

Minister McDowell's statement, on behalf of the Council of Ministers, at the European Parliament responding to the annual debate on an area of freedom, security and justice

Date: 11 Feb 2004

I would like to thank you for this opportunity to discuss work of the Justice and Home Affairs Council in 2003. I would particularly like to thank José Ribeiro e Castro for compiling the questions on which I will base my comments.

I want to first pay tribute to the work of the Greek and Italian Presidencies in advancing the JHA agenda during 2003. Significant progress was made on a whole range of JHA issues covering both legislative measures and operational co-operation in compliance with the Tampere European Council Conclusions and the mandate from subsequent European Councils. The measure of that progress can be seen in the fact that during that period the Council adopted nine Regulations, five Directives, three Framework Decisions, two Conventions, several agreements with third countries, more than twenty Decisions and more than thirty Resolutions and Conclusions.

Although the focus of the debate is on progress during 2003, you have framed your questions in the context of the significant events of this year and I will bear this in mind in my response. The Irish Presidency is very conscious of the significance of this year for the Union and also for the creation of an area of freedom, security and justice. The key objectives of our Presidency are to make progress on the Amsterdam requirements and to take forward work on the extended Tampere programme. We will also continue to promote operational co-operation, particularly in relation to police and customs.

Asylum and immigration policy

Turning now to asylum and immigration, I would like to mention some of last year's achievements.

In the context of asylum, the adoption of the Dublin II Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application and the Directive on minimum standards for the reception of asylum seekers were major achievements.

Progress has also been made on two other key asylum proposals - the Procedures Directive and the Qualifications Directive. However, despite the best efforts of the Italian and Greek Presidencies, it was not possible to reach agreement on these proposals. These measures have been progressed under successive Presidencies and it will now fall to the Irish Presidency to attempt to resolve the outstanding issues in keeping with the requirements of Tampere and the Amsterdam Treaty. We will now make every effort to get agreement on these texts, within the timescale specified by the Amsterdam Treaty.

2003 also saw the adoption of the first legal instruments in the area of legal immigration - the Directive on the right to family reunification and the Directive on the status of third-country nationals who are long term residents. The Council intends to progress work on the Directives on the conditions of entry and

residence of third-country nationals for the purpose of study, vocational training and voluntary services and for the purpose of research.

In the area of illegal immigration, the Council reached agreement on the Directive on assistance in the case of transit for the purpose of removal by air and the Decision on the organisation of joint flights. On an operational level, various joint projects were carried out at land, sea and air borders, including the establishment of an Ad-Hoc Centre for Border Guard Training. The Council also adopted a programme of measures to combat illegal immigration across maritime borders.

The strengthening of border controls against illegal immigration will continue to be a Council priority in 2004. The Council intends to continue work on the draft Regulation establishing the European Agency for the Management of Operational Cooperation at the External Borders, in keeping with the conclusions on this proposal adopted by the JHA Council in November. I hope that this can be agreed during the Irish Presidency.

I would also mention that readmission agreements were concluded by the Commission with Hong Kong and the agreement between the EU and Macao was signed. Negotiations are on-going in relation to readmission agreements with Morocco, Russia and the Ukraine.

Judicial co-operation in civil matters

The Tampere European Council made mutual recognition the cornerstone of judicial co-operation in civil and commercial matters and specified a programme of measures for this purpose. There has been steady progress in the area of judicial cooperation in civil law area since then and 2003 was no exception.

Key measures adopted last year include the Legal Aid Directive and the Regulation on parental responsibility. The Council also reached a general approach on the proposed Regulation creating a European Enforcement Order for Uncontested Claims. I hope the Council and the European Parliament can work together effectively to enable this proposal to be adopted in coming months. Discussions will continue within the Council framework during 2004 on the proposed Rome II Regulation on the law applicable to non-contractual obligations, which also comes under the co-decision procedure. I also understand that the Commission intend to present a proposal for a Regulation to establish a European order for payment procedure in coming weeks.

Your question also referred to the work of the Hague Conference on Private International Law. In recent years, on the basis of negotiating mandates adopted by the Council, the Community has been able to participate actively in the work of the Conference where there are matters under discussion which concern its competence. In April last year, on foot of a Council Decision, Member States signed the 1996 Hague Protection of Children Convention both on their own behalf and in the interest of the Community. The increased engagement of the Community with the Hague Conference is reflected in the fact that the Council has authorised the Commission to initiate negotiations with the Conference on the possible accession of the Community to that body.

