



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 27 November 2009**

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**ADDENDUM TO THE NOTE**

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from:	Presidency
to	Council
Subject:	The Stockholm Programme - An open and secure Europe serving and protecting the citizens

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As a result of the discussions at Coreper on 26 November 2009 the following amendments and changes have been introduced

**Point 1.2.6, second paragraph**

The objective should be pursued of systematic European Training Schemes offered to all involved. The ambition *for the Union and its Member States* should be that a substantive number of professionals by 2015 will have participated in a European Training Scheme or an exchange with another Member State, which might be part of training schemes that are already in place. For this purpose existing training institutions should in particular be used.

### **Point 1.2.9, third paragraph**

Within the next financial perspectives, it should be examined *how best to design the financial instruments in order to ensure a suitable support for operational projects developed outside the Union which enhance the Union's security, in particular in the field of fight against organised crime and terrorism*. Careful consideration should be given to ways and means to speed up the EU reaction to urgent events in this area in terms of financial assistance and how to provide technical assistance for the global implementation of international conventions, such as those relating to terrorism.

### **Point 2.2, second paragraph**

As noted by the European Parliament, Schengen cooperation, which *has removed internal border controls within much of the EU, is a major achievement in the Area of freedom, security and justice*. The European Council recalls its attachment to the further enlargement of the Schengen area. Provided that all requirements to apply the Schengen acquis have been fulfilled, the European Council calls on the Council, the European Parliament and the Commission to take all necessary measures to allow for the abolition of controls at internal borders with the remaining Member States that have declared their readiness to join the Schengen area without delay.

### **Point 2.4, second paragraph**

The European Council invites the Commission to

- put forward the foreseen proposals in the Roadmap for its swift implementation, on the conditions laid down therein,
- examine further elements of minimum procedural rights for accused and suspect persons, and to assess whether further proposals are needed *for instance as regards the presumption of innocence*.

### **Point 3.1.1, first paragraph**

In the face of cross-border crime, more efforts should be made to make judicial cooperation more efficient. The instruments adopted need to be more "user-friendly" and focus on problems that are constantly occurring in cross-border cooperation, such as issues regarding time limits and language conditions or the principle of proportionality. In order to improve cooperation based on mutual recognition, some matters of principle should also be resolved. For example, there may be a need for a horizontal approach regarding certain recurring problems during negotiations on instruments. The approximation, where necessary, of substantive and procedural law *should* facilitate mutual recognition.

### **Point 3.1.2, sixth paragraph**

In light of the findings, the Commission could submit appropriate proposals taking into account the different legal systems and traditions in the Member States. In the short term a system allowing citizens to obtain their own civil status documents easily could be envisaged. In the long term, it *might* be considered whether mutual recognition of the effects of civil status documents could be appropriate, at least in certain areas. Work developed by the International Commission on Civil Status should be taken into account in this particular field.

### **Point 3.3, title and first paragraph**

#### 3.3 Developing a core of common *minimum rules*

*To the extent* necessary to facilitate mutual recognition *of judgments and judicial decisions and police and judicial cooperation in criminal matters*, the Union may adopt common minimum *rules*. The European Council considers that a certain level of approximation of laws is necessary to foster a common understanding of issues among judges and prosecutors, and hence to enable the principle of mutual recognition to be applied properly, taking into account the differences between legal traditions and systems of Member States.

### **Point 3.3.1, first paragraph**

*Criminal behaviour*; in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis should become the object of common incriminations and common minimum levels of maximum sanctions. These are the serious offences referred to in Article 83(1) TFEU. Priority should be given to terrorism, trafficking in human beings, illicit drug trafficking, sexual exploitation of women and children and child pornography and computer crime.

### **Point 3.3.1, third paragraph**

The relationship between approximation of offences or their definition and the double criminality rule in the framework of mutual recognition should be further explored. The Commission is invited to make a report to the Council *which* will consider whether it is necessary and feasible to approximate the offences for which double criminality does not apply in the mutual recognition instruments.

