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PV/CONS 9

JAI 4

**DRAFT
MINUTES
of the 2075th Council meeting
(Justice and Home Affairs)**

held in Brussels on 19 March 1998

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1. Approval of the Agenda

doc. 6861/98 OJ/CONS 12 JAI 11

The Council approved the above-mentioned agenda, subject to the addition of an item on data protection under "Any Other Business", at the request of the Italian delegation.

2. Adoption of the list of "A" items

doc. 6862/98 PTS A 14 + ADD 1

The Council adopted the "A" items as listed in doc. 6862/98 PTS A 14 + ADD 1, except for items 10 and 13 (NL reserves).

With regard to items 9 and 16 the reference documents should read as follows:

Item 9

docs 6796/98 CRIMORG 39
6708/98 CRIMORG 38
+ COR 1 (dk)

Item 16

docs 6983/98 PESC 62 COWEB 11
6904/98 PESC 57 COWEB 8
+ COR 1 (f,d,i,nl,en,dk,es,p,fi,s)

3. Report on openness

doc. 6407/98 JAI 6

The Council approved the conclusions as set out in Annex I to these minutes.

4. Convention on Driving Disqualification

doc. 6812/98 JUSTPEN 33
+ COR 1 (en)

The outcome of proceedings is set out in doc. 7399/98 JUSTPEN 41.

5. Joint Action establishing the European Judicial Network

docs 6882/98 CRIMORG 43
9804/5/97 CRIMORG 1 REV 5

The United Kingdom delegation indicated that it would be willing only to nominate contact points in the United Kingdom which would deal with all matters, including those relating to Gibraltar.

The Spanish delegation indicated that it could not accept a unilateral declaration but that it must be clarified

within the body of the text.

The French delegation requested an opinion from the Council Legal Service on the legal effect of such a declaration.

The Legal Service stated that a declaration by the United Kingdom would remain a unilateral declaration. However, the decision to publish it would be taken by the Council, acting unanimously, and any decision to change the published statement would have to be taken by unanimity.

The Spanish delegation, indicating that the statement was of a political character rather than legal, stated that it could not accept unilateral or bilateral statements.

The United Kingdom delegation indicated that it could consider annexing the declaration to the Joint Action, indicating in the preamble that it would form an integral part of such Joint Action.

The Spanish delegation proposed that a list of authorities could be published jointly and that Article 2 could be deleted.

The Presidency concluded that there were 14 delegations in favour of the text as it stood.

6. Joint Action on participation in criminal organisations

doc. 6823/98 CRIMORG 40

Several delegations indicated that they could accept the Presidency proposal as a global compromise. The Belgian delegation indicated that its Parliament was still scrutinizing the text of a government proposal relating to participation in criminal organisations but that it hoped to be able to withdraw its parliamentary reservation as soon as possible.

The Presidency concluded that there was agreement, in principle, on the text, subject to the Belgian parliamentary reservation. The hope was expressed that the Joint Action could be adopted as soon as possible, even before the May (JHA) Council.

7. Convention on Mutual Legal Assistance

doc. 6845/98 JUSTPEN 34

The outcome of proceedings is set out in doc. 7113/98 JUSTPEN 38.

8. Preparation for enlargement (Justice and Home Affairs)

doc. 6485/1/98 JAI 8 ELARG 14 REV 1

After a comprehensive speech by Commissioner A. GRADIN on the involvement of Justice and Home Affairs Ministers in the enlargement process and the intervention of various Ministers (FIN,F,S,DK,D,NL and IRL), the Council approved the report of the Presidency on enlargement (doc. 6485/1/98 JAI 8 ELARG 14 REV 1) subject to some changes in the wording of items 14 and 16 ("might" is replaced by "should").

The Council invited the Permanent Representatives Committee to examine the French proposal to set up a special working group of experts to conduct the collective evaluation mentioned in item 14.b of the Presidency document.

The Swedish Minister invited the Commission to report at the next Council on whether, and if so how, to associate where appropriate the candidate countries with the application of the third Pillar acquis, prior to accession.

9. EUROPOL/EDU

a) Council decision concerning Article 2(2) of the Europol Convention

doc. 6350/2/98 EUROPOL 31 REV 2

The Council agreed in principle to launch the activities of Europol in the field of terrorism as soon as possible; a more detailed assessment will be made at its meeting of 28/29 May 1998.

b) Progress report

doc. 6898/98 EUROPOL 40

Information given by the Italian, Luxembourg and Belgian delegations enabled the Presidency to conclude that probably the ratification procedures could be completed by the end of May 1998.

10. Review of Action Plan on influx of migrants from Iraq and the neighbouring region

doc. 6857/98 ASIM 75 EUROPOL 39

+ COR 1

+ COR 1 REV 1

6754/98 JUR 115 ASIM 72

In accordance with point 44 of the Action Plan (contained in document 5573/98 ASIM 13 EUROPOL 12 PESC 27 COMEM 4 COSEE 4), the Council reviewed progress on implementing relevant action points, and welcomed the Presidency's report on such progress, as amended to take into account the comments made during the discussion (see document 6857/98 ASIM 75 EUROPOL 39 COR 1 REV 1). This report will be brought to the attention of the General Affairs Council for the purpose of an overall implementation review to take place at its meeting on 30 March 1998.

