



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 6 April 2009

6945/09

LIMITE

PVCONS 11
JAI 116

DRAFT MINUTES ¹

Subject : **2927th** meeting of the Council of the European Union (**JUSTICE and HOME AFFAIRS**), held in Brussels on 26 and 27 February 2009

¹ Information which may be released to the public concerning the final adoption of Council acts is given in Addendum 1 to these minutes.

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1. **Adoption of the agenda**
6732/09 OJ/CONS 10 JAI 101 COMIX 163

The Council adopted the agenda as set out in 6732/09.

2. **Approval of the list of "A" items**
6733/09 PTS A 8

The Council approved the "A" items listed in 6733/09.

Information relating to items 5, 6, 15, 16, 17, 18, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33 is set out in Addendum 1 to these minutes.

The documents in items 2, 11, 28, 29, 31, 32 and 33 should read as follows:

Item 2: 5439/09 COASI 9 EUROPOL 7
5443/09 EUROPOL 6 COASI 10
+ **COR 1 (pt)**

Item 11: 5348/09 COSDP 34 PESC 57 COAFR 14 CONUN 4 SOMALIA 2
+ COR 1
+ COR 2 (fi)
+ REV 1 (mt)
6381/09 COSDP 126 PESC 200 COAFR 56 CONUN 13 SOMALIA 8
+ ADD 1
+ ADD 2
+ ADD 2 COR 1
+ **ADD 2 COR 2**

Item 28: PE-CONS 3719/08 MAR 256 ENV 1004 CODEC 1821
+ COR 1 (da)
+ **REV 1 (fi)**
6533/09 CODEC 184 MAR 24 ENV 107

Item 29: PE-CONS 3720/08 MAR 257 ENV 1005 CODEC 1823
+ **REV 1 (fi)**
+ **REV 1 COR 1 (fi)**
6534/09 CODEC 185 MAR 25 ENV 108

Item 31: PE-CONS 3722/08 MAR 259 ENV 1007 CODEC 1825
+ REV 1 (en, el, es, mt, sk)
+ **REV 2 (pt)**
6536/09 CODEC 187 MAR 27 ENV 110
+ ADD 1
+ **ADD 1 REV 1 (en, de, da, fi, sv)**
+ COR 1

Item 32: PE-CONS 3723/08 MAR 260 ENV 1008 CODEC 1826
+ **REV 1 (fi)**
6537/09 CODEC 188 MAR 28 ENV 111

Item 33: Regulation of the European Parliament and of the Council on the liability of carriers of passengers by sea and inland waterways in the event of accidents
PE-CONS 3724/08 MAR 261 ENV 1009 CODEC 1827
+ COR 1 (da)
+ **COR 2 (fi)**
6538/09 CODEC 189 MAR 29 ENV 112
+ ADD 1
+ **ADD 1 COR 1 (en)**
+ COR 1

3. **Proposal for a Regulation of the European Parliament and of the Council establishing a European Asylum Support Office**
6700/09 ASILE 5 CODEC 212
+ ADD 1 (en)
+ ADD 2

Proposal for a Decision of the European Parliament and of the Council amending Decision No 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 by removing funding for certain Community actions and altering the limit for funding such actions
6702/09 ASILE 6 CADREFIN 7 CODEC 213

- Presentation by the Commission and first exchange of views
(public deliberation pursuant to Article 8(1)(a))

The Commission presented the above-mentioned proposals for a Regulation establishing a European Asylum Support Office and a supplementary Decision aimed at transferring funding from the European Refugee Fund to the support office.

The Council conducted a first exchange of views on these proposals. The Council welcomed the proposal asking the relevant Council bodies to take forward work on the proposal as quickly as possible.

4. **Report from the Commission to the European Parliament and the Council on the application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States**
5553/09 MI 20 JAI 27 SOC 27

The Council took note of a report concerning the application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. The Council welcomed in particular the Commission's intention to offer information and assistance to Member States by issuing guidelines on a number of issues, such as expulsions and fight against abuse, in order to facilitate an effective application of the Directive.

The relevant instances of the Council were requested to ensure appropriate follow-up to the Report. The Justice and Home Affairs Council will come back to the issue if considered necessary in the light of the outcome of the ongoing work.

