COUNCIL OF THE EUROPEAN UNION

Brussels, 15 April 2002 (22.04)
(OR. fr)

14997/01

LIMITE

PV/CONS 77
JAI 169

DRAFT MINUTES

Subject: 2396th meeting of the COUNCIL (Justice, Home Affairs and Civil Protection), held in Brussels on 6 and 7 December 2001

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1 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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In the margins of the Council meeting: meeting of the Mixed Committee

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Annex

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1. **Adoption of the agenda**
   
   The Council adopted the above agenda.

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

   The Council approved the "A" items listed in 14899/01 PTS A 74.

   The reference documents relating to items 5 and 11 should read as follows:

      13622/01 EUROPOL 85
      13923/01 EUROPOL 90
      + COR 1 (nl,el,es,pt,fi)
      approved by Coreper (Part 2) on 21.11.01

   11. Council Decision on the protection of the euro against counterfeiting
      13436/01 CRIMORG 116 DROIPEN 89
      13721/01 CRIMORG 123 DROIPEN 92
      + COR 1 (en,da,es)
      approved by Coreper (Part 2) on 14.11.01".

   Information relating to items 8, 11 and 12 is contained in **Addendum 1** to these minutes.
3. **Proposal for a Council Framework Decision on the European arrest warrant and the surrender procedures between Member States**

   14867/01 COPEN 79 CATS 50
   + ADD 1

   The President noted that 14 delegations could agree to the text of the proposed Framework Decision. Only one delegation could not agree to the list of offences contained in Article 2(2). He also noted the parliamentary scrutiny reservations of the Danish, Netherlands, Swedish, United Kingdom and Irish delegations and that the proposed Framework Decision would have to be sent to the European Parliament for fresh consultation.

   The outcome of proceedings on this item appears in 14867/1/01 COPEN 79 CATS 50 REV 1 + COR 1 + COR 2 (en) + COR 3 (fr,it,nl,pt) + COR 4.

4. **Proposal for a Council Framework Decision on combating terrorism**

   14845/01 DROIPEN 103 CATS 49
   + COR 1 (da)
   + COR 2 (sv)
   + ADD 1

   The Council noted that there was provisional agreement on the text of the Framework Decision, subject to parliamentary scrutiny by the Swedish, Danish and Irish delegations and fresh consultation of the European Parliament.

   The outcome of proceedings on this item appears in 14845/1/01 DROIPEN 103 CATS 49 REV 1.

5. **Draft Council Decision setting up EUROJUST**

   14766/01 EUROJUST 14
   + ADD 1

   The Council noted that there was provisional agreement on the text of the draft Decision, subject to parliamentary scrutiny by the Swedish and Danish delegations. The outcome of proceedings on this item appears in 14766/01 EUROJUST 14 REV 1 + COR 1 (fr,en).
6. **Draft Council Framework Decision on combating the sexual exploitation of children and child pornography**

14864/01 DROIPEN 104 MIGR 93  
+ COR 1 (fr)  
+ ADD 1

After a brief discussion the President noted that a majority of the delegations could agree to the draft Framework Decision and to a statement in the minutes concerning Article 3(2). The Council instructed the Permanent Representatives Committee to continue its work on resolving the outstanding problems.

7. **Proposal for a Council Regulation on jurisdiction and the recognition and enforcement of judgments in matters of parental responsibility**

14461/01 JUSTCIV 151

The Council agreed to examine this item at a subsequent meeting.

8. **Approximation of sanctions**

13957/01 DROIPEN 96

Following a brief round-the-table review of delegations' opinions on the method to be used to approximate sanctions, the President noted that there was a majority in favour of the "combined option" set out in the aforementioned document. The Council instructed the Permanent Representatives Committee to continue its work in that field.
9. **EUROPOL**
   - **Agreements with the United States**
     13359/01 EUROPOL 82
     13364/01 EUROPOL 83
     14567/01 EUROPOL 88
     14586/01 EUROPOL 99

   The President notified the delegations that the Council had authorised the Director of Europol to:
   
   – conclude an agreement with the United States, excluding the transmission of personal data [agreement signed on 6 December 2001]; (13359/01 EUROPOL 82)
   
   – enter into negotiations with the United States with a view to concluding an agreement which included the transmission of personal data.

