



**COUNCIL OF
THE EUROPEAN UNION**

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7374/00

LIMITE

**PV/CONS 12
JAI 29**

DRAFT MINUTES¹

Subject : **2251st Council meeting (Justice and Home Affairs)** held in Brussels on
27 March 2000

¹ Information on the final adoption of Council acts which may be released to the public may be found in Addendum 1 to these minutes.

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1. Open debate on the protection of victims in the European judicial area

10491/99 JAI 63

The Presidency stated that it wished to submit an initiative for the adoption of a framework Decision on the status of victims in criminal proceedings, based on point 51(c) of the Vienna action plan, point 32 of the conclusions of the Tampere summit and the Commission communication of 14 July 1999.

It emerged from the ensuing open debate that all the Member States supported this Presidency proposal and that, moreover, several of them had recently taken such initiatives at national level. The Commission referred in particular to the content of its communication of 14 July 1999 which could be used as a basis for discussing the protection of victims.

Various new suggestions were made by certain delegations such as compensation of victims by the Member State on whose territory they resided, training of staff with whom victims came into contact during criminal proceedings, increased use of mediation and the possible role of the European Judicial Network.

It was also stressed that those Member States which had not yet ratified the Council of Europe Convention of 24 November 1983 on the Compensation of Victims of Violent Crimes should do so without delay.

These points would be taken into consideration by the Presidency when drawing up the draft framework Decision on the status of victims in criminal proceedings.

2. Adoption of the agenda

7150/1/00 REV 1 OJ/CONS 12 JAI 27

The Council adopted the agenda with the addition of the following four items under "Other Business":

- (a) Initiative on drugs (request by the United Kingdom delegation);
- (b) Initiative for a framework Decision on criminal law protection against fraudulent or unfair anti-competitive conduct in relation to the award of public contracts in the common market (request by the German delegation);
- (c) Euro-Mediterranean-Israel dialogue (request by the Finnish delegation);
- (d) Very high level conference on asylum questions (request by the Presidency);

3. Approval of the list of "A" items

7151/00 PTS A 12

The Council approved the "A" items listed in 7151/00 PTS A 12.

Information concerning items 3,8,9,17 and 19 on the list of "A" items will be found in Addendum 1 to these minutes.

4. Scoreboard: presentation by the Commission

The Council welcomed the presentation by the Commission of the scoreboard showing progress made in the creation of an area of freedom and security, in response to the request made to it by the European Council in Tampere on 15 and 16 October 1999.

The Council gave its political support to the scoreboard approach proposed by the Commission.

The Council noted that the scoreboard should be a rolling document and that the Commission intended to update it regularly for submission to the Council every six months. The Council instructed the Permanent Representatives Committee, with the assistance of the Council General Secretariat, to assess whether the Council's working structures and the human resources available in the General Secretariat were appropriate for the many tasks to be carried out and to take any necessary decisions to ensure that the various measures included in the scoreboard were carried out within the timescales laid down.

5. **Framework Decision on increasing protection by penal and other sanctions against counterfeiting in connection with the introduction of the Euro**
7047/00 DROIPEN 10

Subject to parliamentary scrutiny reservations by the Danish and Swedish delegations, political agreement was reached on the draft Framework Decision. The draft would be edited by the legal-linguistic experts in accordance with the usual procedure for adoption at the May 2000 JHA Council. Following an intervention by the French delegation, the Commission informed the Council that it would present an initiative in the near future for further measures (cooperation and training).

6. **Draft Convention on mutual assistance in criminal matters between the Member States of the EU**
7112/00 COPEN 21 COMIX 280
7046/00 COPEN 19 COMIX 278

The outcome of proceedings concerning this item is set out in document 7615/00 COPEN 25 COMIX 327.

7. **Framework Decision establishing joint teams to conduct criminal investigations in one or more Member States: political agreement**
5698/1/00 CATS 6 REV 1

The French, German and Netherlands delegations questioned whether the moment was opportune to act before the draft Convention on mutual assistance was adopted whereas the Italian delegation took a positive approach to the Presidency's proposal.

The President of the Council concluded that there was agreement to implement the Tampere conclusions but that there was an element of timing to be taken into account in order to assess which would be the quickest way to proceed. A working party could examine the matter, which could revert to the Council at an appropriate moment.

8. The prevention and control of organised crime: a European strategy for the beginning of the new millennium

6611/00 CRIMORG 36

+ COR 1 (en)

The Council approved the document, decided on its publication in the Official Journal, and concluded that it would be attentive to the views of the European Parliament in the implementation of strategy.

9. Collective evaluation: preliminary country reports on the Czech Republic and Hungary

6613/00 EVAL 12 ELARG 30

9765/6/99 EVAL 41 ELARG 82 REV 6 (RESTREINT)

5261/2/00 EVAL 1 ELARG 1 REV 2 (RESTREINT)

The Presidency included this item on the agenda to ensure that the Collective Evaluation Working Party's (CEWP) activities were known at all levels, particularly in view of developments in the enlargement negotiations. The Council took note of the reports on the Czech Republic and Hungary, approved by the CEWP and Coreper, and the Commission and Member States were called on to take account of them in the enlargement negotiations in accordance with the Joint Action of 1998.

