

Brussels, 21 February 2002
008/02 (Presse)

The 2411th session of the Council of the European Union (**JUSTICE, HOME AFFAIRS AND CIVIL PROTECTION**) will take place on Thursday 28 February 2002 (9h30), in the Justus Lipsius Building, Brussels, under the Presidency of **Mr Mariano RAJOY BREY, First Deputy Prime Minister and Minister for the Interior, and Mr Ángel ACEBES PANIAGUA, Minister for Justice, of Spain.**

The following points will be discussed at this session:

- ***The International Cooperation of the European Union against organised crime - OPEN DEBATE (± 9h30 to ± 11h30)***
- Green Paper on criminal law protection of the financial interests of the Community and the establishment of a European Prosecutor
= Presentation by the Commission
- Execution in the European Union of orders freezing property or evidence - Draft framework Decision
- Relations with the United States of America
- Comprehensive plan to combat illegal immigration and trafficking in human beings in the European Union
- Report on the introduction of the euro - Police cooperation
= Information point
- European Police College (CEPOL)
= Provisional management solution
- Amendments to the Europol Convention
- Air Marshal System

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A press conference will be held by the President of the Council at the end of the session.

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In the margins of the Council:

16h30 Meeting with the candidate countries

- = Joint Declaration on drugs
 - = External borders control - Recommendations and best practice in removal and readmission
 - = Strengthening administrative and judicial capabilities
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12h30 Signature by the Republic of Ireland of the Council of Europe Convention on Cybercrime

BACKGROUND ¹

JUSTICE, HOME AFFAIRS AND CIVIL PROTECTION COUNCIL

Brussels, 28 February 2002

The Council will start its work at 9h30 with an open debate (broadcast live to the media in the press conference room) on the International Cooperation of the European Union in the fight against organised crime. A press conference will be held by the Presidency at the end of the session.

In the margins of the Council a meeting will take place with the Justice and Home Affairs Ministers of the candidate countries to consider a joint declaration on drugs and recommendations and best practices concerning removal and readmission procedures of third country nationals from the external borders of the EU. Ministers will also discuss the strengthening of administrative and judicial capabilities. A press conference will be held at the end of this meeting.

At 12h30 Ireland will sign the Council of Europe Convention on Cybercrime.

The International Cooperation of the European Union against organised crime - OPEN DEBATE

The Presidency will invite Ministers to evaluate the Union's role in international cooperation in Justice Affairs and to shape a future strategy (new international legislation on criminal matters, new instruments of judicial cooperation).

¹ This note has been drawn up under the sole responsibility of the Press Service.

Given the new challenges facing the international community and the time elapsed since the Treaty of Amsterdam came into force, the Council will be invited to consider the results obtained from its international action in the field of judicial cooperation and anticipate future requirements.

In addition, Ministers will also consider new possibilities offered by the TUE instruments for more consistent international activity.

With this objective the Presidency will propose that Ministers' interventions focus on the following issues:

1. Are the existing instruments and programmes considered satisfactory ?
2. Should action in the future have a sectoral character or would it be better to have comprehensive programs for some geographical areas ?
3. The capabilities of international agreements based on Articles 24 and 38 TEU.
4. Improved coordination of Member States' positions in the International Fora where international instruments in the field of Justice are under discussion.
5. Common Strategies in the fight against organised crime: should common strategies focus on a thematic approach, and if so, which themes ?
 - Terrorism
 - Drugs
 - Trafficking of human beings
 - Extradition
 - Mutual Legal Assistance
 - Promotion of International Conventions.

European Prosecutor - criminal law protection of the financial interests of the Community

The Commission will present a Green Paper on criminal law protection of the financial interests of the Community and establishing a European Prosecutor. By placing this item on the agenda the Council is answering the Laeken European Council's call for a rapid examination of the Commission's proposal.

The Green Paper discusses the legal status and organisation of the European Public Prosecutor as well as matters relating to the offences covered, procedural law and judicial review.

The purpose of the Green Paper is to launch a wide-ranging public debate with the Member States and all concerned, but particularly with practitioners, on the powers and modus operandi of the European Public Prosecutor. The aim is to ensure that this project becomes widely known throughout Europe with a view to finding the best possible solutions which offer the best possible protection to the Community's financial interests.

Execution in the EU of orders freezing property or evidence

The Council will seek to reach political agreement on a Framework Decision on the execution in the EU of orders freezing property or evidence. Following discussions in COREPER, the initial draft has been aligned on the solutions agreed in the context of the Framework Decision on the European arrest warrant (namely the abolition of the dual criminality requirement for a list of 32 offences and for offences carrying a minimum/maximun sentence of 3 years).

The purpose of the Framework Decision is to establish the rules under which a Member State shall recognise and execute in its territory a freezing order issued by a judicial authority of another Member State according to the fundamental rights and fundamental legal principles as enshrined in Article 6 of TEU. In particular the Framework Decision applies to freezing orders issued for purposes of securing evidence or subsequent confiscation of property for offences punishable by the law of the issuing Member State by a custodial sentence of at least one year, subject to the dual criminality requirement.

Relations with the United States of America

In the general framework of the EU's police and judicial cooperation with the United States of America, the Council will examine - with a view to reaching a possible political agreement - a priority request from the Presidency for a negotiating mandate on an agreement on judicial cooperation in criminal matters on the basis of Articles 38 and 24 TEU.

The negotiating mandate should in particular cover extradition and mutual legal assistance. As a general principle, the EU will make any agreement on extradition conditional on the provision of guarantees on the non-execution of capital punishment sentences passed on persons extradited from the EU and convicted under the penal code of a third country.

