
Marc VERWILGHEN, Minister for Justice, of
the Kingdom of Belgium

Internet: <http://ue.eu.int/Newsroom>
E-mail: press.office@consilium.eu.int

CONTENTS

| | |
|---------------------------|----------|
| PARTICIPANTS | 3 |
|---------------------------|----------|

ITEMS DEBATED

| | |
|---|---|
| EUROPEAN ARREST WARRANT AND SURRENDER PROCEDURES BETWEEN MEMBER STATES: FRAMEWORK DECISION | 4 |
| COMBATING TERRORISM: FRAMEWORK DECISION | 6 |
| IMPLEMENTATION OF THE TAMPERE CONCLUSIONS | 7 |
| OTHER BUSINESS | 9 |
| – SIS (Schengen Information System) | 9 |
| – EUROPEAN JUDICIAL ATLAS | 9 |

ITEMS APPROVED WITHOUT DEBATE

| | |
|--|-----------|
| <i>JUSTICE, HOME AFFAIRS AND CIVIL PROTECTION</i> | <i>I</i> |
| – CEPOL Annual Work Programme (European Police College) for 2001 | I |
| – Intensifying cooperation between CIREFI (Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration) and Europol in the field of illegal immigration and related issues | I |
| – Approximation of Member States' legislation in civil matters | II |
| – Chernobyl Shelter Fund | III |
| <i>RELATIONS WITH THE CCEE</i> | <i>IV</i> |
| – Revised report on the Czech Republic | IV |
| <i>COMMERCIAL POLICY</i> | <i>IV</i> |
| – Arrangements for imports of certain textile products originating in Taiwan | IV |

For further information call 02 285 8415 or 02 285 6349.

PARTICIPANTS

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

Belgium :

Antoine DUQUESNE
Marc VERWILGHEN

Minister of the Interior
Minister for Justice

Denmark :

Frank JENSEN

Minister for Justice

Germany :

Hansjörg GEIGER
Claus-Henning SCHAPPER

State Secretary, Federal Ministry of Justice
State Secretary, Federal Ministry of the Interior

Greece :

Michalis CHRISOCHOÏDIS
Philippos PETSALNIKOS

Minister for Public Order
Minister for Justice

Spain :

Mariano RAJOY BREY
Ángel ACEBES PANIAGUA

First Deputy Prime Minister and Minister for the Interior
Minister for Justice

France :

Marylise LEBRANCHU

Keeper of the Seals, Minister for Justice

Ireland :

John O'DONOGHUE

Minister for Justice, Equality and Law Reform

Italy :

Roberto CASTELLI
Claudio SCAJOLA

Minister for Justice
Minister for the Interior

Luxembourg :

Luc FRIEDEN

Minister for Justice

Netherlands :

Benk KORTHALS

Minister for Justice

Austria :

Dieter BÖHMDORFER

Federal Minister for Justice

Portugal :

António COSTA

Minister for Justice

Finland :

Johannes KOSKINEN
Ville ITÄLÄ

Minister for Justice
Minister for the Interior

Sweden :

Thomas BODSTRÖM

Minister for Justice

United Kingdom :

David BLUNKETT
Anna EAGLE

Secretary of State for the Home Department; Home Secretary
Parliamentary Under-Secretary of State, Home Office

* * *

Commission :

Antonio VITORINO

Member

**EUROPEAN ARREST WARRANT AND SURRENDER PROCEDURES BETWEEN
MEMBER STATES: FRAMEWORK DECISION**

The Council continued its discussions on the proposed Framework Decision concerning a European arrest warrant, focussing on the key issues still unresolved, namely the scope of the European arrest warrant and the judicial appeals process.

At the close of the debate, the President noted that considerable progress had been made on both aspects and said that the convergence of views between delegations should enable the JHA Council meeting on 6 and 7 December 2001 to reach political agreement on the whole content of the Framework Decision in accordance with its instruction from the extraordinary meeting of the European Council on 21 September 2001, reiterated in Ghent on 19 October 2001.

Regarding the scope of the arrest warrant, a very broad consensus emerged during the Ministers' deliberations – with continuing reservations at this stage from two delegations, spelt out in the discussion ¹ - on the list of offences giving rise to surrender of persons sought on the basis of a European arrest warrant under the terms to be defined in the Framework Decision (providing inter alia for surrender without verification of double criminality). This arrangement would apply to thirty different offences, the large majority of which feature in the Annex to the EUROPOL Convention.

The Council will continue also to examine one delegation's suggestion that a benchmark for sentencing (proposal: four years) be incorporated in the arrangement to facilitate surrender without verification of double criminality for listed offences not yet harmonised.

¹ and which they will further amplify in the near future.

