COUNCIL OF
THE EUROPEAN UNION

Brussels, 16 July 2009

10654/09

LIMITE

PVCNS  31
JAI     355

DRAFT MINUTES¹

Subject: 2946th meeting of the Council of the European Union (JUSTICE and HOME AFFAIRS), held in Luxembourg on 4 and 5 June 2009

¹ Information which may be released to the public concerning the final adoption of Council acts is given in Addendum 1 to these minutes.
**CONTENTS**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Adoption of the agenda</td>
<td>5</td>
</tr>
<tr>
<td>2</td>
<td>Approval of the list of &quot;A&quot; items</td>
<td>5</td>
</tr>
<tr>
<td>3</td>
<td>SIS II – Council conclusions on the further direction of SIS II</td>
<td>5</td>
</tr>
<tr>
<td>4</td>
<td>Conclusions of the Council and of the Representatives of the Governments of the Member States on the closure of the Guantanamo Bay Detention Centre</td>
<td>6</td>
</tr>
<tr>
<td>5</td>
<td>Asylum</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>(a) Proposal for a Regulation of the European Parliament and the Council establishing the criteria and mechanisms for determining the Member States responsible for examining an asylum application lodged in one of the Member States by a third-country national or a stateless person (recast)</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>(b) Proposal for a Regulation of the European Parliament and the Council concerning the establishment of &quot;Eurodac&quot; for the comparison of fingerprints for the effective application of the Regulation establishing the criteria and mechanisms for determining the Member States responsible for examining an asylum application lodged in one of the Member States by a third-country national or a stateless person (recast)</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>(d) Proposal for a Regulation of the European Parliament and of the Council establishing a European Asylum Support Office</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>(e) Proposal for a Decision of the European Parliament and of the Council amending Decision n° 573/2007/EC establishing the European Refugee Fund for the period 2008/2013 by removing funding for certain Community actions and altering the limit for funding such actions</td>
<td>6</td>
</tr>
<tr>
<td>6</td>
<td>Guidelines on the implementation of directive 2004/38/EC of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States</td>
<td>7</td>
</tr>
</tbody>
</table>
7. Illegal immigration in the Mediterranean .................................................................7
8. Counter-terrorism: reports by the Counter-terrorism Coordinator ..........................8
9. JHA Relex
   (a) Ministerial Troika EU-USA ..............................................................................8
   (b) EU-Russian Federation JHA Permanent Partnership Council ..........................8
   (c) Ministerial Troika EU-Ukraine .......................................................................8
   (d) Conference: Building Migration Partnerships, Prague, 27/28 April 2009 .............9
10. Proposal for a Regulation of the European Parliament and the Council establishing a procedure for the negotiation and conclusion of bilateral agreements between Member States and third countries concerning sectoral matters and covering applicable law in contractual and non-contractual obligations ........................................................................9
11. Council Regulation establishing a procedure for the negotiation and conclusion of bilateral agreements between Member States and third countries concerning sectoral matters and covering jurisdiction, recognition and enforcement of judgments and decisions in matrimonial matters, parental responsibility and maintenance obligations, and applicable law in matters relating to maintenance obligations ..............................................10
12. Conclusions of the Council on the setting up of a Common Frame of Reference for European contract law ..................................................................................................10
13. E-justice ..............................................................................................................11
15. Final report of 4th round of mutual evaluations – practical application of the European Arrest Warrant .................................................................11
     (b) Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA .................................................................12
17. Training of judges, prosecutors and judicial staff – Information from the Presidency:
   – Implementation of the Council resolution of 24 October 2008
   – Creation of Euro-Arab network for judicial training........................................... 12

18. Any Other Business

   (a) Visa liberalisation in the Western Balkans (request by Slovenia) ......................... 12
   (b) A Community approach on the prevention of natural and man-made disasters .......... 12
   (c) International protection of children ...................................................................... 13
   (d) Conference on Succession and Wills in a European Context
       (20/21 April 2009, Prague) .................................................................................. 13
   (e) Financial crisis – follow up to the April JHA Council .......................................... 13
   (f) Free Trade Agreement between the EC and its Member States and the Republic of
       Korea ................................................................................................................... 14
   (g) "Beyond Winning", the project of the ADR Centre, Rome ..................................... 14
   (h) Slovenian Chairmanship of the Committee of Ministers of the Council of Europe
       (12 May–18 November 2009) ............................................................................... 14
1. **Adoption of the agenda**

   10492/09 OJ/CONS 31 JAI 343 COMIX 462

   The Council adopted the agenda as set out in 10492/09.

