



**COUNCIL OF  
THE EUROPEAN UNION**

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(OR. fr)**

**14099/00**

**LIMITE**

**PV/CONS 78  
JAI 156**

**DRAFT MINUTES <sup>1</sup>**

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Subject : **2314th** meeting of the Council (**Justice, Home Affairs and Civil Protection**),  
held in Brussels on 30 November and 1 December 2000

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<sup>1</sup> The information relating to the final adoption of Council acts which may be released to the public is contained in Addendum 1 to these minutes.

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**1. Adoption of the agenda**  
13777/00 OJ/CONS 75 JAI 148

The agenda was adopted as given in the above document.

**2. Approval of the list of "A" items**  
13778/00 PTS A 70

All the "A" items listed in 13778/00 PTS A 70 were adopted, except for items 10 (Eurojust) and 11 (Eurodac). Both items were withdrawn on account of a Netherlands parliamentary scrutiny reservation.

In response to the Presidency, which stressed that the Eurojust Decision (item 10) had to be adopted before the end of the year, the Netherlands delegation said that it would do its utmost to clarify the question as soon as possible.

With regard to item 11 (Eurodac) the Commission representative insisted on the urgency of adopting a legal basis so as not to jeopardise the tendering procedure under way for the Eurodac computer system.

**3. Proposal for a Council Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters**  
13742/00 JUSTCIV 131  
+ COR 1

The Council :

- registered political agreement on the proposal for a Council Regulation as it stands in 13742/00 JUSTCIV 131 + COR 1;
- noted that the Netherlands delegation had entered a parliamentary scrutiny reservation on the proposal for a Regulation, which it would be withdrawing in the near future;
- noted that the Regulation was to be adopted in December 2000, following legal/linguistic finalisation of the text and withdrawal of the Netherlands delegation's parliamentary scrutiny reservation.

At the same time, the Council noted that:

- the Commission had undertaken not to await the final deadline set in Article [68] before submitting, inter alia to the Council, a report on the application of Article 15 of the Regulation to electronic commerce, as requested by a number of delegations. This report was to be based primarily on data which Member States were to send the Commission in the intervening period;
- internal discussions were continuing at the Commission in preparation for proceedings on the draft agreement, with Denmark on the one hand and with the Lugano States on the other, covering the subject matter of the future Brussels I Regulation.

**4. Draft Regulation on the mutual enforcement of judgments on rights of access to children 13579/00 JUSTCIV 127**

The Council held a policy debate on the scope, safeguards and cooperation to be laid down in the context of the draft Regulation on the mutual enforcement of judgments on rights of access to children, a project of particular interest to European citizens. (See 13579/00 JUSTCIV 127).

The Council noted the following:

(a) Scope

In order to make for the greatest possible equality between all children it was felt judicious to proceed as follows:

- discussions on this draft Regulation would continue with the same scope as Regulation No 1347/2000 of 29 May 2000, for the children of both spouses;
- at the same time, discussions should commence with a view to laying down rules along the lines of those in the Brussels II Regulation for the children of one of the parents of unmarried couples.

(b) Safeguards

One delegation pointed out that it would be useful to make a study to find out how far Member States' rules on enforcement needed to be aligned.

A number of delegations were against allowing any exception to the rule that the child should be returned to the parent with whom he/she was habitually resident, without prejudice to any provisional measures which might be taken for the child's protection. On the other hand, a few delegations suggested that a degree of flexibility be allowed to cater for exceptional cases where the child's health was at stake or where the child refused to return (where the child was mature enough to be able to take such a decision).

A number of delegations pointed to the advantages of ratifying the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children.

(c) Cooperation

Delegations were inclined to favour arrangements by which any disputes which were likely to arise between parents in respect of their children could be settled by conciliation.

In addition, the Danish delegation, which, under the terms of the Protocol on the position of Denmark annexed to the Treaty of Amsterdam, would not be required to adopt or implement the future Regulation, emphasised that it would be interested in concluding an agreement on these matters with the Community at a later date.

**5. Decision on setting up a European judicial training network**  
13289/00 JAI 135

The Council held a preliminary debate on a proposal for a Decision on setting up a European judicial training network, producing general agreement on the principle of this French initiative which relates, in the initial stage, to training in the criminal field. The network's task will be to promote consistency and effectiveness in training activities for members of the judiciaries of the Member States, by linking national schools and institutions responsible specifically for training professional judges and prosecutors who are members of the judiciary.

**6. Protection of the euro**

The Presidency informed delegations that France would shortly be submitting to the Council two initiatives based on Title VI of the TEU designed to supplement the draft Regulation on the protection of the euro against counterfeiting.

One initiative concerned the creation, within Europol, of a unit to combat counterfeiting of the euro and the negotiation of agreements on the exchange of information and cooperation between Europol on the one hand and the European Central Bank and the Commission on the other (draft Council conclusions); the other would propose measures to facilitate mutual assistance between the Member States in the effort against counterfeiting.

Having heard the French delegation explain the content of its two proposals, the Council asked the Article 36 Committee to examine them as soon as possible.

