COUNCIL OF THE EUROPEAN UNION

Brussels, 3 November 2008 (19.11)
(OR. fr)

13483/08

PV CONS 57
JAI 480
LIMITE

DRAFT MINUTES
of: 2890th meeting of the Council of the European Union (JUSTICE AND HOME AFFAIRS), held in Brussels on 25 September 2008

PUBLIC Conseil UE

13483/08

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1. **Adoption of the agenda**  
   13038/08 OJ/CONS 48 JAI 458

   The Council adopted the agenda as set out in 13038/08.

2. **Approval of the list of "A" items**  
   13039/08 PTS A 41

   The Council approved the "A" items listed in 13039/08, with the exception of item 2.

   The **Spanish delegation** made a statement for entry in the minutes concerning the draft Council Decision on the conclusion, on behalf of the European Community, of the United Nations Convention against Corruption, which was adopted under item 3 of the list of "A" items (see Annex).

   In addition, the **United Kingdom delegation** abstained on item 7: Council Decision concerning the conclusion of an Agreement between the European Union and the Republic of Croatia on the participation of the Republic of Croatia in the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO.

3. **European Pact on Immigration and Asylum**  
   – Political agreement  
   13440/08 ASIM 72

   The Council reached agreement on the content of the European Pact on Immigration and Asylum. The Pact will now be submitted for adoption to the European Council in October 2008. The **Belgian and United Kingdom delegations** made statements which are annexed to the minutes.
4. **Residence by third-country nationals married to EU citizens and the fight against illegal immigration**  
   — **Follow-up to the judgment of the Court of Justice in Case C-127/08, Metock and others v. Ireland**

The Council discussed the action to be taken following the judgment of the Court of Justice in the Metock case and on the question of the residence of third-country nationals married to EU citizens in the context of tackling illegal immigration.

The Council welcomed the Commission's intention to present, by the end of 2008, a report evaluating the transposition of the Directive on the right of EU citizens and their family members to move and reside freely within the territory of the Member States. The Council noted that the Commission would be prepared, on the basis of that evaluation, to present all appropriate guidelines or proposals which might prove necessary, *inter alia* in order to combat any misuse, offences or abuse. The Council awaits the outcome of that evaluation with interest and will examine the issue immediately thereafter.

5. **Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment**  
   13441/08 MIGR 73 SOC 532

The Council noted delegations' support for the Presidency compromise on this proposal and instructed the Permanent Representatives Committee to finalise the text of the Directive.
6. **Asylum**

   – Presidency briefing on the Ministerial Conference "Building a Europe of Asylum" held in Paris on 8 and 9 September 2008
     12977/08 ASILE 16
   – Exchanges of views on the reception of Iraqi refugees in the Member States of the European Union

   It was agreed that these items would be dealt with by the Ministers during lunch.

7. **Other business**

   None.
STATEMENTS FOR ENTRY IN THE COUNCIL MINUTES

Re item 3 on the list of "A" items

1. Adoption of a draft Council Decision on the conclusion, on behalf of the European Community, of the United Nations Convention against Corruption

STATEMENT BY SPAIN

"Should this Treaty/Convention apply to Gibraltar, Spain wishes to make the following statement:

1. Gibraltar is a non-autonomous territory for the external relations of which the United Kingdom is responsible and which is undergoing a process of decolonisation in accordance with the relevant decisions and resolutions of the United Nations General Assembly.

2. The authorities of Gibraltar are local in nature and exercise exclusively internal powers stemming from and based on powers devolved and conferred by the United Kingdom, in accordance with its domestic law, as a sovereign State on which the non-autonomous territory in question depends.

3. As a result, any participation by the authorities of Gibraltar in the application of this Treaty shall be understood to take place exclusively within the framework of the internal powers of Gibraltar and may not be construed as producing any change whatsoever with respect to the situation as described in the two preceding paragraphs."
Re agenda item 3 on the agenda

European Pact on Immigration and Asylum

STATEMENT BY BELGIUM

"Belgium conducts an effective and humane policy of return and removal with regard to aliens who have not obtained a residence permit. While it approves the European Pact on Immigration and Asylum, it emphasises that it understands the provisions on combating illegal immigration as not preventing Member States from undertaking individually regularisations based on criteria laid down in current and future national law and relating to exceptional circumstances (long procedure, illness and urgent humanitarian grounds which may be demonstrated inter alia by sustained local ties) and to criteria linked to the prospect of being able to carry out an occupation and/or the possibility of providing for one's needs."

STATEMENT BY THE UNITED KINGDOM

"The United Kingdom warmly congratulates the French Presidency on the Migration Pact which it wholeheartedly supports. The Migration Pact is now the primary statement on immigration and asylum policy for the EU.

The United Kingdom notes the improvements in the existing arrangements for the voluntary re-allocation of beneficiaries of international protection from one Member State to another referred to in Chapter IV c of the Migration Pact. The voluntary nature of these arrangements refers to the decision of individual Member States on whether to offer places for re-allocation.

The United Kingdom notes that in their forthcoming proposals to amend the EURODAC system for fingerprinting asylum seekers the Commission intends to unblock data on recognised refugees and to make them searchable by national asylum authorities, in order to avoid that a recognised refugee in one Member State applies for protection in another Member State."