



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 27 February 2007 (07.03)
(OR. fr)**

**6396/07
ADD 1**

**PV/CONS 7
JAI 80**

ADDENDUM to DRAFT MINUTES¹

Subject : **2781st meeting of the Council of the European Union (JUSTICE AND HOME AFFAIRS), held in Brussels on 15 February 2007**

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

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Agenda items relating to the final adoption of Council acts to which the public has been granted access

"A" items (list: 6221/07 PTS A 6)

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

Item 11. Council Regulation establishing a European Union Agency for Fundamental Rights

16241/06 JAI 671 CATS 187 COHOM 188 COEST 345 OC 994

- + REV 1 (nl)
- + REV 2 (fi)
- + REV 3 (bg)
- + REV 4 (el)
- + REV 5 (bg)

The Council adopted the above Regulation (Legal basis: Article 308 of the Treaty establishing the European Community.)

1. Declaration by the Council on proceedings under Article 7 of the Treaty on European Union

"The Council **considers** that neither the Treaties nor the Regulation establishing the European Union Agency for Fundamental Rights precludes the possibility for the Council to seek the assistance of the future European Union Agency for Fundamental Rights when deciding to obtain from independent persons a report on the situation in a Member State within the meaning of Article 7 TEU when the Council decides that the conditions of Article 7 TEU are met."

2. Declaration by the Council, the European Parliament and the Commission on the procedure for the appointment of the Director for the Agency

"The European Parliament, the Council and the Commission stress the exceptional nature, in comparison to other agencies, of the European Union Agency for Fundamental Rights, the objective of which is to provide the institutions of the Union with assistance and expertise within a domain where the legislature has been given significant powers.

This exceptional nature of the Agency for Fundamental Rights justifies that the solutions generally followed in the nomination of directors for agencies are not, in their entirety, followed in the nomination of the director for the Agency for Fundamental Rights, and that, in the case of this Agency, a more prominent role is given to the Parliament and to the Council under Article 13 of the Regulation.

This solution cannot in any way be regarded as constituting a precedent which could be referred to when nominating the director of any other agency, nor for the extension of his or her mandate."

3. Declaration by the Council on the review of the remit of the Agency under Title VI of the Treaty on European Union

"The Council agrees to re-examine, before 31 December 2009, the remit of the Agency for Fundamental Rights, with a view to **the possibility of** extending it to cover the areas of police and judicial cooperation in criminal matters. The Council invites the Commission to submit a proposal to this effect **as appropriate.**"

4. Declaration by the Council on the consultation of the agency within the areas of police and judicial cooperation in criminal matters

"The Council,

Bearing in mind that, when fulfilling its mandate under Regulation (EC) 2006/XXX, the European Union Agency for Fundamental Rights will acquire general expertise on fundamental rights,

Considers that the Union institutions may, **within the framework of the legislative process and with due regard to each others' powers**, each benefit, as appropriate and on a voluntary basis, from such expertise also within the areas of police and judicial cooperation in criminal matters, and

Considers that this general expertise may also be of use to the Member States that wish to avail themselves thereof when **they are** implementing legislative acts of the Union in that area."

5. Statement by the Kingdom of the Netherlands

"The Netherlands is of the opinion that the *Declaration by the Council on the consultation of the Agency within the areas of police and judicial cooperation in criminal matters* does not attribute competences to the Agency on the basis of Title VI of the Treaty on European Union.

The Netherlands emphasises that the abovementioned declaration does not in any way prejudice the question of whether the remit of the Agency may be extended to cover the areas of police cooperation and judicial cooperation in criminal matters.

The Netherlands declares that it does not envisage to use the possibility mentioned in paragraph 3 of the said declaration."

6. Statement by the Italian Government

"Italy reiterates its position in favour of the extension of the Agency's remit to include police and judicial cooperation in criminal matters. Since respect for fundamental rights must be considered an essential element in the creation of an area of freedom, security and justice, the extension of the Agency's activities to include the "third pillar" should be regarded as forming an integral part of the new body's remit.

Italy therefore wishes the declaration by the Council on the consultation of the agency within the areas of police and judicial cooperation in criminal matters, annexed to the Regulation establishing the Agency, to be regarded by the institutions and Member States as a political commitment to make constant use of the Agency's assistance in the areas of police and judicial cooperation in criminal matters.

We therefore call on the Commission to find appropriate legal means of extending the Agency's remit to include Title VI of the Treaty on European Union in the near future."

7. Unilateral statement by the German delegation

"Germany welcomes the agreement on a Council Regulation establishing a European Union Agency for Fundamental Rights (EC 2007/xxx).

Since the final version of the Council Regulation is much changed from the original Commission proposals, Germany would be grateful if the Commission would update the financial statement contained in the Commission proposal under the budgetary procedure laid down in Article 28(2) of Council Regulation No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities and point 47 of the Interinstitutional Agreement between the European Parliament, the Council and the European Commission on budgetary discipline and sound financial management of 14 June 2006."