Regarding the appeals process, the Council noted broad consensus on the different execution of time limits applicable with regard to surrender, namely:

- in cases where the person sought consents to his surrender, the final decision on the execution of the European arrest warrant should be taken 10 days after consent has been given;
- in other cases, the final decision on the execution of the European arrest warrant should be taken within a period of 60 days after the arrest of the person sought;
- in specific cases where the arrest warrant cannot be executed within the time limits laid down in the above paragraphs, the executing judicial authority shall immediately inform the issuing judicial authority, stating the reasons for non-execution within the time limits. In this case, the time limits can be extended for another 30 days.

Moreover, the project provides for the possibility for the authorities of the issuing State to obtain, on arrest of the person sought, the possibility either of hearing his testimony in the State of execution or of obtaining his temporary transfer. Two delegations expressed scrutiny reservations on this point.

COMBATING TERRORISM: FRAMEWORK DECISION

The Council's discussions continued on certain fundamental questions concerning the proposal for a Framework Decision on combating terrorism, with a view to bringing forward the work on this issue. The purpose of this draft Framework Decision is to define essentially what constitutes a terrorist offence and establish thresholds for penalties for the various types of offence.

After a very detailed discussion, the Presidency noted that delegations' positions were considerably closer than before and that the JHA Council should be able to reach political agreement on the content of the Framework Decision at the JHA Council meeting on 6 and 7 December 2001, as instructed by the European Councils on 21 September 2001 and in Ghent on 19 October 2001.

Regarding the definition of terrorist offences, the Council noted delegations' agreement based on a compromise proposal by the Presidency enabling a balance to be struck between the need to repress terrorist offences effectively and to guarantee fundamental rights and freedoms.

Finally, on penalties, the Presidency noted that work should continue on the basis of new proposals to the effect that each Member State should take the measures necessary to ensure that the sentence for terrorist offences involves deprivation of liberty, with a maximum sentence of not less than 15 years or a maximum sentence under national law involving deprivation of liberty and that the penalties for other terrorist offences should not be less than 5 years.

IMPLEMENTATION OF THE TAMPERE CONCLUSIONS

The Council examined two reports, one proposed by the Commission, the other by the Presidency, on the progress made with implementation of the measures provided for by the Amsterdam Treaty, the Vienna Action Plan and in particular the conclusions of the Tampere European Council. In this connection, the Council also took note of the updated scoreboard prepared by the Commission.

The purpose of the debate was to facilitate - in preparation for the Laeken Summit - an objective evaluation of the results achieved, an analysis of the difficulties encountered, a possible refocusing of work or new priorities with a view to achieving the aim assigned to the European Union in the Amsterdam Treaty to become an area of freedom, security and justice.

The Presidency's report, which takes into account contributions already put forward by delegations, focuses in particular on an evaluation of the difficulties encountered – singling out the reasons for these difficulties - in the various JHA areas, namely:

- immigration, asylum, border controls;
- judicial cooperation in civil matters;
- judicial cooperation in criminal matters;
- police cooperation;
- external relations.

Ministers' contributions centred on key issues identified by the Presidency to enable it to finalise its report, namely:

- the need to improve checks on immigration flows, notably by improving current and future checks at the external borders of the European Union and stepping up consular cooperation on visas between the States participating in Schengen cooperation. In this connection, the Italian delegation submitted a progress report on a feasibility study on the setting up of a European unit for controls at external borders;

- possible ways of ensuring greater convergence in Member State legislation on asylum and immigration, notably in the context of the necessary adoption of national laws in the fields of asylum and immigration which may, in certain cases, complicate the discussion of proposals for Community legislative acts which the Commission has referred to the Council;
- the effectiveness of the arrangements currently available - various instruments (e.g. SIS, joint investigation teams) various institutions (Europol, Eurojust) or fora (especially the Police Chiefs Task Force, European judicial network) – to enhance police cooperation and judicial cooperation in criminal matters and measures likely to enhance further the operational added value they bring to police and judicial cooperation in criminal matters between Member States.

At the close of the discussion, the President thanked the Ministers for their constructive contributions, which would enhance the Presidency's report to the Laeken European Council. He noted that it was important to take a realistic view and referred in particular to the broad convergence of views on aspects of the analysis of both progress made and the difficulties encountered in implementing the Tampere conclusions. These different aspects will be included in the Presidency's report and should enable the Heads of State and of Government at Laeken to conduct a substantive debate that will give the political impetus needed to achieve the aim set out in the Tampere conclusions: creation of an area of freedom, security and justice.

On a practical level, the Presidency noted that delegations agreed to improve working methods with a view to obtaining more effective results. In this connection, the Presidency echoed delegations' fears about the growing number of fora dealing with JHA issues and about the need to define clearly their respective responsibilities and to coordinate their activities.

