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LIMITE

PV/CONS 36

JAI 14

DRAFT
MINUTES ⁽¹⁾
of the 2099th Council meeting
(Justice and Home Affairs)

held in Brussels on 28 and 29 May 1998

⁽¹⁾ Information on the final adoption of Council acts which may be released to the public can be found in Addendum 1 to these minutes.

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1. **Approval of the agenda**
doc. 8723/1/98 OJ/CONS 37 JAI 17 REV 1

The Council approved the above-mentioned agenda.

2. **Adoption of the list of "A" items**
doc. 8764/98 PTS A 37 + ADD 1

The Council adopted the "A" items as listed in doc. 8764/98 + ADD 1. Information concerning item 16 on the list is given in Addendum 1 to these minutes.

The reference documents for items 8 and 10 should read as follows:

8. docs 8695/98 ASIM 135
8594/98 ASIM 132
+ COR 1 (en,i,dk,p)
+ COR 2 (s)
10. docs 8336/98 ENFOCUSTOM 27
8337/98 ENFOCUSTOM 28
+ COR 1 (d,fi)

3. **Organized Crime (open debate)**

The debate gave the Council the opportunity to highlight the areas to which the Member States attach particular importance in the fight against organized crime and to suggest action for the future.

The Danish Minister announced that the Danish delegation would take initiatives in the field of serious crimes against the environment, see doc 9072/98 CRIMORG 86.

The President drew the following conclusions from the debate:

- It was apparent that progress was being made in the fight against organised crime, and this was encouraging.
- It was equally apparent that still more needed to be done by Member States, and other opportunities must be seized.
- Member States must be outward looking in their approach to the problem, and not restrict their interest to what was happening within the EU.
- The full implementation of Europol later this year was much looked forward to, and it was noted with great pleasure that the last remaining legislative hurdles appeared about to be overcome during the UK Presidency.

- The future fight against organised crime must be sure to include the areas of environmental crime and economic crime, including means to tackle use of offshore centres.

4. **Report to the European Council on progress in implementing action plan on organised crime**

doc. 7303/3/98 CRIMORG 45 REV 3

The Council noted the draft Report by the Presidency which was still subject to amendment in the light of events to occur before the European Council. The draft would be forwarded to the General Affairs Council.

5. **Convention on Driving Disqualifications**

docs 8815/98 JUSTPEN 59

8383/98 JUSTPEN 54

+ REV 1 (s)

The outcome of proceedings is set out in document 9153/98 JUSTPEN 62.

6. **Joint Action on good practice in Mutual Legal Assistance**

doc. 8345/1/98 CRIMORG 74 REV 1

The Council, noting that there was general political agreement on the text of the draft Joint Action, agreed on the remaining outstanding issues and decided to forward the text to the Working Party of the Legal/Linguists experts for later adoption as an "A item" on the agenda.

7. **Joint Action Establishing a European Judicial Network**

doc. 8636/98 CRIMORG 77

The Council, noting that there was general political agreement on the text of the draft Joint Action, agreed on the remaining outstanding issues and decided to forward the text to the Working Party of the Legal/Linguists experts for later adoption as an "A item" on the agenda.

8. a) **Europol : Progress Report**

doc. 7869/2/98 EUROPOL 52 REV 2

+ REV 3 (i,en,gr,fi,s)

The Council approved the afore-mentioned progress report.

- b) **1999 Budget**
doc. 7475/2/98 EUROPOL 46 REV 2

The Council agreed to the following compromise in the form of a declaration:

COUNCIL DECLARATION

"In view of the present and future tasks of Europol, the Council considers that a substantial increase of Europol personnel in the coming years will be necessary. In this respect, the Council will be guided by the overview presented by EDU which foresees a significant and regular increase by the year 2003.

Against this background, the Council commits itself to draw the necessary conclusions from the review of staffing levels and plans to be held before the end of 1998 and, after the entry into force of the Europol Convention, from the annual reports on Europol's future activities made under article 28, §10.2 of Europol Convention.

In case prompt action of Europol is required, e.g. because of the extension of the mandate of Europol or for other reasons related to Europol's functional requirements, the Council will ensure that on short notice the required appropriate financial means will be made available (e.g. through a supplementary budget). To this end the Council invites Member States to make any necessary national arrangements."

Increase of posts for 1999 : 50. Possible additional increase subject to the outcome of the aforementioned review.