After interventions by the French, German and Netherlands delegations, the President requested the Council Secretariat :

- to draw up documents containing comments on the coming draft EU negotiating positions indicating the main shortcomings per candidate country emanating from the CEWP's work, for submission to the Enlargement Working Party, and

- to continue its work on analysing and evaluating the JHA situation in the candidate countries.

10. Proposal for a Council Regulation on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for joint children

7111/00 JUSTCIV 29
8672/99 JUSTCIV 82

The Council

- noted that there was agreement on all the basic provisions of the proposal for a Regulation, taking account of the Presidency compromise in 7111/00 JUSTCIV 29, apart from the question of the territorial scope of the draft Regulation;
- noted that, on this last question, the two Member States concerned were pursuing bilateral contacts;
- took note of the declarations made during the discussions, as contained in the Annex.

In view of the solutions found regarding the proposal, the Presidency concluded that the question of reconsulting the European Parliament did not arise.

11. Proposal for a Council Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

7137/00 JUSTCIV 32
10742/99 JUSTCIV124

The Council

- took note of the progress of this dossier
- asked for work to be actively pursued.

The Commission representative said that the Commission might make a clarification concerning Article 15 of the proposal, particularly to take account of the requirements of electronic commerce, while stressing that discussions on this proposal should be concluded without delay.

12. Charter of fundamental rights: information on proceedings

The Council took note of the progress of the proceedings of the Convention preparing a Charter of fundamental rights, following the decisions taken by the European Council at its meetings in Cologne (4 and 5 June 1999) and Tampere (15 and 16 October 1999).

13. European Refugee Fund

5635/00 ASILE 2 FIN 17
6888/00 ASILE 10 FIN 98

The Council took note of the progress report on the European Refugee Fund. It called on the Permanent Representatives Committee to intensify discussions so that the Council could reach agreement on the text of the draft Decision at its next meeting. It also wanted the Commission to submit as soon as possible a proposal to establish Community rules on temporary protection.

14. Revision of the Dublin Convention – presentation of a Commission working document
7122/00 ASILE 14

The Council took note of the presentation of the Commission document on revision of the Dublin Convention and instructed its subordinate bodies to examine the document and to work out guidelines which the Commission could take into account when drafting a proposal to replace the Dublin Convention by a Community instrument.

15. High-level Working Group on Asylum and Migration

The Council noted

- that the High-level Working Group on Asylum and Migration had completed its work on the draft action plan for Albania and the surrounding region;
- the state of play regarding implementation of the five action plans adopted by the General Affairs Council in October 1999.

16. Other Business

- (a) The United Kingdom delegation presented an initiative for a drug-free society in an enlarged Europe and said that it would be submitting practical proposals for discussion and agreement at the Feira European Council. The Presidency instructed the Permanent Representatives Committee and the Article 36 Committee to follow this up.
- (b) The German delegation presented a proposal for a Regulation on unfair anti-competitive conduct in relation to the award of public contracts and asked for the proposal to be examined quickly.
- (c) The Minister for Justice of Finland reported to the Council on his recent visit to Israel and on Israel's request for the creation of a forum for cooperation between Ministers for Justice in the framework of the Barcelona process.
- (d) The Presidency informed the Council that a high level Council meeting would be held in Lisbon on 15 and 16 June on questions relating to asylum.

Declaration by the Council

"This Regulation shall not prevent a Member State from concluding agreements with non-Member-States, which cover the same matter as this Regulation, where the agreement in question does not affect this Regulation."

Declaration by the Council

"The Member States undertake to inform the Commission of any agreements which they envisage concluding with third States in accordance with Article [Z] and of any changes to or repeal of such agreements."

Declaration by the Commission on Article [Z]

"The Commission considers that implementation of Article [Z] of this Regulation cannot be contrary to the case law of the Court as regards the conclusion of agreements between a Member State and third countries or international organisations.

Consequently, without prejudice to the powers and means laid down in the Treaty, the Commission will ensure that this Regulation is implemented in accordance, both generally and on a case by case basis, with the case law of the court, in particular the AETR case law."

Declaration by the United Kingdom

"1. The United Kingdom wishes to record its view that, after the adoption of this Regulation, Member States should be able to conclude certain agreements with third States. The first category of such agreements would be those whereby Member States agree that their national courts should not be required under the Regulation to recognise and enforce certain judgments coming from the courts of other Member States. These judgments would be based on grounds of jurisdiction not laid down in the Regulation. The second broader category of agreements

with third States would be all those which cover the same subject matter as the Regulation, provided that such an agreement does not interfere with, in the sense of undermine, its operation. In the view of the United Kingdom, such a proviso would be adequate to protect the legitimate interests of the Community and, subject to that proviso, Member States should be free to enter into such agreements. In particular, they should be free to decide whether to ratify the 1996 Hague Convention on the Protection of Children."

- "2. The United Kingdom considers that the ability of Member States to enter into such agreements would be established by the article to be placed immediately after Article 15 and the proposed declaration by the Council. The importance of preserving the external competence of Member States in the context of the Regulation to replace the 1968 Brussels Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters will make it essential to ensure that the necessary provisions in that Regulation are drafted in an explicit way.".
