


Analytical examination of the *acquis communautaire*
Screening CHAPTER 23 - JUDICIARY AND FUNDAMENTAL RIGHTS



Draft Agenda for the Explanatory meeting on 7-8 September 2006
Brussels,

First day 7 September 2006

Topic	Time and Speaker	Legal instruments for Reference ¹
Welcome/ Opening	9.15- 9.30 DG ELARG [REDACTED]	
General Introduction on main principles of chapter 23 screening	9.30 – 9.45 DG JLS [REDACTED]	
1. <u>Judiciary</u>	9.45 / 11.15 DG JLS [REDACTED] DG ELARG [REDACTED]	
1.1. Independence (legal and administrative conditions of employment, including appointments, promotion, transfers, dismissal...)		<ul style="list-style-type: none"> ▪ European Convention of Human Rights ▪ UN Basic Principles on the Independence of the Judiciary, 29 November 1985, A/RES/40/32. ▪ European Guidelines on Ethics and conduct for public prosecutors (the Budapest guidelines) adopted by the Conference of Prosecutors General of Europe on 31/5/2005.

¹ The list of legal instruments included in this agenda is indicative and not exhaustive.

<p>1.2. Impartiality</p> <p>(including code of ethics/code of conduct, anti-corruption policy and accountability of judges)</p> <p>1.3. Professionalism/competence</p> <p>(including in and pre-service training,)</p> <p>1.4. Efficiency</p> <p>(including sufficiency of resources, enforcement of judgments)</p> <p>1.5. Judicial Reform</p> <p>(including reform strategies/ action plans)</p>		<ul style="list-style-type: none"> ▪ Bangalore Principles of Judicial Conduct” (“Bangalore Principles”), adopted by the UN Human Rights Commission on 23 April 2003 ▪ Recommendation No. R (94) 12 of the Committee of Ministers of the Council of Europe to Member States on the Independence, Efficiency and Role of Judges adopted by the Committee of Ministers on 13 October 1994 at the 518th meeting of the Ministers’ Deputies. ▪ Opinion No 2 (2001) of the Consultative Committee of European Judges on the Funding and Management of Courts ▪ Recommendation No R (86) of the Council of Europe on Measures to Prevent and Reduce the Excessive Workload in Courts ▪ Council of Europe recommendation Rec(2000)19 on the Role of Public Prosecution in the Criminal System
<i>Questions and answers</i>	11.15 - 11.30	
<i>Coffee break</i>	11.30 - 11.45	
<p>2. <u>Anti-Corruption policy</u></p> <p>2.1 EU Instruments</p> <p>2.2 International instruments</p>	<p>11.45 - 12.45</p> <p>DG JLS – </p>	<p>Convention of 26 May 1997 on the fight against corruption involving officials of the European Communities or officials of the Member States of the EU</p> <ul style="list-style-type: none"> ▪ OJ C 195, 25.6.1997 ▪ Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector <i>OJ L 192, 31.7.2003, p.54</i> ▪ Council Decision 2004/579/EC of 29 April 2004 on the conclusion, on behalf of the European Community, of the United Nations Convention against Transnational Organised Crime <i>OJ L 261, 6.8.2004, p.69</i>

2.3 The links between corruption and other areas: <ul style="list-style-type: none"> ◦ good governance ◦ economic development ◦ fighting organised crime 		<ul style="list-style-type: none"> ▪ UN Convention against Corruption, Merida 2003 ▪ OECD-Convention on Combating Bribery of foreign public officials in International Business Transactions, of 17 December 1997; (also relevant for judicial cooperation in penal matters) ▪ Council of Europe Criminal Law convention on Corruption, opened to signature on 27 January 1999; (also relevant for judicial cooperation in penal matters) ▪ Council of Europe Civil Law convention on corruption, opened to signature on 4 November 1999 ▪ UN Convention against Transnational Organized Crime, Palermo December 2000. ▪ Convention of 26 July 1995 on the protection of the European Communities' Financial Interests: JO C 316 of 27 November 1995 (also relevant for judicial cooperation in penal matters);
<i>Questions and answers</i>	12.45 - 13.00	
<i>Lunch</i>	13.00 - 14.30	
3. Fundamental Rights	14.30 - 14.45	
3.1.General Introduction	DG JLS 	
3.2. Basic human rights <ul style="list-style-type: none"> • Right to life and to the integrity of the person • Prohibition of torture and inhuman or degrading treatment or punishment. • Prohibition of slavery, servitude, and forced or compulsory labour. • Respect of private and family life and communications. • Protection of personal data (<i>See hereafter 3.6. and chapter 24 for</i> 	14.45 - 16.15 DG JLS 	<ul style="list-style-type: none"> ▪ <u>Articles 6 and 7 of the Treaty on European Union</u>, and related <u>case law</u> of the European Court of Justice ▪ <u>European Convention</u> for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950) as amended by Protocol No. 11 and its Protocol of 1952; ▪ <u>Charter of fundamental rights of the European Union</u>, OJ C 364 of 18 December 2000, p.1 ▪ Protocol N°4 of 1963 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950) and its Protocol of 1952

provisions related to police co-operation).