Terrorism: When deciding on additional posts for combating terrorism after the taking-up of its activities by Europol, the Council will take into account the recommendations of the feasibility study presented by EDU and the afore-mentioned review.

- c) **Launching of activities of Europol in the field of terrorism**
doc. 7749/2/98 CK4 19 REV 2

The outcome of proceedings is set out in doc. 7749/3/98 CK4 19 REV 3.

9. **Convention on Mutual Legal Assistance**
docs 8637/98 JUSTPEN 58
8536/98 JUR 200 CK4 22

The Swedish delegation lifted its reservation on Article 11 of the draft Convention. The Council took note of the Legal Service opinion set out in document 8536/98 JUR 200 CK4 22 and agreed that further examination of the possible role of the Court of Justice in relation to the Convention was necessary. The work on the draft Convention will be continued with a view to its finalization as soon as possible.

10. **Pre-accession pact on organised crime**
docs 8668/98 CRIMORG 78 PECOS 67
8331/98 CRIMORG 72 PECOS 65

The Council approved the text of the Pact as it appears in the documents submitted to the Council. The Pact will be published in the Official Journal of the European Communities.

11. Joint Action establishing a mechanism for collective evaluation

doc. 8182/3/98 JAI 13 ELARG 54 REV 3

The Council, noting that there was general political agreement on the text of the draft Joint Action, decided to forward the text to the Working Party of the Legal/Linguists experts for later adoption as an "A item" on the agenda.

12. Rule of Law: Conclusions on follow-up to the Noordwijk Conference

doc. 7830/2/98 CK4 20 REV 2

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

13. Preparation for the meeting with Ministers from the CEEs and Cyprus

The Presidency informed the Council on the forthcoming meeting with CEEs and Cyprus.

14. Crime Prevention

doc. 7311/2/98 ENFOPOL 44 CRIMORG 50 REV 2

The Council agreed on arrangements providing for an improved exchange of information and best practice. In particular, the Council decided

- to designate national contact points in Member States for handling crime prevention questions from other countries;
- to charge the Police Cooperation Group, within the Third Pillar structure, to exchange information in relation to crime prevention issues.

15. Report to the European Council on drugs activities, including key elements of a post-1999 EU drugs strategy

doc. 7930/1/98 CORDROGUE 26 SAN 80 PESC 118 ENFOPOL 70 REV 1

The Council approved the Third Pillar part of this report and agreed to forward the report to the meeting of the European Council at Cardiff.

16. Action Plan on Influx of Migrants from Iraq and the Neighbouring Regions

doc. 7842/2/98 ASIM 111 EUROPOL 50 REV 2

The Council

- noted progress achieved so far in the implementation of the Action Plan;
- invited the current and incoming Presidencies to take work forward on those action points on which further action is required.

During the discussions several delegations highlighted, in particular, the need to pursue the dialogue with Turkey with a view to seeking progress *inter alia* on legal guarantees for refugees, better access for UNHCR and an extension of the five-day deadline for the introduction of asylum applications. The possibility of taking quotas of refugees from Turkey should be explored as a means of reducing transit through Turkey and of reducing the smuggling of persons. Since Turkey had a geographic exemption under the Geneva Convention, it was necessary for closely coordinated action with Turkey in order to ensure that screening was carried out in accordance with international standards. It was suggested that a strong message be sent to the General Affairs Council on the need to engage in a veritable dialogue with Turkey on asylum and related questions.

Furthermore, the need to improve the implementation of the Dublin Convention and to make rapid progress on the draft Eurodac Convention was also underlined.

The Austrian delegation stated that it would, as incoming Presidency, give priority to the continued implementation of the Action Plan and in particular to those points contained therein which have not yet been fully implemented, and report to the Council in September 1998.

17. Convention concerning the establishment of "Eurodac" for the comparison of fingerprints of applicants for asylum (Eurodac Convention)

doc. 8441/1/98 ASIM 127 REV 1

The Council held a debate on the outstanding issues relating to the draft Eurodac Convention.

With regard to the extension of the Eurodac system to the fingerprints of "illegal immigrants"⁽²⁾, the Council concluded, taking account of the feasibility study, that it would draw up a Protocol to the Eurodac Convention, for adoption by the end of 1998, providing for such extension. In this regard, the German delegation made the following statement:

"The German delegation points out that, depending on the progress of discussions on the EURODAC Convention, a solution to this issue within the text of the Convention itself should be taken into consideration."