A broad consensus also emerged during the debate on the following measures:

- (a) the principle of one JHA Council per month, without prejudice to the onus remaining on the Presidency to determine the need for this on the basis of progress on the issues;
- (b) limit these Councils to one day with shorter agendas;
- (c) focus Council discussions on legislative activities and policy definition;
- (d) continue to implement the recommendations set out in the report on the operation of the Council with an enlarged Union in prospect (Trumpf/Piris report) and in Annex III to the conclusions of the Helsinki European Council on 10 and 11 December 1999.

OTHER BUSINESS

– *SIS (Schengen Information System)*

The Council heard a statement by the Austrian delegation in which it presented a paper concerning improvement of the use of the SIS and the Schengen Convention to combat terrorism.

It proposed in particular that its operation should be monitored more frequently pending the entry into force of SIS II.

– *EUROPEAN JUDICIAL ATLAS*

The Council heard a presentation by the Portuguese delegation on progress made with the European Judicial Network and the European Judicial Atlas. In this connection, it said it was prepared to continue to provide the secretarial services for the European Judicial Atlas.

ITEMS APPROVED WITHOUT DEBATE

The documents whose references are given are available on the Council's Internet site <http://ue.eu.int>. Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements may be obtained by following the procedure indicated above or from the Press Office.)

JUSTICE, HOME AFFAIRS AND CIVIL PROTECTION

CEPOL Annual Work Programme (European Police College) for 2001

The Council took note of the CEPOL Annual Work Programme for 2001. According to the programme the CEPOL should work towards the following priorities in 2001:

- non-military crisis management
The European Councils held in Helsinki (December 1999), Santa Maria da Feira (June 2000) and Nice (December 2000) adopted concrete objectives in the field of non-military crisis management.
- trafficking in human beings and control of external borders
This priority is partly met in the courses on Border Control and Crime Control. The traffic in human beings is considered an important worldwide problem.
- cooperation with the candidate countries
Activities geared towards candidate countries aim to prepare these countries for the enlargement of the European Union.
- community policing
The theme of community policing was chosen as a priority by the Chiefs of Police Task force at their meeting in Paris.

The governing board unanimously adopted the working programme for 2001.
(12493/01 – 11984/01)

Intensifying cooperation between CIREFI (Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration) and Europol in the field of illegal immigration and related issues

The Council approved the practical arrangements for intensifying cooperation between CIREFI and Europol in the field of illegal immigration and related questions.
(13084/01)

Approximation of Member States' legislation in civil matters

The Council adopted a report on the need to approximate Member States' legislation in civil matters.

In this report the Council:

- (a) notes the Commission communication of 11 July 2001 on European contract law and the European Parliament Resolution on the approximation of Member States' civil and commercial laws;
- (b) notes that the overall study requested in the Tampere conclusions has been initiated by the Commission in the area of contract law;
- (c) considers it necessary to ask the Commission to:
 - analyse as soon as possible the results of the consultation undertaken on the basis of its communication;
 - conduct this analysis while being concerned to ensure maximum consistency of contract law in the legislative function;
 - communicate the results to the Council, the other Community institutions and the public together with any appropriate observations and recommendations, if necessary in the form of a Green or White Paper, not later than 31 December 2002.

These recommendations should at the very least cover:

- the identification of Community texts whose scope should be re-examined as well as the reasons for such an examination;
- the identification of areas in which the diversity of national legislation in the field of contract law may undermine the proper functioning of the internal market and the uniform application of Community law;
- the possibility of adopting a more horizontal approach to new initiatives and how to examine the impact of these initiatives in terms of the consistency of civil law;
- the possibility of encouraging regular coordination or contacts, in areas coming under civil law, between Member States during the period for transposition of Directives;

- the working methods which could be implemented to achieve greater approximation of national laws insofar as the consultation and detailed analysis of the results reveal it to be desirable, and to prevent the risks of inconsistency between Community instruments;
- (d) calls on the Commission to conduct a study into whether the differences in Member States' legislation, in the areas of non-contractual liability and property law, constitute obstacles to the proper functioning of the internal market in practice;
- (e) considers that the principle of free movement of persons means that, in the light of Community legislation and case law, European citizens are to be perceived not only in terms of the purely economic dimension but also in terms of personal and family considerations;
- (f) would like the Commission to be asked:
- to conduct a study identifying differences between national laws with regard to family law issues which could undermine the principle of free movement of persons, and to submit the results to the Council not later than 30 June 2003.

Chernobyl Shelter Fund

The Council adopted a Decision on a second contribution of EUR 100 million over the period 2001-2004 from the European Community to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund.

(13368/01)

RELATIONS WITH THE CCEE

Revised report on the Czech Republic

The Council took note of a revised report on the Czech Republic.

COMMERCIAL POLICY

Arrangements for imports of certain textile products originating in Taiwan

(12240/01)

The Council adopted a Regulation amending Regulation (EC) No 47/1999 on the arrangements for imports of certain textile products originating in Taiwan.

The purpose of the Regulation is to amend Article 4 of Regulation No 47/1999 to prevent any risk of misinterpretation.
