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Subject : **2229th Council meeting (Justice and Home Affairs) held in Brussels**  
on 2 December 1999

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1. **Adoption of the Agenda**  
doc. 13381/99 OJ/CONS 79 JAI 107

The Council adopted the above-mentioned agenda, with the addition of the following items under "Any other business":

- study on off-shore centres (at the request of the Italian delegation)
- responsibility for family members under the Dublin Convention (at the request of the Netherlands delegation)
- Commission programme concerning civil law matters (at the request of the Portuguese delegation)

At the beginning of the session, the Spanish delegation entered a reservation of political nature on items 4, 6, 7, 9, 10 and 12 of the agenda with regard to the question of territorial scope of application. Bilateral contacts between Spain and the United Kingdom were continuing with a view to finding a solution to the problem and to paving the way for those instruments to be adopted in due course.

The President appealed to both delegations concerned to find rapidly a solution to this problem with a view to enabling the adoption of several draft legal instruments, which were acceptable to all but those Member States.

2. **Approval of the list of "A" items**  
doc. 13513/99 PTS A 64

The Council approved the "A" items as listed in doc PTS A with exception of item 2.

The Danish delegation submitted the following statement for the Council minutes in respect of item 8:

“Denmark recalls that in accordance with the Protocol on the position of Denmark, Denmark shall not take part in the adoption by the Council of proposed measures pursuant to Title IV of the Treaty establishing the European Community.”

3. **Tampere follow-up: Information on the state of preparation of the “scoreboard”**

The Commission informed the Council of the state of preparation of the scoreboard which was requested by the Tampere European Council and which is intended to keep under constant review progress made in Justice and Home Affairs. A formal draft scoreboard would be presented in Spring 2000, following consultation of Member States, the European Parliament and other interested bodies such as UNHCR.

Member States broadly welcomed the presentation by the Commission which underlined the importance of the implementation of the Tampere European Council conclusions, the Vienna Action Plan and the provisions of the Amsterdam Treaty. The Commission indicated that the scoreboard was not intended as an additional instrument but rather as a tool to put pressure on areas where progress is lagging behind, serving the same purposes as the scoreboard in the Internal Market.

The incoming Portuguese Presidency pointed out that work on this matter will be carried on with a view to respecting the deadlines set out in the Treaty, the Vienna Action Plan and the Tampere European Council conclusions.

4. **Draft Convention on mutual assistance in criminal matters between the Member States of the European Union**

doc. 13451/99 COPEN 60  
+ COR 1

The outcome of proceedings is set out in document 14103/99 COPEN 65.

5. **Draft Framework Decision on increasing protection by penal sanctions against counterfeiting in connection with the introduction of the euro**

doc. 13450/99 DROIPEN 21

The outcome of proceedings is set out in document 14102/99 DROIPEN 23.

Statement for the Council minutes by the Danish delegation concerning Article 6(2)

“Denmark states that it does not consider reducing the value of legal tender covered by Article 6 (2).”

Statement for the Council minutes by the Austrian Delegation

“Austria states that the establishment of minimum rules to penalties, as provided for in Article 31 (e) of the TEU, raises difficult questions, such as the relationship to provisions contained in the General Part of the Penal Codes or the proportionality of the maximum penalties provided for different offences within one national system. Due to the urgency to adopt this Framework decision, it was not possible to deal with these questions in depth. However, before including similar provisions in future instruments, these questions will have to be considered carefully. The fact that the solution found in Article 6, paragraph 2, is a minimum level for the maximum penalty provided for by national law may not be taken as a precedent.”

6. **Initiative for a Council Regulation on insolvency proceedings**

doc. 13465/99 JUSTCIV 177 MI 120

The Council

- achieved agreement on all substantive provisions except for those relating to the outstanding question of the territorial scope of application of the draft regulation
- took note that the two Member States concerned are in bilateral contact on this matter
- will examine the European Parliament's and the Economic and Social Committee's opinions when available.

7. **Proposal for a Council Regulation on the Service in the Member States of judicial and extra-judicial documents in civil or commercial matters**

docs 13466/99 JUSTCIV 178

8671/99 JUSTCIV 81

The Council reached political agreement on all substantive provisions except for those relating to the outstanding question of the territorial scope of application of the draft regulation. The Council took note that the two Member States concerned are in bilateral contact on this matter.

8. **Organised crime:**

- a) **The Prevention and Control of organised crime: A European Union Strategy for the beginning of the new Millennium**  
– oral report

The Council took note of an oral report by the Presidency on “The Prevention and Control of organised crime: A European Union Strategy for the beginning of the new Millennium”.

- b) **1998 EU Organised Crime Report**  
– oral report

The Council took note of an oral report by the Presidency on the state of preparation of the 1998 EU Organised Crime Report that should be finalised in due course and be adopted at the beginning of 2000.

9. **Eurodac – Regulation on comparison of fingerprints of asylum applicants and certain other aliens**

doc. 13603/99 EURODAC 25

The Council reached a political orientation on the draft Eurodac Regulation with the exception of the outstanding provisions on the territorial scope of the text. The Council decided to reconsult the European Parliament on the draft Regulation in view of the substantial amendments made to the provisions regarding comitology.

On this latter aspect, the Commission expressed its disagreement with the text of Articles 22 and 23 of the draft Regulation and entered the following statement in the Council minutes:

**Article 22 (implementing rules)**

“The Commission considers that Article 22, under which nearly all implementing powers are purportedly reserved to itself by the Council rather than conferred on the Commission, has not been properly substantiated as required by Article 1 of Decision 1999/468/EC, and that it is accordingly not consonant with the principles and rules laid down by the Council pursuant to Article 202 of the Treaty establishing the European Community nor with the treatment of comparable cases by the Council in the past. The Commission therefore reserves all its rights under the Treaty establishing the European Community.

