

4622/95

RESTREINT

JUSTPEN 11

## OUTCOME OF PROCEEDINGS

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of: Working Party on extradition

on: 9 January 1995

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### 1. Adoption of the agenda

The Working Party adopted the agenda contained in telex No 5099 of 21 December 1994.

### 2. Draft Convention on simplified extradition procedures between the Member States of the Union 10827/94 JUSTPEN 87 12138/94 JUSTPEN 100

On the basis of the terms of reference set by the Council on 30 November and 1 December 1994, Steering Group III instructed the Working Party on Extradition to prepare an autonomous draft Convention on simplified extradition procedures as quickly as possible with a view to its submission to the Council before the end of the first half of 1995 (\*) and at the same time to continue the other discussions on basic conditions for extradition.

In the light of the agreement within the Council on the outcome regarding simplified extradition procedures as summarized in 10827/94 JUSTPEN 87, the Presidency prepared a draft Convention contained in 12138/94 JUSTPEN 100. The Working Party made an initial examination of that document, in particular Articles 1 to 8 of the text. The outcome of that examination is set out briefly below.

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(\*) It was agreed at the informal ministerial meeting on 26 January that an effort would already be made to reach agreement at the March 1995 Council meeting.

Article 1 (slightly amended version of Article 1 in JUSTPEN 87)

The aim of this Article is to establish the relationship between the future Convention and other bilateral or multilateral agreements. On the basis of comments from the delegations, the Presidency submitted the amended text of Article 1 annexed hereto during the meeting. The text refers explicitly to only one instrument, viz. the European Convention on Extradition of 13 December 1957. The relationship between the future Convention and other agreements is dealt with in more general terms in the text. Thus, paragraph 2 states that the application of more favourable provisions in the bilateral and multilateral agreements in force between certain Member States will not be affected. The agreements likely to be covered by this paragraph are:

- the Convention of 19 June 1990 applying the Schengen Agreement;
- the first chapter of the Benelux Treaty of 17 June 1962 on Extradition and Mutual Assistance in Criminal Matters, as amended by the Protocol of 11 May 1974;
- certain agreements between the Nordic countries;
- certain agreements between Ireland and the United Kingdom.

The annexed draft was favourably received by most delegations. However, some voiced misgivings, particularly regarding paragraph 2 (the words "more favourable" and the question of whether all the relevant agreements were covered). The Working Party agreed to reexamine Article 1 at a later meeting, if necessary.

Article 2 (unchanged text of Article 7 in JUSTPEN 87)

Following the comments it made at the meeting of Steering Group III on 6 January 1995, the Portuguese delegation proposed the introduction of the text contained in footnote 1 on page 5 of the Annex. This delegation observed in particular that the autonomous Convention on simplified extradition procedures would not necessarily enter into force on the same date as that provided for in the Convention in respect of other extradition matters. It should, therefore, be specified that simplified extradition procedures are subject to the extradition admissibility conditions laid down in the instruments referred to in Article 1.

Other delegations were hesitant over the possible introduction of such a text in the actual Convention. However, some delegations were willing to deal with the question raised by the Portuguese delegation in the explanatory report to be drawn up on the Convention.

Article 3 (unchanged text of Article 8 in JUSTPEN 87)

No remarks.

Article 4 (unchanged text of Article 9 in JUSTPEN 87)

The Irish delegation suggested that the explanatory report to be drawn up should make it clear that the words "the consequences of the offence" in paragraph 1(f) cover sanctions and penalties.

Article 5 (unchanged text of Article 10 in JUSTPEN 87)

No remarks.

Article 6 (unchanged text of Article 11 in JUSTPEN 87)

No remarks.

Article 7 (Article 12(1) to (3) in JUSTPEN 87 unchanged, plus amended version of Article 12(4))

The Belgian, Greek and Irish delegations expressed reservations on paragraph 4 and called for the reintroduction into this paragraph of the second sentence of Article 12(4) in JUSTPEN 87.

Article 8 (unchanged text of Article 13 in JUSTPEN 87)

The Working Party agreed to return to this Article in connection with Article 11(3).

Article 9 (unchanged text of Article 14 in JUSTPEN 87)

Some delegations asked that it be made clear (in the explanatory report) that the requesting party will be informed of the place and date of surrender and of the duration of detention, in accordance with Article 18(3) of the European Convention on Extradition.

### Article 10

On the basis of delegations' comments, the Presidency drew up the amended text of Article 10 given in 4463/95 JUSTPEN 8.

### Other remarks

The United Kingdom delegation entered a scrutiny reservation on the titles of the Articles.

Following the meeting, the Presidency submitted the compromise text in 4463/95 JUSTPEN 8 covering Articles 9, 10, 15 (entry into force) and 16 (accession).

### **3. Other business**

No remarks.

**SIMPLIFIED EXTRADITION PROCEDURES** <sup>(1)</sup>

Article 1: General provisions

1. The provisions of this Convention are designed, by amending or supplementing the provisions of the European Convention on Extradition of 13 December 1957, to facilitate application of the latter Convention between the Member States of the European Union.
2. Paragraph 1 shall not affect the application of more favourable provisions in the bilateral and multilateral agreements in force between certain Member States.

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<sup>(1)</sup> The Portuguese delegation requested the introduction of the following Article:

"Article 1a:

For the purposes of Article 1, the extradition admissibility conditions established in the instruments referred to in that Article shall be observed in the application of the following provisions of this Convention."