### **Point 4.2.2, fifth paragraph**

The necessary EU and national structures need to be in place to ensure the implementation and management of the different information management tools. The European Council also calls for the establishment of an administration, as proposed by the Commission, having the competence and capacity to develop technically and manage large-scale IT-systems in the area of freedom, security and justice, *as referred to in the joint statements of the Institutions in December 2006 and October 2007*. Possible additional tasks should be considered by the Council in the light of the Information Management Strategy.

#### **Point 4.2.2, sixth paragraph**

Reflecting the discussions in the Council and the European Parliament, with a view to setting up an EU Passenger Names Record system, the European Council calls upon the Commission

- to propose an EU measure, *that ensures a high level of data protection*, on PNR for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime, based on an impact assessment.

#### **Point 4.2.3, fourth paragraph**

The European Council invites

- the Commission to assess whether the networking of criminal records makes it possible to prevent offences from being committed (e.g. through checks on access to certain jobs, particularly those relating to children), and *whether it is possible to extend the exchange of information on supervision measures*,

#### **Point 4.4.5, second paragraph**

The European Council calls upon the Member States and, where appropriate, the Commission to:

- enhance the capacity for financial investigations and combine all available instruments in fiscal, civil and criminal law. Forensic financial analysis must be developed by pooling resources, in particular for training; the confiscation of assets of criminals should be made more efficient and cooperation between Asset Recovery Offices made stronger,
- to identify assets of criminals more effectively and seize them and, whenever possible, consider re-using them wherever they are found in the EU common space,

- further develop information exchange between the Financial Intelligence Units (FIUs), in the fight against money laundering. Within the framework of the European Information Management System, their analyses could feed a database on suspicious transactions, for example within Europol,
- mobilise and coordinate sources of information to identify suspicious cash transactions and to confiscate the proceeds of crime, for instance through legislation on whether proceeds are legitimate or not,
- improve the prosecution of tax evasion and corruption *in the private sector* and the early detection of fraudulent market abuse (such as insider dealing and market manipulation), as well as the misappropriation of funds,
- facilitate the exchange of best practice in prevention and law enforcement, in particular within the framework of the Asset Recovery Office Network and the Anti-Corruption Network.

#### **Point 5.1, first and second paragraphs**

The Union must continue to facilitate legal access to the territory of the Member States while in parallel taking measures to counteract illegal immigration and cross-border crime and maintaining a high level of security. *The strengthening of border controls should not prevent access to protection systems by those persons entitled to benefit from them, and especially **people and groups** that are in vulnerable situations.* In this regard, priority will be given to the needs of international protection and reception of unaccompanied minors. *It is essential that the activities of Frontex and of the European Asylum Support Office are coordinated when it comes to the reception of migrants at the EU's external borders.* The European Council calls for the further development of integrated border management, including the reinforcement of the role of Frontex in order to increase its capacity to respond more effectively to changing migration flows.

The European Council therefore

- requests the Commission to put forward proposals *no later than* early 2010 to clarify the mandate and enhance the role of FRONTEX, taking account of the results of the evaluation of the Agency and the role and responsibilities of the Member States in the area of border control. Elements of these proposals can contain preparation of clear common operational procedures containing clear rules of engagement for joint operations at sea, with due regard to ensuring protection for those in need who travel in mixed flows, in accordance with international law; increased operational cooperation between Frontex and countries of origin and transit and examination of the possibility of regular chartering financed by Frontex In order to promote the proper enforcement of the applicable statutory framework for Frontex operations, the Commission should consider including a mechanism for reporting and recording incidents that can be satisfactorily followed up by the relevant authorities,
- invites FRONTEX itself to consider, within its mandate, establishing regional and/or specialised offices to take account of the diversity of situations, particularly for the land border to the East and the sea border to the South; creating such offices should on no account undermine the unity of the Frontex agency; before creating such offices, Frontex should report to the Council on its intentions,
- invites the Commission to initiate a debate on the long-term development of FRONTEX. This debate should include, as was envisaged in the Hague programme, the feasibility of the creation of a European system of border guards,
- invites the EASO to develop methods to better identify those who are in need of international protection in mixed flows, and to cooperate with Frontex wherever possible,
- considers that the evaluation of the Schengen area will continue to be of key importance and that it therefore should be improved by strengthening the role of Frontex in this field,
- *invites the Council and the Commission to support enhanced capacity building in third countries so that they can control efficiently their external borders.*

