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**Speech at the conference on the competence of the European Court of Justice
in the area of freedom, security and justice**

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Professore Rettore,

Your Honour,

Excellencies,

Ladies and gentlemen,

I am glad to be here today at the invitation of the Italian Presidency of the Council to discuss the important changes that the end of the Lisbon Treaty transition will bring. This is an important moment for the normalisation of the former Third Pillar into Union law, giving new rights to citizens and ensuring that our common European interest in safe, secure communities is reflected in the way we, and our law enforcement bodies and courts, work together to combat terrorism, organised crime and other threats to our societies.

The new powers given to the European Court are the embodiment of our European commitment to balancing the various fundamental rights at play here - such as personal security, privacy, and the guarantee to live in a peaceful and respectful society in which the rule of law is a given.

The work of the European Court and the jurisdictions and practitioners it from now will oversee is something about which I have always cared very deeply – in fact, I even happen to be married to a judge! It was important to me to be able to address you at this significant moment. You are the backbone of police and criminal justice cooperation – you are the people making it happen every day on the ground. And on 1st December a number of things will change. As practitioners, you obviously have heaps of questions on how that will affect your daily work, what will happen to the instruments you use.

It's the beginning of a new chapter – or rather the end of an old one. The so-called "third pillar" is finally coming to a close. And with the end of that chapter, the remaining part of the justice and home affairs cooperation is finally (*finally!*) back into the fold, fully part of the mainstream, and – just as importantly – joined up with the rest of justice and home affairs policies.

From December 1st, no more special status: all EU policies for police and criminal justice are "normal" EU policies.

Some might think the process long. But let's not forget that before the Amsterdam Treaty which entered into force in 1999, this was all purely intergovernmental. What a lot has changed in these last 15 years... the recognition that we Europeans need to work together on these issues has too frequently been evident at the most tragic moments – 9/11, Madrid and London.

Justice and Home affairs has always been and always will be a sensitive area; and that's why we had these five years to make sure that the transition happened in the best possible way, to have a gradual transition for all the pre-Lisbon measures.

I think everyone will agree that those five years to prepare the ground were necessary. One thing it has allowed us to do is to revise and improve a number of existing measures. We've also been able to take the time to do a great spring clean of old existing measures, to see what is useful for us to take forward together and what is out of date.

It's been a collective effort. A number of acts were obsolete, some instruments have never been applied, some never even entered into force.

We'll soon be announcing the list of measures that are outdated or overtaken: of course we are only scrapping the stuff that we don't need. With my other 'better regulation' hat on (that's my other main responsibility in the Commission – ensuring legislation is as simple and effective as can be)... so, with my 'better regulation' hat on, I want this fresh start to be really meaningful, and to bring former policies fully in line with the new EU norm.

So, apart from the repeal of obsolete instruments, what else will change from December? Above all, the European Court of Justice will now be able to play its full role. First, as an interlocutor for national courts: all will now be able to turn to it for preliminary rulings when they have doubts about the correct interpretation or application of a particular instrument.

Secondly, the Court will also be able to fully play its part as ultimate reference point. This is linked to the Commission's new tasks: it will be the Commission's job to check on the ground that agreed rules are properly transposed into national legislation (as on all EU measures). And when a member state neglects its duties, when there are breaches, then the Commission can bring that to the Court. As can those directly affected – which is a huge step forward from the intergovernmental approach.

This is a big change. It makes a reality of what EU law can mean for individuals – those who want their rights upheld but also those who by their own actions deserve to be brought to justice, wherever they happen to be in our Union.

Our Member States are already adapting to this new norm.

The job of the Commission is to partner them in this change.

So don't expect some sort of avalanche of bureaucratic infringement cases on 1st of December!

This is not what it is about.

The whole point of these new roles, for the Court and for the Commission, is to bring more added value. We must do that primarily through dialogue and cooperation; together let's close in on any gaps or inconsistencies in the system. For a very simple reason: mutual recognition instruments are co-operation instruments. They can't work properly unless they are implemented in all the countries concerned.