The Commission further considers that Article 22 represents a substantial change to the Commission's original proposal, and reconsultation of the European Parliament is therefore required."

Moreover, with regard to Article 25 of the draft regulation, the Commission entered the following statement in the Council minutes:

Article 25 (penalties):

"The Commission reminds the Member States that, according to the well established jurisprudence of the Court of Justice, the penalties which they are required to impose pursuant to Article 25 must be effective, proportionate and dissuasive.

The Commission recalls that under Article 211 of the Treaty establishing the European Community the Commission is charged with ensuring that the provisions of the Treaty and the measures taken by the institutions pursuant thereto are applied and that according to Article 284 of the Treaty it has the right to collect any information required for the tasks entrusted to it. In this context, the Commission considers that the Member States will need to notify the Commission of the procedural and substantive arrangements which they make pursuant to Article 25."

The Danish delegation indicated that it wished to take part in the Eurodac system and expressed its readiness to begin negotiations with the Community to that end.

**10. Draft negotiation mandate on Dublin parallel agreement with Norway and Iceland**  
doc. 13407/99 ASILE 42 RESTREINT

The Council reached agreement on the draft negotiating mandate to be given to the Commission with the exception of the question relating to the territorial scope of the agreement to be negotiated.

The Presidency appealed to the Spanish and the United Kingdom delegations to pursue bilateral discussions on this issue with a view to enabling the Council to reach consensus as soon as possible and to starting negotiations with Norway and Iceland without any further delay.

**11. Admission: Commission proposal on family reunification**  
**- Presentation by the Commission**

The Council took note of the presentation by the Commission of a proposal on family reunification. This proposal is the first Commission initiative in the area of immigration since the entry into force of the Treaty of Amsterdam and was adopted by the Commission on 1 December 1999. The proposal is intended to provide rules offering protection for the family life of third country nationals.

Member States generally welcomed the proposal but raised concerns on certain issues, such as the time periods to be taken into consideration, the rules regarding same sex or unmarried couples, polygamy, forced or pro forma marriages.

The Council mandated its competent bodies to examine the Commission proposal.

**12. Council Decision concerning the UK application to participate in some of the provisions of the Schengen acquis**

doc 11177/4/99 SCHENGEN 74 REV 4

+ REV 4 COR 1

+ REV 4 ADD 1

All delegations except for the Spanish delegation agreed on the draft Decision concerning the request of the United Kingdom to take part in some provisions of the Schengen Acquis.

The Spanish delegation pointed out that it was not acceptable for the United Kingdom to participate in parts of the provisions relating to the Schengen Information System. The political reservation concerned Articles 1(a), 5, 6 (2), 7 (2) of the draft Decision and the United Kingdom's Declaration n°4 set out in document 11177/4/99 SCHENGEN 74 REV 4 ADD 1. Bilateral negotiations with the United Kingdom were continuing as regards the question of territorial scope. The reservations would be lifted as soon as consensus was reached with the United Kingdom on the outstanding issues.

The Presidency appealed to the Spanish and the United Kingdom delegations to continue actively bilateral negotiations with a view to the decision's final adoption without any further delay.

The Dutch delegation pointed out that its parliamentary scrutiny reservation was retained.



**13. Europol:**  
**Future activities of Europol after the Tampere European Council**  
**- Information from the Presidency**

The Council took note of the oral information from the Presidency as regards Europol's future activities following the Tampere European Council and the necessity to fully implement the Tampere European Council conclusions in respect of Europol's role, focusing especially on the setting up of joint investigation teams, the creation of a European Police Chiefs operational Task Force and Eurojust. The Presidency underlined that the competent bodies should launch work as soon as possible, the conclusions being implemented under the Portuguese Presidency.

**14. Adoption of the decisions discussed in the mixed Committee at Ministerial level**

Following the Mixed Committee's meeting, the Council confirmed the conclusions drawn by the Mixed Committee at Ministerial level and formally adopted the Helpdesk budget and the budget for the Sirene phase II network as set out in document 12853/99 SIS 64 COMIX 423.

**15. Proposal for a directive on electronic commerce – criminal law aspects**  
doc. 13309/99 JAI 103 MI 119

The Council took note of an intervention by the Swedish and seven other delegations on the criminal law aspects of the draft Directive on electronic commerce.

The Presidency summarised delegations' comments, pointing out that improved horizontal co-ordination was needed at national level amongst the different ministries of Member States when defining the governmental position, with a view to examining all aspects of legal proposals.

16. **Any other business**

a) **Study on off-shore centres (at the request of the Italian delegation)**

The Italian delegation informed the Council that the study on off-shore centres which has been prepared in the framework of the FALCONE-programme has been established by the Universities of Trento and Milan (Boccone). The study will be forwarded to the Council in due course.

b) **Responsibility for family members under the Dublin Convention (at the request of the Dutch delegation)**

The Dutch delegation drew delegations' attention to the problems occurred when several Member States are responsible for the requests of asylum seekers and asked the Presidency to put the issue on the agenda of one of the next Article 18 Dublin Convention Meetings.

c) **Commission programme concerning civil law matters (at the request of the Portuguese delegation)**

Upon the request of the Portuguese delegation, the Commission informed the Council of its time-schedule in respect of civil law matters.