With regard to the question of management and funding of the Eurodac system, the Council agreed to invite experts to examine:

- an option put forward by the Presidency to provide for Community funding and Member State management while conferring on the Commission a supervisory role over the financial management of the system;
- a room document provided by the Commission services setting out the Commission services' approach concerning inter alia the location of the Eurodac agency, staffing questions including how the Member States would monitor Commission management as well as the issue of data protection.

With regard to Article 16 of the draft Convention, the Council, taking account of the provisions of the Amsterdam Treaty, agreed that it would seek to reach agreement on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Eurodac Convention. This could take the form of either a provision in the Convention or a provision in a Protocol on the same timescale as agreed for the adoption of the protocol extending Eurodac to the fingerprinting of illegal immigrants.

Finally, the Council agreed that the Member States would take appropriate steps to ensure that the national procedures for adopting the Eurodac Convention and any Protocols were completed simultaneously at the earliest opportunity.

18. Data Protection (horizontal issues)

docs 8563/98 JAI 16

(2) The denomination of the persons to be covered by the extension of Eurodac will be determined with greater precision in discussions on the draft Protocol.

The Council acknowledged the significance of this subject and thanked the Italian delegation for its initiative. Some delegations suggested that the General Secretariat of the Council prepare a comparison of existing legislations. The Council decided to submit the issue to the K4 Committee for detailed consideration.

19. Any other business

No specific item has been raised under this heading.

Re. Item 12. on the agenda**Conclusions of the Council**
concerning the application of the rule of law

1. The Council recalls that, in the opening statement of the European Union for the negotiations on accession of the candidate countries from Central and Eastern Europe and Cyprus, it stated that individual progress in preparing for accession would contribute to the advancement of the negotiations, taking into account (inter alia) the Copenhagen and Madrid criteria, which set down requirements for membership, including the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for, and protection of, minorities.
2. The Council also recalls the conclusions of the structured dialogue of the Ministers of Justice and Home Affairs and the Commission in Brussels on 5 December 1997, which took note of the conclusions of the Conference on the rule of law in a democratic society, which took place in Noordwijk, Netherlands, on 23/24 June 1997⁽³⁾, and stressed the importance of the rule of law for the Member States and the States applying for accession.
3. The Council notes that the Treaty of Amsterdam (Article O (Article 49 new), in conjunction with Article F, first paragraph (Article 6 new)) will state that candidate States must, inter alia, respect the rule of law as a principle common to all the Member States.
4. Of particular significance in this context are the European Convention on Human Rights, the jurisprudence of the European Court of Human Rights based on these articles and the appropriate Resolutions and Recommendations of the Committee of Ministers of the Council of Europe⁽⁴⁾. The Council notes that the Member States of the European Union and the candidate States from Central and Eastern Europe, including the Baltic states, and Cyprus, have all ratified the European Convention on Human Rights.
5. The Council reaffirms that the conclusions of the Noordwijk Conference contain useful reflections, based on the above sources, on most of the main elements of the rule of law, and notably independence of the judiciary, effective access of citizens to justice, respect for judicial decisions and an objective system of public prosecutions, all of which are essential qualities to be expected of judicial systems in democratic states subject to the rule of law.
6. The operational role of the police is also relevant to the rule of law, and the Council draws attention to the framework established by the Association of European Police Colleges for educational support by the European Union to the candidate Member States⁽⁵⁾ as a basis for training of the police, based on the democratic principles of accountability by the police within the framework of the rule of law.

⁽³⁾ doc. 10019/97 JUST 6.

⁽⁴⁾ Information about Council of Europe instruments in this area has been submitted to the K4 Committee in document 6737/98 CK4 16.

⁽⁵⁾ doc. 8243/97 ENFOPOL 118.

7. The Council accordingly invites the European Commission to take these conclusions into account when drawing up the regular reports referred to in paragraph 29 of the Conclusions of the Luxembourg European Council. The Council further invites the European Commission to continue to promote, in the context of the PHARE horizontal justice and home affairs programme and within the framework of the Accession Partnerships, projects aimed specifically at reinforcement of the rule of law based on these conclusions and those of the Noordwijk Conference. The Council itself will have regard to these conclusions within the context of future discussions on enlargement.