### **Point 5.1, sixth paragraph**

The European Council considers that technology can play a key role in improving and reinforcing the system of external border controls. The *entry into operation* of the SIS II and *the roll-out of the VIS* system therefore remains a key objective and the European Council calls on the Commission and Member States to ensure that they now become fully operational in keeping with the timetables to be established for that purpose. Before creating new systems, an evaluation of these and existing systems should be made and the difficulties encountered when they were set up should be taken into account. The setting up of an administration for large-scale IT systems could play a central role in the possible development of IT systems in the future.

### **Point 6.1.3, first paragraph**

The European Council recognises that labour immigration can contribute to increased competitiveness and economic vitality. In this sense, the European Council is of the opinion that the Union should encourage the creation of flexible admission systems that are responsive to the priorities, needs, numbers and volumes determined by each Member State and enable migrants to take full advantage of their skills and competence. In order to facilitate better labour matching, coherent immigration policies as well as better integration assessments of the skills in demand on the European labour markets are carried out. These systems must have due regard for Member States' competences, especially for managing their labour markets, and the principle of Union preference. (...)

### **Point 6.1.6, first paragraph**

The European Council is convinced that effective action against illegal immigration remains essential when developing a common immigration policy. The fight against trafficking in human beings and smuggling of persons, integrated border management and cooperation with countries of origin and transit, supported by police and judicial cooperation, in particular must remain a key priority for this purpose. *Our aim must be to prevent the human tragedies which the activities of human traffickers expose persons to.*



### Point 6.1.6, fifth paragraph

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

- encouraging of voluntary return, including through the development of incentive systems, training, reintegration and subsidies, and by using the possibilities offered by existing financial instruments,
- Member States to put into full effect the Union provisions pursuant to which a return decision issued by one Member State is applicable throughout the European Union and the effective application of the principle of mutual recognition of return decisions by recording entry bans in the SIS and facilitating exchange of information; improving the exchange of information on developments at national level in the area of regularisation, with a view to ensuring consistency with the principles of the Pact on Asylum and Migration,
- assistance by the Commission and Frontex and Member States on a voluntary basis, to Member States which face specific and disproportionate pressures, in order to ensure the effectiveness of their return policies towards certain third states,
- more effective action against illegal immigration and trafficking in human beings and smuggling of persons by developing information on migration routes as well as aggregate *and comprehensive* information which improves our understanding of and response to migratory flows, promoting cooperation on surveillance and border controls, facilitating readmission by promoting support measures for return and reintegration, capacity building in third countries,
- the conclusion of effective and operational readmission agreements, on a case-by-case basis at EU or bilateral level,
- ensuring that the objective of the EU's efforts on readmission should add value and increase the efficiency of return policies, including existing bilateral agreements and practices,
- the presentation by the Commission of an evaluation, also of ongoing negotiations, during 2010 of the EC readmission agreements and propose a mechanism to monitor their implementation. The Council should define a renewed, coherent strategy on readmission on that basis, taking into account the overall relations with the country concerned, including a common approach towards third countries that do not cooperate in readmitting their own nationals;

- increased practical cooperation between Member States, for instance by regular chartering of joint return flights, financed by Frontex and the verification of the nationality of third-country nationals eligible for return, and the procurement from third countries of travel documents,
- increased targeted training and equipment support,
- a coordinated approach by Member States by developing the network of liaison officers in countries of origin and transit.