2. **Approval of the list of "A" items**

   10493/09 PTS A 25

   The Council approved the "A" items listed in 10493/09.

   Information relating to items 4 and 30 is set out in Addendum 1 to these minutes.

   The documents in items 19 and 27 should read as follows:

   **Item 19:** 10115/09 EUROJUST 31 COPEN 93 EJN 29 CATS 54
   
   + COR 1 (de)
   
   7682/1/09 REV 1 EUROJUST 16 COPEN 52 EJN 21 CATS 24

   **Item 27:** 10432/09 ACP 135 COAFR 199 RELEX 516
   
   + REV 1 (en)

3. **SIS II – Council conclusions on the further direction of SIS II**

   – Approval
   
   9787/2/09 REV 2 SIRIS 66 COMIX 390 CATS 49 JAI 332

   The Council adopted the Council conclusions as set out in 10708/09 JAI 360 SIRIS 82
   
   CATS 64 COMIX 478.

   Concerning the decision mentioned in paragraph 9(d), the Council took note that all Members
   
   of the Council agreed, without prejudice to the legal basis applicable at the date of that
   
   decision, that the informal opinion of a qualified majority will be accepted by all Members of
   
   the Council.
Poland made the following statement:

"With respect to the consequences of point 9 (e), Poland assumes that the Commission will take in due time all necessary measures (including legislative arrangements) to ensure financing of SIS 1 + RE from the Community budget."

4. **Conclusions of the Council and of the Representatives of the Governments of the Member States on the closure of the Guantanamo Bay Detention Centre**

   - Approval

   10523/1/09 REV 1 JAI 346 COMIX 469 COTER 60 ENFOPOL 159 USA 39
   ASIM 57 COHOM 126 COJUR 15 POLGEN 97

   The Council approved the Conclusions as set out in 10523/2/09 REV 2.

5. **Asylum**

   (a) Proposal for a Regulation of the European Parliament and the Council establishing the criteria and mechanisms for determining the Member States responsible for examining an asylum application lodged in one of the Member States by a third-country national or a stateless person (recast)

   (b) Proposal for a Regulation of the European Parliament and the Council concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Regulation establishing the criteria and mechanisms for determining the Member States responsible for examining an asylum application lodged in one of the Member States by a third-country national or a stateless person (recast)


   (d) Proposal for a Regulation of the European Parliament and of the Council establishing a European Asylum Support Office
(e) Proposal for a Decision of the European Parliament and of the Council amending Decision n° 573/2007/EC establishing the European Refugee Fund for the period 2008/2013 by removing funding for certain Community actions and altering the limit for funding such actions

- Report by Presidency on state of play (public deliberation pursuant to Article 8(1)(c)) 9786/09 ASILE 35 EURODAC 17 CODEC 717

The Council was briefed concerning the state of negotiations regarding the five proposals for legislative acts concerning asylum.

The Council welcomed the progress already made and instructed its preparatory bodies to continue the examination of the proposals taking account of the European Parliament's opinion, delivered on 7 May, as well as the views expressed by delegations in the discussion.

6. Guidelines on the implementation of directive 2004/38/EC of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

- Progress Report from the Commission 5553/09 MI 20 JAI 27 SOC 27

The Council was briefed by the Commission regarding the elaboration of guidelines for the implementation of the above Directive. The Council emphasised the need for continued monitoring of the implementation of this Directive, as well as keeping the issue under review, including the implications of any new emerging trends for migration policy.

