COUNCIL OF THE EUROPEAN UNION

Brussels, 6 November 2002

13067/02

LIMITE

PV/CONS 52
JAI 216

DRAFT MINUTES

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1. **Adoption of the agenda**  
   12763/02 OJ/CONS 53 JAI 205  
   The Council adopted the above agenda.

2. **Approval of the list of A-items**  
   12810/02 PTS A 48  
   The Council approved the "A" items as contained in document 12810/02 PTS A 48 with the exception of item 9.
   
   The reference documents for item 4 should read as follows:

   4. 11995/02 SIS 59 SIRENE 51 COMIX 510  
      7155/02 SIS 20 COMIX 199

3. **Proposal for a Council Directive to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes**  
   12928/02 JUSTCIV 147  
   The Council
   - reached political agreement on the text of this draft Directive on the basis of the above document, with the modifications as set out in document 13119/02 JUSTCIV 151;
   - took note that there is no legal requirement to re-consult the European Parliament;
   - took note of a statement from the Commission for the Council minutes, as set out in the Annex;
   - requested the appropriate fora of the Council to continue work to resolve the remaining technical issues (recitals, structure of the draft Directive and Articles 4(2), 8 a(2), 9(2) and 16 b);
   - considered that the Directive should be adopted before the end of November 2002.
4. **Draft Council Framework Decision on combating corruption in the private sector**
   12249/3/02 DROIPEN 64 REV 3

   Following a detailed debate on the outstanding questions, the Council decided to instruct the Permanent Representatives Committee to continue examination of the draft framework Decision.

5. **Draft Council Framework Decision on confiscation of crime-related proceeds, instrumentalities and property**
   12816/02 DROIPEN 70

   The Council held a detailed debate on the four questions set out in document 12816/02 DROIPEN 70 concerning the extension of powers of confiscation and agreed that work should continue in the appropriate Working Group of the Council on the basis of the replies received from delegations. The outcome of proceedings of the Council is set out in document 13446/02 DROIPEN 74.

6. **Draft Council Framework Decision on combating the sexual exploitation of children and child pornography**
   12418/02 DROIPEN 68 MIGR 92
   + ADD 1

   The Council reached a general approach on the text of the above framework Decision, subject to parliamentary reservations from five delegations. The Council will formally adopt the Decision at a forthcoming session once the parliamentary reservations have been lifted and the text has undergone examination by Legal/Linguistic Experts.

7. **Council Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking**
   10321/1/02 DROIPEN 42 CORDROGUE 47 REV 1
   + ADD 1

   The Council focused its examination on the issue of penalties (Article 4 of the proposed framework Decision) and noted that, subject to a number of scrutiny reservations, the compromise text tabled by the Presidency was welcomed by delegations as a basis for reaching an agreement at a forthcoming session of the Council.

   The Council instructed the Permanent Representatives Committee to continue its work on this basis.
8. **Draft Council Framework Decision on the application of the principle of mutual recognition to financial penalties**  
   12903/02 COPEN 51

The Council held an orientation debate on certain key questions identified by the Presidency concerning the above framework Decision and reached agreement on the definitions in Article 1 of the proposal.

The Council instructed the Article 36 Committee to continue work on the outstanding questions in the light of the discussions with a view to reaching agreement at a forthcoming session of the Council. A detailed summary of the outcome of the proceedings of the Council is contained in document 13188/02 COPEN 52.

9. **Draft Council Decision on the investigation and prosecution of war crimes, genocide and crimes against humanity**  
   11562/4/02 CRIMORG 68 REV 4

The Council reached a general approach on the text of the above draft Decision as set out in the Annex to document 13082/02 CRIMORG 91, pending the opinion of the European Parliament and parliamentary scrutiny reservations from five delegations.

10. **Draft Council Decision establishing a mechanism for evaluating the legal systems and their implementation at national level in the fight against terrorism**  
    12715/02 ENFOPOL 124 COTER 48

The Council reached a general approach on the above draft Decision, subject to parliamentary reservations from three delegations. As soon as these reserves are lifted, the Decision will be formally adopted at a forthcoming session as an "A" item.

11. **Proposal for amending the Europol Staff Regulation**  
   - Procedure for selecting the Directorate of Europol  
   12944/02 EUROPOL 73  
   12609/1/02 EUROPOL 71 REV 1

The Council reached agreement on the procedure for selecting members of the Directorate of Europol on the basis of the Presidency compromise set out in document 12944/02 EUROPOL 73, including the selection of a short-list of candidates by the Europol Management Board.
The Council instructed the Article 36 Committee to discuss the decision amending the Europol Staff Regulation with a view to adoption as soon as possible, pending the opinion from the Europol Management Board.

