



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 22 December 2000 (11.01)
(OR. fr)**

14820/00

LIMITE

CATS 71

OUTCOME OF PROCEEDINGS

of : Article 36 Committee
on : 14 December 2000

1. Adoption of the agenda

The agenda in telex No 5692 of 6 December 2000 was approved with the addition of a number of items under "Other business" (see below).

**2. Draft Council Recommendation on preparation for enlargement of the European Union
in the field of the fight against terrorism**

12241/00 ENFOPOL 67 ELARG 144

The Committee's findings are set out in 12241/2/00 ENFOPOL 67 REV 2.

3. **1st-3rd pillar in the field of advanced technologies: proposal for a Directive concerning the processing of personal data and the protection of privacy in the electronic communications sector: presentation of problems encountered and progress of discussions**

12855/1/00 ENFOPOL 71 ECO 316 REV 1

The Committee noted the comments of the Working Party on Police Cooperation, set out in 12855/1/00 ENFOPOL 71 ECO 316 REV 1, on the Commission's proposal for a Directive concerning the processing of personal data and the protection of privacy in the electronic communications sector (COM(2000) 385 of 12 July 2000 = 10961/00 ECO 242 CODEC 616).

Several delegations stressed the difficulty of striking a balance between respecting private life and the demands of effective policing. While aware of the difficulty of anticipating what data might be of use in a later investigation, some of them advocated harmonising the period for storing data. The Netherlands delegation commented on the usefulness of the exception made in the 1997 Directive for storage of data relating to suspected criminal activity.

The Chairman concluded that the Article 36 Committee would wait to see how much account the Commission took of delegations' comments before deciding, possibly after consulting one or more Council working parties, whether to alert Coreper and the Council to the issue.

4. **1998/1999 report on football hooliganism in the Member States of the European Union**
9559/1/00 ENFOPOL 42 REV 1

Delegations noted this report, but regretted that it was already out of date. They therefore agreed not to forward it to the Council but to ensure that in future less time-consuming procedures were used to draft reports, at both Member State and Working Party level. However, the German delegation insisted that the Article 36 Committee should examine the substance of the report.

5. **The fight against drugs: progress report**
14468/00 STUP 28

The Committee noted the above document, submitted by the Chairman of the Working Party, which pays particular attention to the repercussions of document classification on the Working Party's "operational" work.

The representative of the General Secretariat of the Council said that the confidentiality required by the Working Party was guaranteed by the Secretariat.

6. **Information on the proceedings of the Working Party on Customs Cooperation and adoption of documents:**

- Survey of the powers of European customs officials
11013/2/00 ENFOCUSTOM 37 UD 90 REV 2 + COR 1
- Programme of joint customs operations for 2001
13421/00 ENFOCUSTOM 47 + (poss. COR 1)

Delegations noted the above documents and remarked on the efficiency of programming the proceedings of the Working Party on Customs Cooperation over several Presidencies, a procedure which could serve as a model for other Working Parties.

In view of the Netherlands delegation's fears that the Europe-wide records system for customs investigations being examined in the Working Party might duplicate records already in existence or to be created, it was agreed that 11116/1/00 ENFOCUSTOM 38 REV 1 dealing with the subject would be placed on the agenda for a forthcoming meeting of the Article 36 Committee.

7. Funding programmes:

- Renewal of the OISIN, STOP and GROTIUS (criminal law) programmes

The Commission announced that the decision on the renewal of these programmes had been taken that very morning, so that the texts were not yet available: they differed little from those for previous programmes, but the presentation would be simplified and standardised.

Several delegations regretted the delays in the procedure for renewing the programmes, which could interfere with their continuity. The absence of documents meant that Coreper would have to defer renewal of the programmes from December 2000 to January 2001, once the texts had been examined by the JHA Counsellors.

- Establishment of the Hippocrates programme 14245/00 CRIMORG 163

The Multidisciplinary Group was asked to examine this item.

8. Europol: Reports on data protection in non-member countries

- (a) Data Protection Report: Norway
14145/00 EUROPOL 41
- (b) Data Protection Report: Iceland
14146/00 EUROPOL 42
- (c) Data Protection Report: Poland
14147/00 EUROPOL 43
- (d) Data Protection Report: Hungary
14148/00 EUROPOL 44

Delegations noted these reports, while deploring their late submission. The German delegation said that it might therefore wish to return to the reports later.

In conclusion, the Chairman announced that the reports would appear as an "A" item on the agenda for the Council of Ministers, once the Netherlands had withdrawn its reservation..

9. Presentation of the conclusions of the Europol Management Board of 4 and 5 December 2000

The Chairman of the Europol Management Board reported orally on its conclusions. The report relied chiefly on the recent assessment of Europol based on Member States' replies to a detailed questionnaire. The Chairman of the Article 36 Committee then asked the Member States to encourage their services to make greater use of Europol. Member States should also ensure that they were represented on the Europol Management Board at a senior decision-making level. In conclusion it was agreed that the debate would continue, initially on these two points.