Regarding the contacts with Turkey, in particular, the Greek delegation stressed that all assistance to Turkey had to be based on a cooperative spirit in the tackling of illegal immigration networks. Furthermore, in response to the German and Greek delegations, the Presidency pointed out that the question of readmission to Turkey of both Turkish and third-country nationals is covered by the Presidency's detailed report on its visit to Turkey (submitted to the K.4 Committee for discussion, see document 6938/98 ASIM 78), which will be the basis for a further report to be submitted to the Council at its May meeting.

In addition, the Swedish delegation stressed that the question has to be seen in the broader context of the humanitarian situation in the region concerned, and this requires continuing the political dialogue with Turkey, as well as the appropriate contacts with UNHCR with a view to ensuring that people in need of protection could receive such protection in the area. In the view of the Swedish delegation, the countries which have resettlement quotas (namely, the United States and Canada) could also be involved in a discussion of these questions.

In this connection, the Italian delegation referred to the work done by the Schengen Task Force, which could provide useful elements to pursue action in this area. It further considered that the exercise based on the Action Plan could be used towards further harmonization of both the immigration policies, and the policies relating to asylum and international protection, and in this connection it called for further action on the Commission's proposal on temporary protection.

Regarding the question of the fingerprinting of illegal immigrants, also raised in the Presidency's report, the Presidency concluded as follows: general agreement has been reached to the effect that, in principle, illegal immigrants should be fingerprinted although there is not yet agreement on the definition of illegal immigrants; it has, therefore, been agreed that urgent work should start on the legal and technical implications of an extension of the Eurodac Convention to cover illegal immigrants, with a view to a decision being taken at the May JHA Council as to whether and, if so, how to bring forward such an extension (a protocol to the Convention being a possible alternative to the insertion of provisions in the Convention itself); it has finally been agreed that Member States should look at the possibility of bilateral exchanges of fingerprints of illegal immigrants, as provided for by their national law, pending the entry into force of the Eurodac Convention.

11. Eurodac Convention

docs 6856/98 ASIM 74
6191/2/98 ASIM 46 REV 2
6754/98 JUR 115 ASIM 72

The German and Austrian delegations, while regarding the discussions on the previous item on the agenda (Action plan for Iraq) as representing progress on the matter of the taking and exchange of illegal immigrants' fingerprints for the purposes of applying the Dublin Convention, were unable to withdraw their reservations on the draft Eurodac Convention in this connection. The Netherlands delegation was also still unable to accept the draft Eurodac Convention without the inclusion of illegal immigrants.

Delegations' reservations on the other outstanding items still stood. In addition the Austrian delegation joined the delegations which still had reservations on Article 16 (Preliminary rulings).

The Presidency concluded that, while political agreement could be recorded on the establishment of Eurodac, certain provisions of the draft Convention still required further work in order for the draft Convention to be adopted by the JHA Council on 28 and 29 May 1998.

12. Implementation of the Dublin Convention

doc. 6049/98 ASIM 38

The Council took note of the Programme of Action submitted by the Presidency for improving the operation of the Dublin Convention, and the Presidency's intention of convening a meeting of the Dublin Convention's Article 18 Committee in parallel with the JHA Council meeting on 28 and 29 May 1998.

The Italian delegation pointed out that the Dublin Convention had not been in force for very long, that there had consequently been very little experience with operating it, and that the situation had changed since it had been signed. The delegation was however prepared to look at ways of improving its operation.

The Swedish delegation thought that the best way of improving operation of the Dublin Convention would be to conclude the Eurodac Convention as soon as possible. It again voiced its fears that including illegal immigrants in the draft Eurodac Convention would considerably delay its adoption.

The German delegation pointed out that Eurodac would only be of use for full implementation of the Dublin Convention if it were extended to include illegal immigrants

13. Any other business

The Italian delegation undertook to present at the next Council a paper on the need to articulate the various arrangements on data protection set up within the framework of the Third Pillar (Europol, Eurodac, Customs Information System, etc.).

Re item 3. on the agenda

The Presidency concludes that the Council is in favour of:

- (i) making available to the public the calendar of the K4 Committee and other JHA working groups;
- (ii) increasing the number of press briefings on JHA matters during each Presidency, subject to each Presidency's view of the appropriateness at the time. These would not be specifically linked to meetings of the K4 Committee;
- (iii) making available a progress report towards the end of each Presidency on JHA business. Such a document would be drawn up under the responsibility of the Presidency. It could be supplemented, as necessary, by explanatory publications on JHA matters, taking account of the resources available;
- (iv) having an open debate in JHA matters during each Presidency where a suitable topic arises subject to the demands on time of other agenda items;
- (v) making available to the public proposals in the field of JHA at the same time as they are made available to the European Parliament. As a first step, they would be made available, for example, on the Internet, but the Council would aim to make arrangements as soon as possible to allow their publication in the Official Journal;
- (vi) making available a list of measures adopted by the Council in the field of JHA.