- Right to marry and right to found a family.
- Freedom of thought, conscience and religion
- Freedom of expression including freedom and pluralism of the media.
- Freedom of assembly and association, including freedom to form political parties, the right to establish trade unions. (*as concerns trade unions, see chapter 19*)
- Treatment of socially vulnerable and disabled persons and principle of non discrimination. (*see chapter 19*)
- Right to education
- Right to property.

- Gender equality and women's rights

- Rights of the Child

DG JLS



- Protocol N°6 concerning the abolition of the death penalty of 1983
- UN Convention on the elimination of all forms of racial discrimination (New-York; 7 March 1966);
- Council of Europe Convention on the protection of individuals with regard to automatic processing of personal data (Strasbourg, 28 January 1981);
- European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Strasbourg, 26 November 1987);
- The following protocols to the European Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950) as amended by Protocol No. 11:
 - Protocol n° 1 of 1952
 - Protocol N°4 of 1963
 - Protocol N°6 on the abolition of the death-penalty of 1983
 - Protocol N°7 of 1984.
 - Protocol N°12 of 2000.
 - Protocol N°13 of 2002

- UN Declaration on the elimination of violence against women (General Assembly resolution 48/104 of 20 December 1993)
- Council of Europe Recommendation Rec (2002) 5 on the protection of women against violence

- UN Convention on the rights of the child (New-York, 20 November 1989).
- Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000)
- Council Framework Decision 2004/68/JHA of 22 December 2003 on combating

		<p>the sexual exploitation of children and child pornography, OJ L 13 of 20.01.2004, p. 44 (also relevant for judicial cooperation)</p> <ul style="list-style-type: none"> ▪ Council Decision of 19 December 2002 authorising the Member States, in the interest of the Community, to sign the 1996 Hague Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children, OJ L 048 of 21.02.2003, p. 1.
<i>Questions and answers</i>	16.15 / 16.30	
<i>Coffee break</i>	16.30 / 17.00	

End of day one

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3. <i>Fundamental Rights</i> (continued)		
<u>3.3. Procedural safeguards</u>	9.30 - 10.30	
Liberty, security and Right to a fair trial, including access to justice and presumption of innocence	DG JLS [REDACTED]	<ul style="list-style-type: none"> • European Convention of Human Rights, Art 5, 6, 7, 13, Protocol 4 Art 1, Protocol 7 Art 2, 3 and 4, • Charter of fundamental rights of the European Union, OJ C 364 of 18 December 2000, p.1 (Articles 47-50)
Access to justice (civil law/including legal aid)	DG JLS [REDACTED]	<ul style="list-style-type: none"> • Resolution No R (76) 5 on legal aid and Resolution (78) 8 on legal aid and advice. ▪ Commission Decision 2005/630/EC of 26 August 2005 establishing a form for the transmission of legal aid applications under Council Directive 2003/8/EC, OJ L 225, 31/08/2005, p. 23 ▪ Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, OJ L 261, 6.8.2004, p.15.
<i>Questions and answers</i>	10.30 / 10.50	

<i>Coffee break</i>	10.50 / 11.10	
3.4. Minority rights and cultural rights	11.10 / 12.00	
Minority Rights	LS – [REDACTED]	<ul style="list-style-type: none"> • Council of Europe Framework Convention on the protection of Minorities (Strasbourg, 1 February 1995) • European Charter for Regional or Minority Languages
Measures against racism and xenophobia	DG JLS [REDACTED] [REDACTED]	<ul style="list-style-type: none"> • Joint Action of 15 July 1996 concerning Action to Combat Racism and Xenophobia: OJ L 185 of 24 July 1996; • Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia (OJ L 151, 10.6.1997, p. 1.), as amended by Regulation (EC) No 1652/2003 of 18 June 2003 (OJ L 245, 29.9.2003, p. 33.)
3.5. The future EU Fundamental Rights Agency		
<i>Questions and answers</i>	12.30 / 13.00	
<i>Lunch</i>	13.00 / 14.30	
3.6. Protection of personal data	14.30 – 15.15 DG JLS [REDACTED]	<ul style="list-style-type: none"> • United Nations guidelines concerning Computerized personal data files, adopted by the General Assembly on 14 December 1990 • Organisation for Economic Co-operation and Development (OECD): Recommendation of the Council concerning guidelines governing the protection of privacy and transborder flows of personal data, adopted by the Council 23 September 1980 • European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR): Article 8 • Convention 108/81 for the Protection of Individuals with regard to Automatic Processing of Personal Data (Strasbourg, 28 January 1981) - Additional Protocol to the Convention regarding supervisory authorities and transborder data flows, CETS No 181 (Strasbourg, 8 November 2001). • Treaty on the European Union (TEU): Article 6 • Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of