7. Illegal immigration in the Mediterranean

The Council held an exchange of views on this issue following a presentation by the Commission on recent developments in the Mediterranean region. The Presidency indicated that work on this item will continue at the General Affairs and External Relations Council, within the framework of the preparation of the European Council.
8. **Counter-terrorism: reports by the Counter-terrorism Coordinator**

9715/1/09 REV 1 JAI 280 ECOFIN 357 TRANS 187 RELEX 441 ECO 73 PESC 620
COTER 44 ENFOPOL 132 COSDP 439 PROCIV 70 ENER 176 ATO 48
DATAPROTECT 37 TELECOM 101

+ADD 1 REV 1
go

9717/09 JAI 281 ECOFIN 358 TRANS 188 RELEX 442 ECO 74 PESC 621
COTER 45 ENFOPOL 133 COSDP 440 PROCIV 71 ENER 177 ATO 49
DATAPROTECT 38 TELECOM 102

The Counter Terrorism Coordinator highlighted a number of findings from his reports and
focussed *inter alia* on prevention, the external dimension of the fight against terrorism and the
status of implementation of legal instruments.

9. **JHA Relex**

(a) **Ministerial Troika EU-USA**

– Information on the outcome of the meeting

9136/09 JAIEX 26 RELEX 383 USA 24

The *Council* agreed that the JAIEX Working Party would continue to deal with this
matter.

(b) **EU-Russian Federation JHA Permanent Partnership Council**

– Information on the outcome of the meeting

9836/09 JAIEX 32 RELEX 457 NIS 36 ASIM 46 CATS 47 JUSTCIV 124

The *Council* agreed that the JAIEX Working Party would continue to deal with this
matter.

(c) **Ministerial Troika EU-Ukraine**

– Information on the outcome of the meeting

The *Council* agreed that the JAIEX Working Party would continue to deal with this
matter.
(d) Conference: Building Migration Partnerships, Prague, 27/28 April 2009
   – Information on the outcome of the meeting
      9283/09 ASIM 41 RELEX 400

   The Council agreed to bring the outcome of the Conference to the attention of the
   General Affairs/External Relations Council and also agreed that the JAIX Working
   Party would continue to deal with this matter.

10. Proposal for a Regulation of the European Parliament and the Council establishing a
    procedure for the negotiation and conclusion of bilateral agreements between Member
    States and third countries concerning sectoral matters and covering applicable law in
    contractual and non-contractual obligations
    – Information on the outcome of the European Parliament plenary vote/first reading
      agreement with the European Parliament
      (public deliberation pursuant to Article 8(1)(c))
      10250/09 JUSTCIV 139 CODEC 761

   The Council:

   (a) took note that a first reading agreement has been reached with the European Parliament;
   (b) took note of the statements set out in the Annexes to 10250/09 JUSTCIV 139
       CODEC 761 which will be entered into the minutes of the Council when the Regulation
       is adopted.
11. **Council Regulation establishing a procedure for the negotiation and conclusion of bilateral agreements between Member States and third countries concerning sectoral matters and covering jurisdiction, recognition and enforcement of judgments and decisions in matrimonial matters, parental responsibility and maintenance obligations, and applicable law in matters relating to maintenance obligations**

- Political agreement
  
  10251/09 JUSTCIV 140
  
  + ADD 1

The Council:

(a) confirmed the political agreement on the text of the proposed Regulation as set out in Addendum 1 to 10251/09 JUSTCIV 140;

(b) took note of the statements set out in the Annexes to 10251/09 JUSTCIV 140 which will be entered into the minutes of the Council when the Regulation is adopted.

12. **Conclusions of the Council on the setting up of a Common Frame of Reference for European contract law**

- Approval
  
  9741/09 JUSTCIV 120 CONSOM 111
  
  + COR 1 (fr)

The Council:

(a) approved the report set out in 9741/09 JUSTCIV 120 CONSOM 111 as the Council's position on certain aspects of the CFR;

(b) agreed to forward the report to the Commission, asking it to take due account thereof in its future work on the CFR;

(c) agreed to forward the report to the European Parliament for information; and

(d) took note that the Committee on Civil Law Matters will continue to follow the Commission's work on the CFR on a regular basis.
13. **E-justice**
   – State of play
   9362/09 JURINFO 57 JAI 295 JUSTCIV 113 COPEN 89

   The Council:

   (a) took note of the work achieved during the first semester 2009;
   (b) endorsed the booklet as set out in 9862/09 JURINFO 75 JUSTCIV 125 JUSTPEN 17
       and the Guide as set out in 9863/09 JURINFO 76 JUSTCIV 126 JUSTPEN 18 and took
       note that the Working Party will continue work on these tools;
   (c) took note of the data on videoconferencing equipment, collected by the Czech
       Presidency.

    Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for
    infringements
    – Information on the outcome of the European Parliament plenary vote/first reading
      agreement with the European Parliament
      (public deliberation pursuant to Article 8(1)c))

   The Presidency gave information on the outcome of the EP plenary vote and on the
   achievement of a first reading agreement on the text of this instrument.

15. **Final report of 4th round of mutual evaluations – practical application of the European**
    **Arrest Warrant**
    – Adoption
      8302/4/09 REV 4 CRIMORG 55 COPEN 68 EJN 24 EUROJUST 20
      + COR 1

   The Council adopted this final report and agreed on sending it for information to the European
   Parliament.
16. (a) **Proposal for a Council Framework Decision on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA**

(b) **Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA**

9892/09 DROIPEN 33 MIGR 61 CRIMORG 79

The Council took note of the information provided by the Presidency on the state of play of the negotiations on these instruments.

17. **Training of judges, prosecutors and judicial staff**
   – Information from the Presidency
   – Implementation of the Council resolution of 24 October 2008
   – Creation of Euro-Arab network for judicial training
     10226/1/09 REV 1 JAI 327 COPEN 96 JUSTCIV 137

The Council took note of the information given by the Presidency on the follow-up to the Council resolution of 24 October 2008 and on the creation of the Euro-Arab network for judicial training.

18. **Any Other Business**

(a) **Visa liberalisation in the Western Balkans**
   (request by Slovenia)
   – Information from the Commission

The Council took note of the information given by the Commission on this item.

(b) **A Community approach on the prevention of natural and man-made disasters**
   – Presentation by the Commission

The Council took note of the presentation by the Commission on this item.
(c) **International protection of children**
   – Information on the outcomes of the Presidency

   The Council took note of the information given by the Presidency on this item.

(d) **Conference on Succession and Wills in a European Context**
    **(20/21 April 2009, Prague)**
    – Information from the Presidency

   The Council:

   (i) took note of the outcome of the Conference on Succession and Wills which was held in Prague on 20 and 21 April 2009;
   (ii) took note that the debates had shown that all Member States were ready to start working on a Commission proposal within the Council and that, in principle, there was nothing preventing a swift submission of such a proposal;
   (iii) called upon the Commission to submit its proposal as soon as possible.

(e) **Financial crisis – follow up to the April JHA Council**
    – Information from the Presidency

   The Council:

   (i) took note of the exchange of experiences in the Member States as a result of the financial crisis;
   (ii) agreed to continue this information process in the context of the Council.
(f) **Free Trade Agreement between the EC and its Member States and the Republic of Korea**
   – Information from the Presidency

   The Presidency informed the Council of the state of play concerning the negotiation of a Free Trade Agreement with Korea, in particular concerning the inclusion of provisions on penalties for infringements of intellectual property rights.

(g) **"Beyond Winning", the project of the ADR Centre, Rome**
   – Information from Slovenia

   The Slovenian delegation drew the attention of the Council to the project "Beyond Winning" launched by the ADR Centre in Rome which aims at promoting and facilitating mediation.

(h) **Slovenian Chairmanship of the Committee of Ministers of the Council of Europe (12 May–18 November 2009)**
   – Information from Slovenia

   The Slovenian delegation reminded the Council that Slovenia would be chairing the Committee of Ministers of the Council of Europe for the next six months. One of the priorities would be to encourage further reform of the European Court of Human Rights. It would also be promoting the Council of Europe Convention on Access to Official Documents which will be opened for signature on 18 June 2009.