



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 25 October 2000 (23.11)
(OR. fr)**

**8992/00
ADD 1 REV 1**

LIMITE

**PV/CONS 31
JAI 63**

ADDENDUM TO THE DRAFT MINUTES¹

Subject : **2266th meeting of the Council (Justice and Home Affairs) held in Brussels on
29 May 2000**

¹ The information from the Council minutes which is contained in this addendum is not confidential and may be released to the public.

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Agenda items relating to the final adoption of Council acts released to the public

"A" items (list: 8787/00 PTS A 27):

When definitively adopting the "A" items relating to legislative acts, the Council agreed to enter the following in the minutes:

Item 1. Council Framework Decision on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro

7612/00 DROIPEN 12

+ REV 1 (de)

+ COR 1 (da)

+ REV 2 (nl,el,pt,fi)

+ COR 1 (fi)

The Council adopted the above Framework Decision. (Legal basis: Articles 31(e) and 34(2)(b) of the Treaty on European Union)

1. Council statement

"The Council,

Having regard to the Framework Decision adopted on [...] on increasing protection by penal sanctions against counterfeiting in connection with the introduction of the euro;

Agreeing that the Framework Decision referred to constitutes an important step forward in the fight against counterfeiting, including in particular counterfeiting of the euro;

Having regard to point 48 of the conclusions of the Tampere European Council on 15 and 16 October 1999;

Whereas the protection of the euro under criminal law may not be fully guaranteed by provisions covering only the approximation of laws;

Whereas it is appropriate to examine the need for further measures, in particular concerning the cooperation between the Member States, the ECB and the national Central Banks in the area of the fight against counterfeiting the euro;

States that further initiatives, including the suggestions made by France, will be examined in detail as soon as possible, with a view to their possible adoption in an additional instrument."

2. Council Statement on Article 7

"The Council states that amongst the criteria to be taken into account when applying Article 7(3) of the Framework Decision for the purpose of determining which State is best placed for the purpose of centralising prosecution, Member States will have regard, in particular, to the nationality of the offender and the place where the offence was committed."

3. Statement by Denmark and Germany on Article 6(2)

"Denmark and Germany state that they do not consider reducing the value of legal tender covered by Article 6(2)."

4. Statement by Austria and Denmark on minimum rules on penalties

"Austria and Denmark state that the establishment of minimum rules on penalties, as provided for in Article 31(e) of the TEU, raises difficult questions, such as the relationship to provisions contained in the General Part of the Penal Codes or the proportionality of the maximum penalties provided for different offences within one national system. Due to the urgency to adopt this Framework Decision, it was not possible to deal with these questions in depth. However, before including similar provisions in future instruments, these questions will have to be considered carefully. The fact that the solution found in Article 6, paragraph 2, is a minimum level for the maximum penalty provided for by national law may not be taken as a precedent."

Explanations

The reference to the manufacturing of banknotes and coins in Article 4 is intended to cover printing and minting by the Central Bank as well as by independent subcontractors.

Article 4 does not cover overruns by the authorities competent to issue currency in the Member States of the issue quantities laid down by the European Central Bank.

Item 3. Council Regulation on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters

6034/00 JUSTCIV 15

+ COR 1 (pt)

+ COR 2

The Council adopted the above Regulation. (Legal basis: Articles 61(c) and 67(1) of the Treaty establishing the European Community)

Item 4. Council Regulation on insolvency proceedings

5630/00 JUSTCIV 8 MI 6

+ COR 1 (it)

+ COR 2

+ COR 3

+ REV 1 (fi)

The Council adopted the above Regulation. (Legal basis: Articles 61(c) and 67(1) of the Treaty establishing the European Union)

5. Statement by Portugal concerning the application of Articles 26 and 37

"Article 37 of Council Regulation (EC) No /2000 of on insolvency proceedings, which mentions the possibility of converting territorial proceedings opened prior to the main proceedings into winding-up proceedings, should be interpreted as meaning that such conversion does not exclude judicial appraisal of the state of the local proceedings (as is the case in Article 36) or of the application of the interests of public policy as provided for in Article 26."