		<p>personal data and on the free movement of such data, OJ L 281, 23.11.1995, p. 31.</p> <ul style="list-style-type: none"> • EU Charter of Fundamental Rights of 7 December 2000 • Judgement of the European Court of Justice of 20 May 2003, Joint Cases C-465/00, C-138/01 and C-139/01 - Rechnungshof • Judgment of the European Court of Justice of 6 November 2003, Case C-101/01 - Bodil Lindqvist • Judgment of the European Court of Justice of 30 May 2006 Joined Cases C-317/04 and C-318/04 - PNR data <p>– <u>Commission decisions on the adequacy of the protection of personal data in third countries:</u></p> <ul style="list-style-type: none"> - ARGENTINA : Commission Decision C (2003) 1731 of 30 June 2003 - OJ L 168, 5.7.2003 - CANADA : Commission Decision 2002/2/EC of 20.12.2001 on the adequate protection of personal data provided by the Canadian Personal Information Protection and Electronic Documents Act - OJ L 2, 4.1.2002, p.13. - SWITZERLAND: Commission Decision 2000/518/EC of 26.7.2000 - OJ L 215, 25.8.2000, p. 1. - UNITED STATES OF AMERICA: <i>Safe Harbor</i>: Commission Decision 2000/520/EC of 26.7.2000 - OJ L 215, 25.8.2000, p. 7. - GUERNSEY : Commission Decision 2003/821/EC of 21 November 2003 on the adequate protection of personal data in Guernsey - OJ L 308, 25.11.2003, p. 27. - ISLE OF MAN : Commission Decision 2004/411/EC of 28.4.2004 on the adequate protection of personal data in the Isle of Man, - OJ L 151, 30.4.2004, p. 48. <p><u>Model contracts for the transfer of personal data to third countries:</u></p>
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		<ul style="list-style-type: none"> • Commission Decision 2001/497/EC on standard contractual clauses for the transfer of personal data to third countries, of 15 June 2001 under the Directive 95/46/EC; OJ L 181, 4.7.2001, p. 19. • Commission Decision 2004/915/EC of 27 December 2004 amending Decision 2001/497/EC as regards the introduction of an alternative set of standard contractual clauses for the transfer of personal data to third countries; OJ L 358, 29.12.2004, p. 74. • Commission Decision 2002/16/EC on standard contractual clauses for the transfer of personal data to processors established in third countries of 27 December 2001, under Directive 95/46/EC; OJ L 006, 10.1.2002, p. 52. <p>– <u>Data protection in European institutions and European Data Protection Supervisor:</u></p> <ul style="list-style-type: none"> • Regulation (EC) 45/2001 of the European Parliament and of the Council of 18. December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data; OJ L 8, 12.1.2001, p. 1. • Decision No 1247/2002/EC on the regulations and general conditions governing the performance of the European Data-protection Supervisor's duties, OJ L 183, 12.7.2002, p. 1 • Decision No. 2004/55/EC of the European Parliament and of the Council of 22 December 2003 appointing the independent supervisory body provided for in Article 286 of the EC Treaty (European Data Protection Supervisor); OJ L 12, 17.1.2004, p. 47.
<i>Questions and answers</i>	15.15 – 15.30	
<i>Coffee break</i>	15.30 – 15.45	
4. EU Citizen's rights	15.45 – 16.45	<ul style="list-style-type: none"> ▪ Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976, relating to the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, OJ L 278 of 8.10.1976, p. 5, as amended
4.1 Right to vote and stand as a		

<p>candidate in elections to the European Parliament</p> <p>4.2 Right to vote and stand as a candidate in municipal elections</p> <p>4.3 Right to move and reside freely within the European Union</p> <p>4. 4. Diplomatic and consular protection</p>	<p>DG JLS</p> <p>[REDACTED]</p>	<ul style="list-style-type: none"> ▪ Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals, OJ L 329 of 30.12.1993, p. 34 ▪ Council Directive (94/80/EC) of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in municipal elections for citizens of the Union residing in a Member State of which they are not nationals, OJ L 368, 31/12/1994, p. 38, as amended ▪ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, amending Regulation (EEC) No 1612/68 and repealing directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, OJ L 158, 30/04/2004, p. 77 ▪ Decision of the Representatives of the Governments of the Member States meeting within the Council of 18 December 1995 regarding protection for citizens of the European Union by diplomatic and consular representations, OJ L 314, 28/12/1995, p. 73 ▪ Decision of the Representatives of the Governments of the Member States (96/409/CSFP) meeting within the Council of 25 June 1996 on the establishment of an emergency travel document, OJ L 168, 06/07/1996, p. 4
Questions and Answers	16.45 / 17.00	
Conclusions	17.00 / 17.15	

The acquis related to this chapter published in the Official Journal can be found in the EURLEX database <http://europa.eu.int/eur-lex/lex/en/index.htm>, (click first on *legislation in force* and then on *Directory of Community legislation in force*), under the following sub-headings: 13.20; 19.30; 20.10; 20.20