



Council of the  
European Union

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MIGR 55  
CRIMORG 52  
JUSTCIV 90

#### DECLASSIFICATION

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of document:	ST 10739/04 RESTREINT UE
dated:	22 June 2004
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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, 22 June 2004**

**10739/04**

**RESTREINT UE**

<b>MIGR</b>	<b>55</b>
<b>CRIMORG</b>	<b>52</b>
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## **NOTE**

from :	Presidency
to :	Permanent Representatives Committee
No. prev. doc. :	9126/04 MIGR 37 CRIMORG 72 JUSTCIV 72
Subject :	Draft Council Decision authorising the Commission to negotiate the draft European Convention on combating trafficking in human beings

Delegations will find attached the text of the above proposal as it results following the meetings of the JHA Counsellors held on 16 and 21 June 2004.

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# RESTREINT UE

## 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, under Title IV of Part Three of the EC Treaty, and under the other relevant provisions thereof and deriving in particular from the indicative list of Community instruments set out in the Annex. 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,<sup>2</sup>
- 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 obligations for the Community, which go beyond the obligations deriving from the Community provisions.

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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.

<sup>2</sup> **DE, FR** and **SE** entered scrutiny reservations on this provision.

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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.

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## 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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