Item 5. Regulation on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses

8609/00 JUSTCIV 59

+ COR 1 (pt)

+ COR 2 (sv)

+ COR 3 (fr,de,it,nl,en,da,el,es,pt,sv)

+ REV 1 (fi)

The Council adopted the above Regulation. (Legal basis: Articles 61(c) and 67(1) of the Treaty establishing the European Community)

6. Statement 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."

7. Statement 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 16 and of any changes to or repeal of such agreements."

8. Statement by the Commission on Article 16

"The Commission considers that implementation of Article 16 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."

9. Declaration by the United Kingdom

"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."

10. Statement by the United Kingdom

"The United Kingdom considers that the ability of Member States to enter into such agreements would be established by Article 16 and the 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."

11. Declaration by the United Kingdom

"In accordance with arrangements notified in Council document 7998/00 of 19 April 2000, where decisions of a Gibraltar court are to be directly enforced by a court or other enforcement authority in another Member State under the relevant provisions of this Regulation, the documents containing such decisions of the Gibraltar court will be certified as authentic by the United Kingdom Government/Gibraltar Liaison Unit for EU Affairs of the Foreign and Commonwealth Office based in London ("the Unit"). To this effect the Gibraltar court will make the necessary request to the Unit. The certification will take the form of a note."

Item 9. Council Decision concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis 8397/00 SCHENGEN 7

The Council adopted the above Decision. (Legal basis: Article 4 of the Protocol annexed to the Treaty on European Union and to the Treaty establishing the European Community integrating the Schengen acquis into the framework of the European Union.)

12. Joint statement by the Council

"The United Kingdom shall, prior to the putting into effect of the provisions referred to in Articles 1 and 8(3), inform the Council of all circumstances that could have a significant bearing on the areas covered by the provisions referred to in these Articles."

13. Joint statement by Denmark and the United Kingdom

"In the context of the forthcoming decision of the Council setting the date on which the provisions of the Schengen acquis shall be put into effect for Denmark, the United Kingdom will accept the conclusions of the Council relating to the application of those provisions to the Faroe Islands and Greenland, including the implementation of the Schengen Information System (SIS), to the extent that they relate to the provisions in which the United Kingdom participates by virtue of Article 1."

14. Statement by the Government of the United Kingdom

"The United Kingdom undertakes to make its best endeavours to accommodate the operational needs of Member States in any cross border surveillance exercises. In doing so, it will comply fully with the terms of Article 40 of the Schengen Implementation Convention and the agreed practice thereof. The United Kingdom will explore these arrangements with Member States with a view to establishing agreed and mutually satisfactory procedures for evaluation prior to the putting into effect of the participation by the United Kingdom."

15. Statement by the Government of the United Kingdom

"The United Kingdom's position takes into account the fact that at present Articles 92 to 119 of the 1990 Schengen Convention are regarded as having a legal base in Title VI of the TEU."

16. Statement by the Council

"The Council declares that it will consider any future request by the United Kingdom pursuant to Article 5(1) concerning the application to the Channel Islands and the Isle of Man of provisions of the Schengen acquis covered by Article 1 on the basis of the need to ensure coherence in the application of the Schengen acquis as between the relevant provisions of the current decision and any new decision on the Channel Islands and the Isle of Man, consistent with their respective status under the Treaties."

17. Statement by the Government of the United Kingdom

"The United Kingdom declares that when making a request pursuant to Article 5(1), it shall take fully into account the declaration made by the Council under point 5."

"B" item (agenda: 8786/00 OJ/CONS 27 JAI 57):

Item 10. Council Decision to combat child pornography on the Internet
8718/00 CRIMORG 84

The Council adopted the above Decision. (Legal basis: Article 34(2)(c) of the Treaty on European Union)

18. Council statement

"The Council welcomes the opinion of the European Parliament, published as "Legislative Resolution on the initiative of the Republic of Austria with a view to adopting a Council Decision to combat child pornography on the Internet" ¹. In addition to the amendments which have been incorporated by the Council in the Decision, the opinion raises a number of important issues relating to substantive criminal law and criminal procedure. The Council, mindful of the urgency to take immediate measures against child pornography on the Internet, declares its willingness to examine such questions in the light of the Joint Action 97/154/JHA of 24 February 1997 and on the basis of proposals which are expected in the future."

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¹ European Parliament document 10317/1999 – C5-0318/99 – 1999/0822(CNS)