



Council of the  
European Union

003803/EU XXVII. GP  
Eingelangt am 21/11/19

Brussels, 21 November 2019  
(OR. en)

10839/04  
DCL 1

MIGR 56  
CRIMORG 54  
JUSTCIV 93

#### DECLASSIFICATION

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of document:	ST 10839/04 RESTREINT UE
dated:	24 June 2004
new status:	Public
Subject:	Draft Council Decision authorising the Commission to negotiate the draft European Convention on combating trafficking in human beings

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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# RESTREINT UE



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 24 June 2004**

**10839/04**

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<b>MIGR</b>	<b>56</b>
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## **"A" ITEM NOTE**

from :	General Secretariat of the Council
to :	Council
No. prev. doc. :	10739/04 MIGR 55 CRIMORG 52 JUSTCIV 90
Subject :	Draft Council Decision authorising the Commission to negotiate the draft European Convention on combating trafficking in human beings

1. By letter received on 3 May 2004 the Commission submitted a Recommendation for a Council Decision authorising the Commission to negotiate the draft European Convention on combating trafficking in human beings<sup>1</sup>.
2. The Draft Council Decision was examined by the Working Party on Migration and Expulsion at its meeting on 3 June 2004 and by JHA Counsellors at their meetings on 16 and 21 June 2004.

<sup>1</sup> Doc. 91256/04 CRIMORG 40 JUSTCIV 72 MIGR 37 RESTREINT UE.

## RESTREINT UE

3. At its meeting on 23 June 2004 the Permanent Representatives Committee agreed on the Council Decision, as set out in the Annex to this note. Taking into account the fact that the next session of CAHTEH will take place from 29 June to 2 July 2004, and that therefore there is an urgency to adopt the Council Decision, the Permanent Representatives Committee also agreed to put it on the agenda of the forthcoming Council as an "A" item.
4. The Council is invited to confirm the agreement reached by Permanent Representatives Committee and to adopt the Decision as set out in the Annex to this note.

DECLASSIFIED

### Draft Council Decision

authorising the Commission to negotiate, on behalf of the Community,  
the draft European Convention on combating trafficking in human beings

THE COUNCIL OF THE EUROPEAN UNION,

hereby:

- authorises the Commission to negotiate the terms of the draft European Convention on combating trafficking in human beings to the extent that these terms are subject to Community competence deriving in particular from the indicative list of Community instruments set out in the Annex, based on Title IV of Part Three of the EC Treaty, and on the other relevant provisions thereof. This competence relates to Articles 7 to 16 except Article 12 (2)<sup>1</sup> of the above-mentioned draft European Convention, as well as to its horizontal provisions and other provisions to the extent they relate to the application of these articles,
- decides that the negotiations, to the extent of the Community competence in the above Articles, will be conducted by the Commission, in accordance with the following negotiating directives and in close consultation with the Working Party on Migration and Expulsion,

This Decision and the negotiating directives are without prejudice to the position of Ireland, United Kingdom and Denmark as set out in the relevant Protocols to the Treaty on the position of these Member States.

#### Negotiating directives

1. The draft Convention should be in conformity with the Community provisions adopted on the basis of the EC Treaty, in particular Title IV of Part Three. It should not create

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<sup>1</sup> The reference to the numbers of the Articles is as contained in the document of the Council of Europe RESTRICTED CAHTEH (2004) 12, of 17.5.2004.

# RESTREINT UE

obligations for the Community, which go beyond the obligations deriving from the Community provisions.

2. The draft Convention should reinforce and develop the provisions of the United Nations Convention against transnational organised crime and the supplementary protocol to prevent, suppress and punish trafficking in persons, especially women and children.
3. The Convention should contain provisions regulating the status of the victims in such a way as to encourage them to cooperate with the competent authorities in their effort to combat trafficking in human beings, and to assist where appropriate their return.
4. The provisions of the Convention should be without prejudice to Member States' obligations under the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other international humanitarian obligations. In particular, the provisions of the Convention should in no way affect or undermine the obligation of the principle of *non-refoulement*.
5. The draft Convention should include a clause allowing the Community to accede to the Convention, as appropriate.
6. The draft Convention should include a clause providing for the Community to take part in all the decisions subject to Community competence to be commonly adopted by the Contracting Parties to the Convention, and the principle that the Community should have the same number of votes as the number of its Member States that are party to the Convention and have transferred their competence in this matter to the Community.
7. The draft Convention should contain a clause on an appropriate monitoring mechanism. This clause should adequately reconcile any monitoring mechanism set up by the Draft Convention with the Community monitoring mechanism.

## Indicative List of Community Instruments

Council Directive on the residence permit issued to third-country nationals victims of trafficking in human beings or to third-country nationals who have been the subject of an action to facilitate illegal immigration who cooperate with the competent authorities (adopted on 29 April 2004, not yet published).

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19.7.2000, p. 22).

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p 16).

Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

Council Directive relating to compensation to crime victims (adopted on 29 April 2004, not yet published).

Community acquis as identified by the Council Decision of 20 May 1999 (OJ L 176, 10.7.1999, p.17) and the development thereof and relating to external borders and to travel and identity documents and measures on return and repatriation.

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