   
   10279/1/02 ASILE 33 REV 1
   12623/02 MIGR 89

   The Council held an open debate concerning these two proposals. Delegations welcomed both the amended proposal on asylum procedures and the recent new Commission proposal and stressed the urgency of the problem. Following the debate, the Council instructed its relevant bodies to start the examination of the two proposals in order to achieve early adoption of these instruments.

13. **Follow-up to the plan for the management of the external borders and the plan for fight against illegal immigration and trafficking in human beings**
   
   12983/02 JAI 211 MIGR 95 FRONT 117 RELEX 187
   12931/02 JAI 209 FRONT 116 MIGR 94 VISA 143 COMIX 572
   10525/2/02 JAI 152 ASILE 35 MIGR 63 FRONT 64 VISA 107 REV 2
   10019/02 FRONT 58 COMIX 398
   6621/1/02 JAI 30 FRONT 19 MIGR 10 VISA 29 REV 1

   The Council took note of a Presidency's status report on the follow-up on the Plan for the management of the external borders and the comprehensive plan to combat illegal immigration (doc.12931/02).

   The Council particularly welcomed the projects which had been adopted or discussed by the Strategic Committee on Immigration, Frontiers and Asylum, with the participation of the Heads of border control services (SCIFA +) in the Framework of the Plan for the Management of the external borders.

   The Council also held a detailed debate on the implementation of the conclusions of the Seville European Council concerning the prevention and combating illegal immigration and trafficking in human beings and adopted the conclusions contained in document 13143/02 JAI 221 MIGR 97 FRONT 118 RELEX 197.
14. **Readmission agreements**

   12625/02 MIGR 91 RELEX 186

The Council held an exchange of views on the basis of the information provided by the Commission concerning the state of play of readmission agreements which are currently being negotiated, as well as the requests for mandates for new agreements which are currently being drafted and will be submitted in the near future to the Council for adoption.

The Council agreed to return to this question at its next session in November 2002 with a view to:
- adoption of operational conclusions concerning the difficulties experienced in the negotiation of readmission agreements;
- adoption of negotiating mandates for agreements with Albania, Algeria, China and Turkey.

15. **Proposal for a Council regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national**

   12616/02 ASILE 50
   + COR 1 (en)
   11355/01 ASILE 41

The Council held a debate on the above proposal and instructed the Permanent Representatives Committee to pursue work in order to allow an agreement at the next JHA Council on 28/29 November 2002.

16. **Proposal for a Council Directive on minimum standards for the qualification and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection**

   12619/02 ASILE 53
   13620/01 ASILE 52

The Council discussed a number of outstanding questions concerning this proposal. Following the debate, the Council instructed the Permanent Representatives Committee to pursue work in order to come back to this item at the next JHA Council meeting on 28/29 November 2002.

9098/02 ASILE 28  
9097/02 ASILE 27  
9077/02 JUR 175 ASILE 26 SOC 260

The Council examined the last outstanding issues concerning this proposal and instructed the Permanent Representatives Committee to continue work in order to allow adoption of this Directive at the next meeting of the Council on 28/29 November 2002.

18. **EU Return Programme on Afghanistan**

12605/1/02 MIGR 87 RELEX 179 REV 1

The Council took note of the Presidency's amended EU return programme for Afghanistan and instructed the Permanent Representatives Committee to further examine it with a view to its adoption at the next meeting of the Council on 28/29 November 2002.


12624/02 MIGR 90  
12383/02 MIGR 84  
8237/01 MIGR 33

The Council held a debate on the questions of principle concerning the Directive as set out in document 12383/02 MIGR 84. Following the discussion, the Council instructed its relevant bodies to further examine the draft Directive and agreed to consider it at one of its next sessions.

20. **Integration of third country nationals**

12621/02 MIGR 88

The Council adopted the conclusions set out in document 12621/02 MIGR 88.
21. **Strengthening of the procedures for passport control at the Schengen area entry points**  
12861/02 FRONT 113 VISA 141 MIGR 93 COMIX 569

The Council held an exchange of views on the procedures for passport control at the Schengen area entry points and invited the Permanent Representatives Committee to examine this matter, including the questions of modification of the Schengen handbook and harmonisation of national procedures. The Council will come back to this item at its meeting on 28/29 November 2002.

22. **List of Safe Third Countries**  
12454/02 ASILE 48

The Council took note of the request of the Austrian delegation to establish a common European list of safe third countries for asylum purposes. It invited the Commission to examine this item and report back to the Council as soon as possible.

23. **Any other business**

   **Eurojust**

   In response to a question from the Finnish delegation, the Presidency announced that the practical preparations for Eurojust would be discussed at the next Council meeting in November 2002.
Re item 3 of the Council agenda

Commission statement for the Council minutes regarding the proposal for a Directive to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

"In view of the substantive amendments made by the Council to the text of the proposal for a Directive on which the European Parliament delivered its Opinion on 25 September 2002, the Commission considers that the European Parliament should be consulted again."