Council of the European Union

Brussels, 16 July 2002 (01.08)
OR. fr

9958/02
ADD 1 REV 1

LIMITE

PV/CONS 33
JAI 138

REVISED ADDENDUM TO THE DRAFT MINUTES

Subject: 2436th meeting of the Council (Justice and Home Affairs and Civil Protection) held in Luxembourg on 13 June 2002

---

1 The information from the Council minutes which is contained in this addendum is not confidential and may therefore be released to the public.
## CONTENTS

### "A" ITEMS

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Council Decision setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes</td>
<td>3</td>
</tr>
<tr>
<td>17</td>
<td>Council Regulation laying down a uniform format for residence permits for third-country nationals</td>
<td>3</td>
</tr>
<tr>
<td>18</td>
<td>Council Decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO)</td>
<td>3</td>
</tr>
<tr>
<td>19</td>
<td>Framework Decision on joint investigation teams</td>
<td>4</td>
</tr>
<tr>
<td>29</td>
<td>Council Directive on the marketing of beet seed</td>
<td>4</td>
</tr>
<tr>
<td>30</td>
<td>Council Directive on the marketing of vegetable seed</td>
<td>5</td>
</tr>
<tr>
<td>31</td>
<td>Council Directive on the marketing of seed potatoes</td>
<td>5</td>
</tr>
<tr>
<td>32</td>
<td>Council Directive on the marketing of seed of oil and fibre plants</td>
<td>5</td>
</tr>
<tr>
<td>40</td>
<td>Council framework Decision on the European arrest warrant and the surrender procedures between the Member States</td>
<td>5</td>
</tr>
<tr>
<td>42</td>
<td>Council framework Decision on combating terrorism</td>
<td>9</td>
</tr>
</tbody>
</table>
Items on the agenda concerning the definitive adoption of Council acts released to the public

"A" items : (list: 9825/02 PTS A 31 + COR 1 + ADD 1)

When definitively adopting the "A" items concerning legislative acts, the Council agreed to enter the following in the minutes:

Item 7: Council Decision setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes 8252/02 CRIMORG 23 JAI 73

The Council adopted the above Decision. (Legal basis: Articles 30 and 34(2)(c) of Title VI of the Treaty on European Union).

Item 17: Council Regulation laying down a uniform format for residence permits for third-country nationals 7989/02 VISA 55 COMIX 270 + COR 1

The Council adopted the above Regulation. (Legal basis: Article 63(3) of the Treaty establishing the European Community).

Item 18: Council Decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO) 8406/02 FIN 15 + COR 1 (de)

The Council adopted the above Decision. (Legal basis: Article 66 of the Treaty establishing the European Community).
Item 19: Framework Decision on joint investigation teams
14242/01 COPEN 71
   + COR 1
   + COR 1 REV 1 (fr)
   + REV 1 (fi)
   + REV 1 COR 1 (fi)
   + REV 2 COR 1 (fi)

The Council adopted the above framework Decision. (Legal basis: Article 34(2)(b) of the Treaty on European Union.)

PE-CONS 3624/1/02 SOC 192 CODEC 483 REV 1
   + REV 1 COR 1 (de)
   + REV 2 COR 1 (de)

The Council adopted the above Directive. (Legal basis: Article 141(3) of the Treaty establishing the European Community).

8063/02 CODIF 1 AGRILEG 75
   + COR 1 (sv)
   + COR 2 (it)

The Council adopted the above Directive. (Legal basis: Article 37 of the Treaty establishing the European Community).

Item 29: Council Directive on the marketing of beet seed
8067/02 CODIF 2 AGRILEG 78
   + COR 1 (sv)
   + COR 2 (it)

The Council adopted the above Directive. (Legal basis: Article 37 of the Treaty establishing the European Community).
**Item 30:** Council Directive on the marketing of vegetable seed  
8068/02 CODIF 3 AGRILEG 79  
+ COR 1 (sv)

The Council adopted the above Directive. (Legal basis: Article 37 of the Treaty establishing the European Community).

**Item 31:** Council Directive on the marketing of seed potatoes  
8069/02 CODIF 4 AGRILEG 80  
+ COR 1 (sv)

The Council adopted the above Directive. (Legal basis: Article 37 of the Treaty establishing the European Community).

**Item 32:** Council Directive on the marketing of seed of oil and fibre plants  
8070/02 CODIF 5 AGRILEG 81  
+ COR 1 (sv)  
+ COR 2 (it)

The Council adopted the above Directive. (Legal basis: Article 37 of the Treaty establishing the European Community).

**Item 40:** Council framework Decision on the European arrest warrant and the surrender procedures between the Member States  
7253/02 COPEN 23 CATS 9  
+ COR 1 (es)  
+ COR 2 (pt)  
+ COR 3 (sv)  
+ COR 4 (fi)  
+ COR 5 (nl)  
+ COR 6 (de)  
+ COR 7 (fr,it,el)  
+ COR 8 (en)  
+ COR 9 (el)

The Council adopted the above framework Decision. (Legal basis: Article 31(a) and (b) and Article 34 of the Treaty on European Union.)
Council statements

1. Re Article 2

"The Council agrees to continue, in accordance with Article 31(e) TEU, the work on approximation of the offences contained in Article 2(2) of the Framework Decision, with a view to arriving at a mutual legal understanding among the Member States".

2. Re Article 2(2)

"The Council states that in particular for the following offences, listed in Article 2(2), there is no completely harmonised definition at Union level. For the purposes of applying the European arrest warrant, the act as defined by the law governing issue prevails. Without prejudice to the decisions which might be taken by the Council in the context of implementing Article 31(e) TEU, Member States are requested to be guided by the following definitions of acts in order to make the arrest warrant operational throughout the Union for offences involving racism and xenophobia, sabotage and racketeering and extortion.