The future agreement should in all cases safeguard the efficiency of the existing bilateral agreements between the Member States and the USA.

It is recalled that at its extraordinary meeting on 20 September 2001, the Council agreed on the principal of proposing to the United States that an agreement be negotiated between the European Union and the United States, on the basis of Article 38 of the TEU, in the field of penal cooperation on terrorism. At the EU's request, President Bush indicated in a letter on 16 October 2001 a list of actions that the EU might undertake to help the USA in the international fight against terrorism. Among the actions listed are measures relating to mutual legal assistance and extradition.

Amongst the EU Member States, eleven have already signed and/or ratified bilateral treaties on judicial assistance with the USA, namely Austria (signed in 1995, entry into force in 1998), Belgium (1988/2000), France (1998/2001), Greece (1999/2001), Spain (1990/1993), Italy (1982/1985), Ireland (2001), Luxembourg (1997/2001), Sweden (2001), The Netherlands (1981/1983) and the United Kingdom (1994/1996). Negotiations with Germany are almost completed.

As regards extradition all Member States have bilateral agreements: Austria (1998), Belgium (1987), Denmark (1972), Greece (1931), Finland (1976), France (1909, supplemented in 1970; 1996: not in force), Germany (1978, supplemented treaty in 1993), Ireland (1983), Italy (1983), Luxembourg (1883, supplemented in 1935, 2002), The Netherlands (1980), Portugal (1908), Spain (1970, supplemented in 1975, 1988 and 1996), Sweden (1961, supplemented in 1983) and the United Kingdom (1972, supplemented in 1985).

Plan global d'action contre l'immigration illégale et la traite d'êtres humains

Le Conseil devrait constater l'existence d'un accord politique sur un plan global d'action contre l'immigration illégale et la traite d'êtres humains, en vue de réaliser l'objectif d'une lutte efficace au niveau de l'Union contre ces deux fléaux.

Ce plan s'inspire largement de la proposition de plan d'action de la Commission sur une politique commune en matière d'immigration clandestine présentée au Conseil en 2001 et fait suite aux conclusions du Conseil européen de Tampere et celles de Laeken qui ont invité à élaborer un plan d'action pour la lutte contre l'immigration illégale et la traite d'êtres humains.

Ce plan global, qui vise à définir une approche commune et intégrée à l'ensemble des questions et aspects ayant trait à l'immigration illégale et à la traite d'êtres humains, identifie six domaines dans lesquels il est nécessaire d'intervenir par le biais d'actions et des mesures appropriées. Il s'agit notamment de la politique des visas, de l'échange et analyse d'informations, des mesures en amont du franchissement des frontières, des mesures relatives au franchissement des frontières, de la politique de réadmission et de rapatriement et des sanctions.

En plus de l'adoption d'actions et de mesures destinées à développer et compléter des initiatives déjà entreprises au niveau de l'Union, le plan global envisage de nouvelles actions et mesures permettant de réaliser l'objectif d'une lutte plus efficace contre l'immigration illégale et la traite d'êtres humains. Une liste des actions et mesures à prendre dans chacun des secteurs visés, indiquant également les objectifs à atteindre dans le court et dans le moyen terme, est reprise dans le tableau annexé au Plan Global. Finalement, le plan global prévoit l'introduction d'un mécanisme de suivi et d'évaluation, comportant un rapport de la Commission au Conseil, qui permettra de mesurer les progrès constatés dans sa mise en oeuvre.

Report on the introduction of the euro - Police cooperation

The Council will hear a presentation from the Director of Europol, Jürgen Storbeck on the police cooperation aspects of the introduction of the euro, including efforts to combat counterfeiting. First indications show that recorded incidents are limited in number and in their degree of sophistication. Almost all incidents were caused by individuals using colour copy machines or computer scanning equipment.

It is recalled that the Council Decision of 6 December 2001 extending Europol's mandate to deal with all serious forms of international crime entered into force on 1 January 2002. Europol's mandate was expanded to cover "forgery of money and other means of payment" by Council Decision of 29 April 1999.

European Police College (CEPOL)

Under this item the Council should endorse a provisional management solution for the European Police College - CEPOL which includes provisionally locating the secretariat in Denmark. Denmark will assist CEPOL and its Secretariat with the administrative tasks necessary for it to function and make possible the implementation of CEPOL's annual programme and the execution of its budget.

It is recalled that the Laeken European Council did not settle the question of where to locate the CEPOL Secretariat.

CEPOL was established by Council Decision on 22 December 2000 as a police training network which brings together the national training institutes for senior police officers in the Member States. The Council endorsed the CEPOL annual work programme for 2002 on 6 December 2001 but it could not be implemented, as CEPOL had no seat or legal personality.

Europol Convention

The Council will consider whether the current procedure of amendment of the Europol Convention needs to be simplified, bearing in mind that this procedure involves ratification in all Member States which is a time consuming process. Should it emerge that a clear majority of delegations favours a simplified procedure the Council will be invited to consider three options for such a procedure, namely:

- i) The amendment of the entire Europol Convention through a simple Council decision;
- ii) The procedure mentioned above, but limited to specific Articles in the Europol Convention, thus allowing only specified Articles to be amended by Council decision and requiring a ratification procedure for amending the other Articles;
- iii) Replacing the Europol Convention with a Council decision (like Eurojust) which in future could be amended by a simple Council decision.

Air marshals

The Council will consider a discussion paper from the Austrian delegation on enhancing aircraft security by creating a system of air marshals in the European Union.