**Point 6.2.1., fifth paragraph**

The European Council accordingly invites:

- the Council and the European Parliament to intensify the efforts to establish a common asylum procedure and a uniform status for those who are granted asylum or subsidiary protection by 2012 at the latest,
- the Commission to undertake a feasibility study on Eurodac as a supporting tool for the entire CEAS, while fully respecting data protection rules,
- the Commission to consider, if necessary, in order to achieve the CEAS, proposing new legislative instruments *on the basis of an evaluation*,
- the Commission to consider, once the CEAS has been established and, on the basis of an evaluation of existing legislation and of the EASO, the possibilities for creating a mechanism for the *transfer of protection of beneficiaries of international protection, when exercising their freedom of movement under EU law*,
- invites the Commission to finalise its study on the feasibility and legal and practical implications to establish joint processing of asylum applications

### **Point 6.2.3, first paragraph**

The EU should act in partnership and cooperate with third countries hosting large refugee populations. A common EU approach can be more strategic and thereby contribute more efficiently to solving protracted refugee situations. Any development in this area needs to be pursued in close cooperation with the UNHCR and, *if* appropriate, other relevant actors. The European Asylum Support Office should be fully involved in the external dimension of the CEAS. In its dealings with third countries, the EU has the responsibility to actively convey the importance of acceding to, and implementing of, the 1951 Geneva Convention on Refugees and its Protocol.

### **Point 6.2.3, third paragraph**

The European Council invites

- the Council and the Commission to enhance capacity building in third countries, in particular their capacity to provide effective protection, and to further develop and expand the idea of Regional Protection Programmes, on the basis of the forthcoming evaluations. Such efforts should be incorporated into the Global Approach to Migration, and *should be reflected in national poverty reduction strategies and not only be targeting refugees and internally displaced persons but also local populations.*
- the Council, the European Parliament and the Commission to encourage the voluntary participation of Member States in the joint EU resettlement scheme and increase the total number of resettled refugees, taking into consideration the specific situation in each Member State,
- the Commission to report annually to the Council and the European Parliament on the resettlement efforts made within the EU, to carry out a mid-term evaluation during 2012 of the progress made, and to evaluate the joint EU resettlement programme in 2014 with a view to identifying necessary improvements,
- the Council and the Commission to find ways to strengthen EU support for the UNHCR,

- the Commission to explore, in that context and where appropriate, new approaches concerning access to asylum procedures targeting main transit countries, such as protection programmes for particular groups or certain procedures, on a voluntary basis, for examination of applications for asylum, *in which Member States could participate on a voluntary basis.*

### **Point 7.2, first paragraph**

The Lisbon Treaty offers the Union new instruments as regards the protection of fundamental rights both internally and externally. The values of the Union should be promoted and strict compliance with and development of international law should be respected. The European Council calls for the establishment of a Human Rights Action Plan to promote its values in the external dimension *of JLS policies*. This Plan should be examined by the European Council and should take into account that internal and external aspects of Human Rights are interlinked, for instance as regards the principle of non-refoulement or the use of death penalty by partners that the Union cooperate with. The Plan should contain specific measures in the short, medium and long term, and designate who is responsible for carrying out the actions.

### **Point 7.5, twelfth paragraph**

The European Council notes that the 2007 **EU-Africa** Joint Strategy and Action Plan define the scope of cooperation in the areas of counter-terrorism, transnational crime and drug trafficking. Both within the EU-Africa Partnership on Mobility, Migration and Employment (MME) and the EU Global Approach to Migration, and the follow up process of the Rabat, Paris and Tripoli conferences, the dialogue on migration should be deepened and intensified with African Partners, focussing on countries along the irregular migration routes to Europe with a view to assisting those countries in their efforts to draw up migration policies and responding to illegal immigration at sea and on the borders. Efforts should be made to enhance cooperation, including the swift conclusion of re-admission agreements, with Algeria, Morocco and Egypt, *and, in line with the European Council conclusions in October 2009, with Libya.*