**7. Crime prevention:**

**(a) presentation of the initiative put forward by Sweden and France on setting up a crime prevention network**

13307/00 CRIMORG 152

**(b) Commission communication**

The Presidency began by asking the Swedish delegation to present the conclusions of the crime prevention seminar held in Stockholm on 30 October 2000. It then asked the Commission to inform the Council of the content of its communication on the same subject (14245/00 CRIMORG 163). The Belgian, United Kingdom, Portuguese, German and

Danish delegations stressed the special importance of this question. The Belgian, United Kingdom and German delegations, however, wanted the structures proposed under the Franco-Swedish initiative (prevention network) and by the Commission (Forum) to be as light as possible, to avoid bureaucratic competition and to draw on the expertise of the front-line players while ensuring government authorities were involved.

## **8. Scoreboard to review progress on the creation of an area of freedom, security and justice**

The Council noted a brief presentation by the Commission representative of the updated version of the scoreboard summarising the objectives defined and the measures recommended in the Vienna, Tampere and Feira Action Plans.

9. – **Draft Council Framework Decision on the strengthening of the penal framework to prevent the facilitation of unauthorised entry and residence**  
– **Draft Council Directive defining the facilitation of unauthorised entry, movement and residence**  
13739/00 DROIPEN 58 MIGR 96 COMIX 845

The Council held an exchange of views on both drafts on the basis of the questions in 13739/00 DROIPEN 58 MIGR 96 COMIX 845.

The discussion revealed that the Council was unanimous in its determination to combat trafficking in human beings while ensuring that the activities of humanitarian organisations were respected. The text proposed by the French Presidency, like those earlier proposed by Germany, Portugal, Finland and Belgium, sought to reconcile respect for those principles with the desire vigorously to combat the facilitation of unauthorised immigration

The discussion also showed that a large majority of delegations could agree that, in the most serious cases, the maximum sentence should be not less than eight years' imprisonment, as was the case for counterfeiting the euro. However, the question whether financial gain should be an essential element of the offence of facilitating entry did not meet with an unanimous response.

The Permanent Representatives Committee would resume its discussions as suggested by the Commission and Belgium on the basis of the text submitted to the Council with the additions requested by Belgium regarding exempting humanitarian organisations from prosecution, in order to arrive at a formula that reflected the views expressed by Ministers.

**10. Directive concerning the harmonisation of financial penalties imposed on carriers transporting into the territory of the Member States third-country nationals lacking the documents necessary for admission**  
14074/00 FRONT 67 COMIX 868

The Council discussed the draft Regulation, in particular Article 3, in detail. The compromise set out in 14074/00 was acceptable to a large majority of delegations. The Belgian and Netherlands delegations entered reservations on the grounds that the text fell short of the level of harmonisation sought in this field. The Belgian and Swedish delegations also wanted the draft Directive to include a clause requiring the penalty to be reimbursed if the passenger concerned was granted refugee status. The Swedish delegation also upheld a general reservation on the draft Regulation. The Netherlands and United Kingdom delegations maintained their parliamentary scrutiny reservations

The Council referred the draft Directive to the Permanent Representatives Committee for further examination with a view to enabling the Council to reach agreement at the earliest opportunity.

**11. Council conclusions on information exchange and cooperation among the Member States in combating illegal immigration networks**  
14073/00 CIREFI 87 COMIX 867

Following a brief exchange of views during which

- the Italian delegation described cooperation on border controls between the Italian authorities and the authorities of several other Member States, in particular through exchanges of officials;

- the Austrian delegation reported on the outcome of a meeting of experts on illegal immigration along the Balkan route that had been organised in Ljubljana in the framework of partnership projects with the candidate countries;
- the German delegation drew attention to Germany's initiative, which aimed to place the use of the early warning system on a more binding footing.

The Council adopted the conclusions in the Annex to 14073/00.

## **12. Dublin Convention parallel agreement with Norway and Iceland**

The Council took note of the agreement reached on the draft text negotiated by the Commission with Norway and Iceland and asked the Commission to submit to it a proposal for a Decision with a view to an early signing and the conclusion of the agreement.

## **13. Council conclusions on conditions for the reception of asylum seekers** 13117/1/00 ASILE 52 REV 1

The Council adopted the conclusions in 13117/1/00 ASILE 52 REV 1 COR 1 (fi).

## **14. Regulation listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement** 14076/00 VISA 118 COMIX 870 13942/00 VISA 115 COMIX 863

The Council

- reached agreement on the version of the draft Regulation set out in Annex I to 14076/00 subject to:

= the following amendment to Article 8(2):

"However, for nationals of the country in Annex II marked with an asterisk, the date of entry into force of Article 1(2) shall be decided on subsequently by the Council, acting in accordance with Article 67(3) of the Treaty establishing the European Community, on the basis of the report referred to in the following subparagraph.

To this end, the Commission shall request the country concerned to indicate which undertakings it is prepared to enter into on illegal immigration and illegal residence, including the repatriation of persons from that country who are illegally resident, and report thereon to the Council. The Commission shall submit to the Council a first report, accompanied by any useful recommendations, no later than 30 June 2001.