5. **Combating illegal immigration in the Mediterranean**
– Presentation by Italy, Malta, Cyprus and Greece and exchange of views
5689/09 JAI 39 ASIM 9

The Council held an exchange of views on combating illegal immigration in the Mediterranean, following the presentation of a paper put forward by Cyprus, Greece, Italy and Malta. The Council requested the Commission and the Council bodies to take this paper into account in its future work, in particular in the context of the follow-up to the European Pact on Immigration and Asylum and the preparation of the Stockholm programme.

6. **Discussion on the situation of the Iraqi refugees**

The Commission briefed the Council on the progress made regarding reception of Iraqi refugees following the Council conclusions adopted in November 2008 (16481/08). The Council agreed to keep developments under review. The Council further took note of the information provided by the Netherlands delegation on the initiative to establish a "Temporary Desk on Iraq" (DS 171/09).

7. **Draft Council Decision appointing the Director of Europol**

- Adoption
17147/08 EUROPOL 82 **RESTREINT UE**
5043/09 EUROPOL 2

The Council will come back to this issue at its April meeting.

8. **Proposal for a Council Framework Decision on prevention and settlement of conflicts of jurisdiction in criminal proceedings**

- Orientation debate on selected issues
6417/1/09 REV 1 COPEN 32

The Council reached agreement "in principle" on the conclusions set out in 6417/1/09 REV 1, inviting the Council preparatory bodies to continue their work on the precise wording of the text of the draft Framework Decision. The Presidency announced that it would seek to reach a general approach on the text in June.

9. **Request for a negotiating mandate for the Presidency on judicial co-operation in criminal matters on the basis of Articles 38 and 24 TEU – possible mutual legal assistance agreement between the European Union and Japan**

- Adoption
10070/5/08 REV 5 COPEN 108 COASI 106 **RESTREINT UE**

The Presidency presented the draft mandate.

Hungary made the following statement:

"Hungary declares that it will not impede the adoption of the negotiation mandate for the Mutual Legal Assistance Agreement between the European Union and Japan and the start of negotiations; at the same time it stresses that the verification of double criminality is an obligation deriving from the principles of its constitution".

The Council adopted the negotiation instructions set out in 10070/5/08 REV 5
RESTREINT UE.

10. Implementation of the European e-Justice Action Plan

- State of play
6198/09 JURINFO 18 JUSTCIV 35 JUSTPEN 5 JAI 69
+ REV 1 (pt)

The Council:

- took note of the state of play regarding the development of the portal;
- endorsed the work done so far to develop and launch the portal by December 2009;
- noted the ongoing work in the field of videoconferencing.

11. Any Other Business

(a) Guantanamo

It was agreed that this item would be dealt with by the Ministers during lunch.

(b) SWIFT – Terrorist Finance Tracking programme

- Presentation by the Commission of "eminent person" report

The Council took note of information from the Commission, based upon the report of the "eminent European person", on the review of the procedures governing the handling, use and dissemination of financial transaction records from the EU which are carried over the SWIFT network and obtained by the United States Treasury Department in support of the US terrorist finance tracking programme (TFTP).

(c) Rational Anti-Drug Policy

The Council took note of the Presidency's planning in this report.

(d) Third Global Forum on Migration and Development (Athens, November 2009)

- Information from the Greek Delegation

This item was deferred.

(e) Proposal for a Directive of the EP and of the Council amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements

- State of play

The Council took note of the state of play with regard to the co-decision procedure on this file.

(f) International Tribunal for Law of the Sea, Hamburg

- Information from the German delegation

The German Delegation informed the Council about the work of the International Tribunal for the Law of the Sea, which is based in Hamburg.

(g) Transparency as a tool for strengthening the citizens' trust in the EU Institutions
– Information from the Swedish Minister

The Swedish Minister presented his document in favour of transparency as a tool for strengthening citizens' trust in EU institutions.

The Swedish approach received broad support from delegations. Some delegations stressed the need for more clarity concerning the content of documents, while others called for the duration of the classification of documents to be clarified. Certain Ministers spoke in favour of a more active role being played by the Justice and Home Affairs Council in this matter.

The Presidency concluded that this is an important issue and that it would notify the appropriate bodies of the outcome of the debate.

(h) Information on the third World Summit of Prosecutors General, Attorneys General and Chief Prosecutors (request by Romania)

The Romanian delegation informed the Council of this Summit taking place under the auspices of the UN Drugs and Crime Prevention Office on 23-25 March 2009 in Bucharest.

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