It's a question of trust – trust in each other's system, trust between countries that they share and apply the same rules, the same standards. We can't afford to have any weaknesses turn into loop holes that could be exploited by cross-border criminals.

Laws are only as good as how they are implemented.

That's where the added-value of the European Court of Justice and the Commission lies: quality-assurance.

Guaranteeing, whenever measures are decided and countries commit to implement them, that there will be a quality check. And as prevention is always better than cure, the Commission is always there to help with transposition. That's the whole point: making sure that more care is put into transposing common rules. And in any case, before any infringement proceedings, the first step will normally always be to have a constructive dialogue between the Commission and the Member State, through what we call 'EU Pilot'.

Two aspects are particularly vital when it comes to trust and mutual recognition: security and fundamental rights.

Those are the key considerations for countries when they sign up to cooperation measures, whether you're talking about pre-trial custody, probation measures, asset freezes, or allowing convicts to serve out their sentences in their home countries.

The Commission's role is to deal with possible gaps in the legal framework to ensure that criminal activities can neither hide behind borders nor abuse differences between national legal systems. That's what citizens expect – because failure to do so can have a real impact on security.

And mutual trust between countries when it comes to criminal law is of course intrinsically linked to common standards for fundamental rights, and here also, the Court of Justice has a key role to play.

Take for instance the 2008 Prüm decisions on automated exchanges of DNA, fingerprints and vehicle registration numbers. That kind of decision will only be accepted by citizens if there is mutual trust in robust systems to protect fundamental rights, including personal data protection. The same goes for fair trial rights, which is why common minimum standards have been developed throughout our Union to protect persons suspected or accused of a crime, and to safeguard the rights of victims of crime.

Criminal law will always be a sensitive policy field, and one deeply rooted in long-standing national legal traditions.

The Commission therefore attaches a lot of importance to all EU initiatives on criminal law conforming to the highest possible standards of subsidiarity and proportionality.

EU harmonisation of criminal law should only happen when there is clear evidence that it is necessary.

For instance on crimes where there is very clear cross-border nature, like on trafficking in human beings, sexual exploitation of children or cybercrime – also market abuse in the framework of the single market.

This approach – focusing on cross-border crime – has the full backing of all the member states. And as European Council leaders made it clear last June in the strategic guidelines they set out: the emphasis now must be on transposition, implementation, consolidation. Because of the political sensitivity of police and criminal law, certain Member States have always had a special status.

The price for abolishing the 'third pillar' was to extend somewhat the scope this variable geometry.

Nevertheless, the Commission's objective has always remained to ensure the widest possible participation of all Member States in this body of Union policy.

This is why the Commission has made every effort, in close cooperation with the Council, to ensure that the United Kingdom will be able to continue participating in a number of key policy instruments.

The Commission supports the United Kingdom Government's wish to continue participating in 35 measures, among which the European Arrest Warrant, Europol, and Eurojust, and took note of the House of Commons vote on Monday. It is important for the safety and security of British society but also societies in all our European countries at a time where the threats are very real. Subject to the conclusion of the ongoing domestic parliamentary process, I am confident that the Commission and Council will be in a position to take all the necessary decisions by 1 December.

So, December 1st is just around the corner, and it will mark a milestone for cross-border cooperation in police and criminal justice matters.

I am confident to transition will go smoothly.

Security, justice and fundamental rights are at the heart of how citizens see today's European Union. And given the insecurity in the European neighbourhood today – foreign fighters being just one example – the logic that together we are stronger has never been so evident.

Citizens expect that justice is done throughout Europe, that there are no safe havens for criminals, and that crime does not pay. At the same time, they have the right to expect that nobody is put into prison without a fair trial and that criminal law enforcement respects fundamental rights at all times. That our borderless Europe is built on the strong foundations of mutual trust between national justice systems. And Europe is a Union of law above all – this is our unique characteristic and our unique advantage.

The rule of law. This is what December 1st will be about.

I wish you all a very fruitful conference.

Thank you.