Pending adoption by the Council of the act embodying the abovementioned decision, the requirement laid down in Article 1(1) shall be applicable to nationals of that country. Articles 2 to 6 of this Regulation shall apply in full.";

= the addition of an asterisk against "Romania" in Annex II to the draft Regulation;

- agreed to consult the European Parliament afresh on the amended text ;
- agreed to enter the following statements in its minutes:

1. "The Council asks the Commission to submit to it as soon as possible, and in any event before the Council adopts this Regulation, recommendations for Council decisions authorising the Commission to negotiate with the Special Administrative Regions of the People's Republic of China, in Annex I to this Regulation, readmission agreements between the European Community and those regions.".

2. re Article 8(2)

"Notwithstanding the date stipulated in Article 8(2) and pending adoption of this Regulation, the Council asks the Commission to submit to it a first report, accompanied by any useful recommendations, as soon as possible and in any event before 30 January 2001. To this end, the Council asks the Commission to contact the authorities of the country/countries concerned without delay.".

3. "Before this Regulation is adopted, the Council asks the Commission to submit to it within two months a report on measures taken by Bulgaria to curb illegal immigration and illegal residence by persons from that country in the Member States and for the repatriation of those persons, and on the commitments entered into by Bulgaria vis-à-vis the Community and its Member States in that area and on observance of those commitments. To this end, the Council asks the Commission to contact the authorities of that country."

**15. The internal and external threat which terrorism poses for the countries of the European Union**

12370/00 ENFOPOL 68

The Council took note of a document assessing the terrorist threat the Europe.

The Council reaffirmed its determination to combat terrorism by taking all necessary steps at European level and further emphasising operational corporation between the Member States.

During the discussion, Ministers especially expressed their solidarity with Spain, which was confronted with the terrorist threat.

Ministers highlighted the importance of respect for the deadlines set in the Commission's scoreboard to review progress on the creation of an area of freedom, security and justice. In this context the Commission announced that it would send three draft legislative instruments to the Council:

- a proposal on the harmonisation of charges and penalties in cases of terrorism;
- a proposal on the acceleration and simplification of extradition procedures;
- a proposal creating a European arrest warrant.

**16. Council Decision establishing the European Police College (EPC)**

13615/1/00 ENFOPOL 81 REV 1

The Council decided to adopt the above Decision, after legal-linguistic finalisation, at the end of December.

- 17. Council conclusions on harmonising the status of third-country nationals residing on a long-term basis**  
13274/00 MIGR 93

The Council discussed the issues raised in the draft conclusions and asked the Commission to take account of the guidelines worked out during the discussion in its future proposal on conditions for harmonising the status of third-country nationals residing on a long-term basis.

- 18. Report to the European Council by the High-level Working Group on Asylum and Migration**  
13688/00 JAI 146 AG 72  
13687/00 JAI 145 AG 71  
+ ADD 1

The Council noted the information given by the Presidency regarding the report to the European Council by the High-level Working Group on Asylum and Migration to be submitted to the General Affairs Council on 4 December 2000 for adoption and forwarding to the Nice European Council.

- 19. Commission communication on asylum policy**  
13119/00 ASILE 54

The Council noted the Commission communication on asylum policy, undertook to press ahead with examining the Commission's proposals and asked the Commission to submit the other proposals on asylum provided for in the Treaty of Amsterdam.

**20. Commission communication on immigration policy**  
11529/00 MIGR 77

The Council noted the Commission communication on immigration policy. The Council, which agreed with its approach to and analysis of immigration, asked the Commission to show a measure of flexibility in the proposals for legislation that it intended to submit, in order to take account of the particular situation of each Member State, which had undertaken to send the Commission their written comments on its communication. Stressing the urgency of getting to grips with immigration policy issues, the Council affirmed its commitment to continuing examining the texts currently under discussion at the Council and asked the Commission to submit the other proposals for legislation referred to in its communication as soon as possible.

**21. Decision on the full putting into effect of the Schengen acquis in the Nordic States**  
12741/1/00 SCH-EVAL 65 COMIX 754 REV 1  
+ ADD 1  
+ ADD 1 REV 1 COR 1 (de)  
12051/3/00 SCH-EVAL 60 COMIX 712 REV 3

See Addendum 1 hereto.

**22. Other business**

– **Questionnaire on the bodies required to intervene in the event of the disappearance of children**

The Council noted the future Belgian Presidency's intention to propose an initiative for networking the Member States' bodies required to intervene in the event of the disappearance of children and, in this context, undertook to reply to a questionnaire submitted by the Belgian delegation.

– **Setting up Eurojust – practical problems**

Over lunch Ministers discussed the practical problems connected with setting up Eurojust. They agreed on the positions and profiles of Eurojust's members and the date for setting up the unit. The actual start-up of Eurojust is scheduled for the first quarter of 2001.

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**On the occasion of the Council meeting: meeting of the Mixed Committee at Ministerial level.  
The outcome of the proceedings is in 6471/01 JAI 14 COMIX 148.**

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