Judicial co-operation in criminal matters

In the area of criminal judicial co-operation, the Council made progress last year both on measures aimed at promoting co-operation and measures in the area of mutual recognition. Among the measures adopted were the Framework Decision on combating the sexual exploitation of children and child pornography, the Framework Decision on combating corruption in the private sector and the Framework Decision on the protection of the environment through criminal law. The JHA Council also agreed the Framework Decision on Drugs.

A Decision to sign the agreements between the EU and the US on extradition and mutual legal assistance in criminal matters was also agreed last year.

As far as trafficking in human beings and third countries is concerned, the Brussels Declaration on Preventing and Combating Trafficking in Human Beings, endorsed by the Council last May, provides the basis for a comprehensive five-year work programme. The Irish Presidency will continue to support Commission initiatives to combat trafficking in human beings, bearing in mind the contents of that Declaration and the work of the Expert Group on trafficking in human beings established in 2003.

I understand that the European Arrest Warrant has been implemented by eight Member States. The remaining Member States are in the process of preparing the necessary legislation. The Acceding States will have to apply the Framework Decision on the European arrest warrant from the date of accession.

As regards procedural safeguards, I understand the Commission will publish their legislative proposals in the course of this session.

On data protection in the third pillar, I would point out that various instruments already incorporate provisions to ensure the protection of personal data, for example, the Schengen Convention, the Europol Convention and the Eurojust Decision.

Police co-operation / Europol

Progress has also taken place in the area of police cooperation.

All the Member States share the view that Europol has to play a leading role in supporting the law enforcement agencies of the European Union in the fight against international organised crime and terrorism. It is a key agency in promoting the effectiveness of and cooperation between the law enforcement agencies of the Union. The priority areas for Europol agreed by Council are drugs, Euro counterfeiting, terrorism, trafficking in human beings (including illegal immigration) and financial crime. Moreover, the police of the Member States co-operate closely to fight serious transnational crime on a daily basis. Many operational successes have been achieved in recent years, for example as regards drugs, terrorism, trafficking in human beings and child pornography. Europol has regularly been involved in providing support for operations in accordance with the Europol Convention.

Last November, the JHA Council signed a Protocol amending the Europol Convention which included several provisions aimed at improving the functioning

of Europol. Furthermore the Council adopted several instruments relating to the operational functioning of Europol, including the approval of a number of co-operation agreements between Europol and other States.

Other measures adopted in the course of the year included a Decision on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States and a Decision amending the Schengen Convention to allow for the carrying out of cross-border surveillance on persons suspected of involvement in a criminal offence.

The Chiefs of Police Task Force and CEPOL - the European Police College- also continue to play an important role in the development of police co-operation at EU level.

Enlargement

Just a few remarks about the ultimate steps before enlargement becomes reality

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The Accession Treaty which has been ratified by all the parties concerned, provides that, in general, acts related to the establishment of an area of freedom, security and justice will be applied to the new Member States by 1 May 2004.

For the Schengen acquis, however, there is a two-step process. The Acceding States will participate in Schengen-related measures on the lifting of internal border controls, including participation in the Schengen Information System, at a later stage after 1 May 2004.

The accession Treaty also includes a safeguard clause. This provides that appropriate measures can be taken, up to 2007, if there are serious shortcomings or any imminent risks of such shortcomings in the transposition, state of implementation, or the application of legislative measures in certain areas of Justice and Home Affairs.

Transparency

I will conclude my comments by briefly addressing your question about making EU business accessible to its citizens. The Council acknowledges the importance of transparency in EU business. It is worth noting that the Regulation on public access to EU documents, adopted in 2001, promotes transparency and provides for greater participation of EU citizens in the decision-making process.

There is a high level of full access to legislative documents and partial access to other documents covering the current negotiations. At present 55% of the approximately 450,000 documents of the Council document register are directly accessible to the public on the Internet, in all the languages of the EU.

The conclusions of each JHA Council meeting are available to the public as are the texts of all adopted measures.

I hope that my comments have given you an overview of the achievements in the Justice and Home Affairs area during 2003. I thank you once again for giving me this opportunity and I look forward to continuing co-operation between the European Parliament and the Council in this historic year.