**Racism and xenophobia** as defined in the Joint Action of 15 July 1996 (96/443/JAI)

**Sabotage:**

"Any person who unlawfully and intentionally causes large-scale damage to a government installation, another public installation, a public transport system or other infrastructure which entails or is likely to entail considerable economic loss."

**Racketeering and extortion:**

"Demanding by threats, use of force or by any other form of intimidation goods, promises, receipts or the signing of any document containing or resulting in an obligation, alienation or discharge."

3. Re Article 2(2)

"The Council states that the concept of swindling referred to in Article 2(2) encompasses the following constituent elements inter alia: using false names or claiming a false position or using fraudulent means to abuse people's confidence or credulity with the aim of appropriating something belonging to another person."
4. **Re Article 2(4)**

"Article 2(4) is to be interpreted in a manner consistent with Article 4(1), which does not oblige Member States to arrest and surrender a person against whom a European arrest warrant has been issued if the conditions referred to in those provisions have not been met."

**Statements by Ireland**

5. "**Ireland** declares that for the purposes of the consent to be sought under Articles 27(4) and 28(3) of this Framework Decision, requests shall be submitted to and consent given by the Central Authority nominated by Ireland in accordance with Article 7 of this Framework Decision."

6. "**Ireland** shall, in the implementation in domestic legislation of this Framework Decision, provide that the European Arrest Warrant shall only be executed for the purpose of bringing that person to trial or for the purpose of executing a custodial sentence or detention order."

7. **Statement by Italy**

"To implement the Framework Decision on the European arrest warrant, the Italian Government will have to initiate procedures in its domestic law to make the Framework Decision itself compatible with the essential principles of Italy's constitutional law on fundamental rights and to bring its judicial and legislative system closer to the European model."

**Re Article 32**

8. **Statement by France**

"Pursuant to Article 32 of the Framework Decision on the European arrest warrant and the surrender procedures between Member States, France states that as executing Member State it will continue to deal with requests relating to acts committed before 1 November 1993, the date of entry into force of the Treaty on European Union signed in Maastricht on 7 February 1992, in accordance with the extradition system applicable before 1 January 2004."

9. **Statement by Italy**

"Italy will continue to deal in accordance with the extradition rules in force with all requests relating to acts committed before the date of entry into force of the Framework Decision on the European arrest warrant, as provided for in Article 32 thereof."
10. **Statement by Austria**

"Pursuant to Article 32 of the Framework Decision on the European arrest warrant and the surrender procedures between Member States, Austria states that as executing Member State it will continue to deal with requests relating to punishable acts committed before the date of entry into force of the Framework Decision in accordance with the extradition system applicable before that date."

**Re Article 13(4)**

11. **Statement by Belgium**

"The consent of the person concerned to his or her surrender may be revoked until the time of surrender."

12. **Statement by Ireland**

"In Ireland, consent to surrender and, where appropriate, express renunciation of the entitlement to the "speciality rule" referred to in Article 27(2) may be revoked. Consent may be revoked in accordance with domestic law until surrender has been executed."

13. **Statement by Finland**

"In Finland, consent to surrender and, where appropriate, express renunciation of the entitlement to the "speciality rule" referred to in Article 27(2) may be revoked. Consent may be revoked in accordance with domestic law until surrender has been executed."

14. **Statement by Sweden**

"Consent or renunciation within the meaning of Article 13(1) may be revoked by the party whose surrender has been requested. Revocation must take place before the decision on surrender is executed."

15. **Statement by Denmark**

"Consent to surrender and express renunciation of entitlement to the "speciality rule" may be revoked in accordance with the relevant rules applicable at any time under Danish law."
The Council adopted the above framework Decision. (Legal basis: Articles 29, 31(e) and 34(2)(b) of the Treaty on European Union).

Council statements

16. "The Council states that the offence of threat specified in Article 1, paragraph 1 (i) should be viewed as defined by the national law of the Member State concerned. Should that offence require an additional qualification such as a "credible" threat, it is permissible under the Framework Decision to implement the instrument accordingly. Where the Framework Decision concerns the direction of a terrorist group that never commits any acts, but merely threatens to commit them, it would be permissible under the Framework Decision to implement the instrument by punishing that particular offence by a maximum sentence of not less than eight years."

17. "The Council states that the Framework Decision on the fight against terrorism covers acts which are considered by all Member States of the European Union as serious infringements of their criminal laws committed by individuals whose objectives constitute a threat to their democratic societies respecting the rule of law and the civilisation upon which these societies are founded. It has to be understood in this sense and cannot be construed so as to argue that the conduct of those who have acted in the interest of preserving or restoring these democratic values, as was notably the case in some Member States during the Second World War, could now be considered as "terrorist" acts. Nor can it be construed so as to incriminate on terrorist grounds persons exercising their fundamental right to manifest their opinions, even if in the course of the exercise of such right they commit offences."

18. Re Article 1(1)(f)

"The Council agrees that the Framework Decision does not impose an obligation on Member States to criminalise the actions set out in Article 1(1)(f) unless they are committed with a terrorist intent."
19. **Statement by the Commission**

"The Commission regrets that the Council has not reached agreement on the level of penalties applicable to the offences referred to in Article 1. It will examine attentively transposition into Member States' criminal law of the obligation contained in Article 5(2) and will take all the initiatives it considers necessary to guarantee greater harmonisation of sentences in this context."