COUNCIL OF  
THE EUROPEAN UNION

Brussels, 11 July 2005 (27.07)  
(OR. fr)

9682/05

LIMITE

PV/CONS 33  
JAI 199

DRAFT MINUTES ¹

Subject: 2664th meeting of the Council of the European Union (JUSTICE AND HOME AFFAIRS), held in Luxembourg on 2 and 3 June 2005

¹ The information from the Council minutes which is set out in this addendum is not confidential and may therefore be released to the public.
## 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>3</td>
</tr>
<tr>
<td>2</td>
<td>Approval of the list of &quot;A&quot; items</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>Draft Framework Decision on the retention of data processed and stored in connection with the provision of publicly available electronic communications services or data on public communications networks for the purpose of investigation, detection and prosecution of crime and criminal offences including terrorism</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>Proposal for a Council Framework Decision on the European Evidence Warrant for obtaining objects, documents and data for use in proceedings in criminal matters</td>
<td>5</td>
</tr>
<tr>
<td>5</td>
<td>Proposal for a Framework Decision on combating racism and xenophobia</td>
<td>5</td>
</tr>
<tr>
<td>6</td>
<td>Evaluation of the transposition of the Framework Decision on the European Arrest Warrant</td>
<td>5</td>
</tr>
<tr>
<td>8</td>
<td>Terrorism – Implementation of the Action Plan</td>
<td>6</td>
</tr>
<tr>
<td>9</td>
<td>Proposal for a Council Decision establishing CEPOL as an EU body</td>
<td>6</td>
</tr>
<tr>
<td>10</td>
<td>Police Chiefs Task Force: Partial review of operational cooperation</td>
<td>6</td>
</tr>
<tr>
<td>11</td>
<td>Draft Council conclusions on initiating dialogue and cooperation with Libya on migration issues</td>
<td>6</td>
</tr>
<tr>
<td>12</td>
<td>Other business</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>- External borders agency</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Relations with the Western Balkans</td>
<td></td>
</tr>
</tbody>
</table>

|   | o                                                                           |      |
|   | o                                                                           |      |
|   | o                                                                           |      |
1. **Adoption of the agenda**

9483/05 OJ/CONS 32 JAI 189

The Council adopted the above agenda.

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

9568/05 PTS A 27

The Council approved the list of "A" items set out in 9568/05.

Information concerning items 3 and 11 on the list may be found in [Addendum 1](#) to these minutes.

3. **Draft Framework Decision on the retention of data processed and stored in connection with the provision of publicly available electronic communications services or data on public communications networks for the purpose of investigation, detection and prosecution of crime and criminal offences including terrorism**

8864/1/05 REV 1 COPEN 91 TELECOM 33
7688/05 JUR 137 COPEN 62 TELECOM 21

The Council examined the above draft Framework Decision on the basis of 8864/1/05 REV 1. The Council agreed that retention of communication data was an important element in the fight against crime and terrorism and that EU legislation on the matter was necessary. However, a number of issues remained outstanding. Following a long debate, the Presidency drew the following conclusions:

- In order to make rapid progress, a step-by-step approach could be preferable concerning the communication data to be retained. A first step could be the retention of communication data related to fixed and mobile telephony. Concerning internet data and unsuccessful outgoing calls, a transitional period to be determined could be granted to Member States which could not immediately ensure the retention of the relevant communication data.
– Regarding the list of communication data to be retained (Article 2), there was general agreement on the approach proposed by the Presidency. This approach involved a minimum list constituting a functional list with, however, some technical indications included. The details of the list needed further examination by experts.

– There was a need for further contacts between service providers and law enforcement authorities to obtain more information on the costs involved in retaining the relevant communication data.

– Most delegations could accept the retention periods proposed by the Presidency (Article 4). The normal period would be 12 months, but it would be possible for Member States to provide for longer periods (up to 48 months) or shorter periods (not below six months) in specified circumstances.

– Regarding the legal basis, a majority of delegations felt that the draft instrument belonged in the third pillar.

The United Kingdom would prepare a discussion of the file at the informal Council meeting in September 2005 with a view to formal discussions at the October 2005 Council meeting.

Several delegations maintained general scrutiny reservations and parliamentary scrutiny reservations on the draft. The Dutch minister informed the Council of the opinion of the Dutch Parliament on the matter and indicated that he was not able to give any definitive position on the subject under discussion at this point.
8863/1/05 REV 1 COPEN 90
+ COR 1 (en)

As regards the territoriality clause in Article 15(2)(c), the Commission suggested making a distinction between cases where coercive measures were necessary – in which case the current text could apply – and other cases where the Spanish proposal providing for a more limited clause could apply. The Working Party would examine that option.

It was concluded that experts should continue examining Article 21.

5. Proposal for a Framework Decision on combating racism and xenophobia
8994/2/05 REV 2 DROIPEN 24

This item was not examined during the formal meeting.

8842/1/05 REV 1 COPEN 89 EJN 32 EUROJUST 32 CATS 27
6815/05 COPEN 42

The Council held an exchange of views on the document and approved the proposals put forward by the Presidency.

9246/2/05 REV 2 JAI 184
8922/05 JAI 163
16054/04 JAI 559
+ REV 1 (el)

The outcome of proceedings is set out in 9778/2/05 JAI 207 REV 2.
8. **Terrorism – Implementation of the Action Plan**
9157/05 JAI 179 ECOFIN 156 TRANS 99 RELEX 249 ECO 59 PESC 421
COTER 31 COSDP 320 PROCIV 70 ENER 74 ATO 55
9156/05 JAI 178 ECOFIN 155 TRANS 98 RELEX 248 ECO 58 PESC 420
COTER 30 COSDP 319 PROCIV 69 ENER 73 ATO 54
8211/1/05 REV 1 JAI 139 ECOFIN 129 TRANS 81 RELEX 181 ECO 38
PESC 305 COTER 23 COSDP 224 PROCIV 41 ENER 57 ATO 47
 + ADD 1 REV 1
 + ADD 2 REV 1

The Council examined the report and its two addendums and decided to forward them to the European Council.

9. **Proposal for a Council Decision establishing CEPOL as an EU body**
9459/05 ENFOPOL 67
9144/1/05 REV 1 ENFOPOL 64
8623/05 JUR 186 ENFOPOL 53
 + COR 1 (en)

The Council reached political agreement on the proposal set out in 9144/1/05 REV 1.

10. **Police Chiefs Task Force: Partial review of operational cooperation**

The Council noted with satisfaction the more operational nature of the proceedings of the Police Chiefs Task Force.

11. **Draft Council conclusions on initiating dialogue and cooperation with Libya on migration issues**
9413/1/05 REV 1 ASIM 22 RELEX 262 LIBYE 4

The Council adopted the conclusions relating to initiating dialogue and cooperation with Libya on migration issues as contained in 9796/05.
12. Other business

- External Borders Agency

    The Commission briefed the Council on the decisions taken by the Agency's governing board at its first meeting, held in Warsaw on 25 May 2005.

- Relations with the Western Balkans
  9469/05 JAI 188 CRIMORG 47 COWEB 84

    The Council took note of the information provided by the Presidency.