   He also raised the question of the procedural problems concerning the appointment and resignation of members of the Europol management team.

10. **Combating terrorism**
    13176/01 JAI 120

    The German delegation submitted a list of suggestions for additional measures to combat terrorism (13176/01 JAI 120 + COR 1 (de)). The Council noted the German proposals and instructed the Article 36 Committee and other relevant Working Parties to examine the list.

    The Director of Europol submitted his report on Europol's activities in the area of the fight against terrorism and particularly implementation of the Council's Decisions of 20 September 2001.

14767/01 ASILE 57

The outcome of proceedings on this subject is reported in 15107/1/01 ASILE 59 REV 1.

The Council noted the statement by the German and Austrian delegations set out in the Annex.

12. **European management concept on border control**

14570/01 FRONT 69

The Council held an exchange of views on a European concept for managing controls at frontiers. Pending the results of the feasibility study carried out by Italy on the setting up of a European Border Police and the Commission's future communication on frontier management, the Council approved the Presidency's report on the European management concept on border control (14570/01 FRONT 69). The French delegation suggested that the Police Chiefs Task Force be involved in developing this European concept.

13. **Eurodac implementing rules**

12840/01 EURODAC 1

+ COR 1 (en)

The Council held a brief debate on this subject and instructed the Permanent Representatives Committee to continue its work so that the draft Regulation could be adopted at an early date.
14. **Proposal for a Council Regulation amending Regulation (EC) No 539/2001 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**

14869/01 VISA 148 COMIX 775
14093/01 VISA 134 COMIX 741

The **Council** adopted the Regulation as set out in 14093/01 VISA 134 COMIX 741 (see Addendum 1 to these minutes) and agreed to have the following statement entered in the Council minutes:

"**Council statement on further cooperation with Romania following the decision to grant exemption from the visa requirement**

Further to the report dated 29 June 2001 from the Commission to the Council on the exemption of Romanian citizens from the visa requirement (COM(2001) 361 final), the Council has decided to waive the visa requirement for Romanian nationals as from 1 January 2002.

The Council welcomes the measures already implemented and being planned and notes with satisfaction the precise and concrete commitments entered into by Romania to guarantee security and prevent illegal immigration in the Member States of the European Union. It is the wish of the Council that the implementation of these measures should lead to an effective improvement.

In the context of the analyses carried out with participation of the Member States by the Working Party on Collective Evaluation and by existing structures at the Commission on the progress achieved by each of the candidate countries and the loopholes which they still need to plug in order to align themselves on the European Union "acquis" in the field of justice and home affairs, the Council will grant special attention to the consequences for internal security and illegal migration in the Member States and the following aspects:

- border controls on entry, transit and exit;
- visa policy;
- travel documents and identity documents;
- legislation on immigration and asylum;
- laws and other rules on citizenship and stateless persons;
- readmission of third-country nationals residing illegally in Member States;
- economic and social dimension.

On the basis of the periodical assessments made within the Council and where necessary, the Council will decide on all appropriate measures in accordance with the Treaty."
15. **Other business**

– **Follow-up to the Sarajevo Declaration**

*The Council* noted a report by the Presidency on the meeting of senior officials which was held in Belgrade on 30 November 2001 in the framework of implementation of the Sarajevo Declaration concerning deepening regional cooperation in the field of asylum and immigration and alignment with European standards.

– **Laeken Summit**

*The President* summarised the provisions on police cooperation taken with a view to the Laeken Summit.

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**In the margins of the Council meeting: meeting of the Mixed Committee**

The minutes of the Joint Committee's meeting appear in 15221/01 JAI 174 COMIX 787.
Re agenda item 11

Proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status

Statement by the German and Austrian delegations

Germany and Austria approve the restriction to one appeal body in accelerated procedures. For this reason it is particular important that this single appeal body should have the power to examine the asylum application on points of fact as well as on all points of law. As a consensus on this issue has not been reached in the Council, it remains open.

Germany and Austria hold the view that, under the accelerated procedure too, the general principle should apply whereby an asylum-seeker may remain in the territory of a Member State pending a decision on his appeal or on his request for suspensory effect of the appeal or on his challenge on the execution of the expulsion order. Any deviation from this principle should only be possible in a limited number of cases. Therefore, this issue is not resolved for the time being.