Over lunch, the incoming Presidency announced that it would be inviting the candidate countries to talks on 19 January 2001, in the margins of the meeting of the Article 36 Committee. The arrangements for those talks were discussed.

10. External relations

- (a) record of the meeting on 6 November with the Council of Europe
The record of the meeting is given in 13909/00 CATS 70.
- (b) record of the meeting on 6 December with the United States on the topic of
money-laundering
- (c) relations with Russia
14793/00 JAI 166 COEST 29

Delegations noted the records of these meetings and agreed, at the Commission's request, to substitute "situation" for "importance" at the end of point 2 on page 3 of 13909/00 CATS 70.

On relations with Russia, the Commission representative said that the document submitted was not exhaustive and would have to be supplemented by the points emerging from a cross-pillar examination of relations with Russia.

The incoming Swedish Presidency said that it wished to step up dialogue with non-member countries during its Presidency, particularly on trafficking in human beings and judicial cooperation. It spoke of the recent (meeting in Stockholm on 14 November 2000 – see 13610/00 JAI 143 COEST 23) and forthcoming (Moscow, 18 December 2000) contacts with the Russian authorities. On the basis of these contacts a draft programme with Russia would be submitted, including in particular a ministerial meeting and an expert seminar with Russian representatives.

**11. Draft Resolution on the principles of personal data protection under the third pillar
10968/2/00 JAI 82 REV 2 + COR 1(en)**

Some of the delegations' existing reservations on this document were withdrawn, while others, including one on the overall approach of the text, were entered. A revised version of the document incorporating delegations' views will be examined by the Working Party on Data Protection and Computer Systems before being submitted to the Article 36 Committee under the Swedish Presidency.

12. Draft framework decision on environmental protection

14373/00 DROIPEN 60

The Presidency presented the draft as it stood following the recent proceedings of the Working Party on Substantive Criminal Law. It was noted that the major changes made to the draft on which the European Parliament had been consulted might make it necessary to consult the Parliament again.

The Commission reiterated the position stated by Commissioner VITORINO in the Council of Ministers on 28 September 2000, with which a majority of delegations profoundly disagreed. The Commission's view was that environmental protection was covered by many Community texts, most of which set penalties, and ought therefore to be dealt with by means of Community instruments. As previously announced, a list of the many Community acts in force and an explanatory note would be sent to the Council as soon as possible.

The Council Legal Service announced that it would have to consider to what extent a third pillar instrument could offer a possibility of opt-out as provided for in Article 9(1)(c) (jurisdiction).

The text of 14373/00 DROIPEN 60 was then examined; some progress was made and was reflected in a revised version of the document. That new version would be examined by the Article 36 Committee at a forthcoming meeting.

13. Draft Decision setting up a European Judicial Training Network

13348/00 JAI 137

The Italian delegation entered a reservation on this document, which was currently being examined in Italy. The Netherlands delegation raised the question of the legal basis for the draft, while the Danish delegation suggested modelling the structure of the secretariat for the Judicial Training Network on that of the police academy network, which it felt was less cumbersome. Other proposals, designed to take greater account of national situations, were also put forward.

The Presidency noted that all delegations agreed on the importance of the draft Decision, which would continue to be examined under the Swedish Presidency.

14. Management report for 1999 on C.SIS installation and operation

10626/00 SIS 69 COMIX 580

The report was approved.

15. Other business

— **"Childfocus" questionnaire**

The Belgian delegation said that it wished to submit proposals based on the replies to this questionnaire, which were expected by March 2001 at the latest.

— **clandestine immigration networks**

The Presidency said that the Nice European Council had placed emphasis on this issue and that it would therefore be seeking early adoption of the draft Council Framework Decision on the strengthening of the penal framework to prevent the facilitation of unauthorised entry and residence and of the draft Council Directive defining the facilitation of unauthorised entry, movement and residence. Following examination of an initial text by the JHA Counsellors, a new draft "humanitarian clause" was to be added to the draft Framework Decision.

— **protection of the euro**

The German delegation wanted the Article 36 Committee to examine the draft Regulation on the protection of the euro. It mentioned a number of provisions which in its view were third pillar matters.

The Chairman said that Coreper had examined the matter and concurred with the Council Legal Service in rejecting that point of view. France would shortly be putting forward an initiative for the adoption of a framework decision supplementing the draft Regulation. In both cases, the Council conclusions should specifically mention the role of Europol in protecting the euro.

— **draft Council of Europe Convention on Cyber-Crime**

The Commission representative said that at the meeting of the Working Party on Substantive Criminal Law on 8 December 2000 the Commission had proposed that the European Community be authorised to join the Convention. At the Commission's request, this item would be on the agenda for a forthcoming Coreper meeting.
