

7807/95

LIMITE

CK4 29

OUTCOME OF PROCEEDINGS

of: K.4 Committee

on: 6 and 7 June 1995

1. **Adoption of the agenda**

(7715/95 OJ/CK4 5)

The Committee adopted the agenda as contained in 7715/1/95 OJ/CK4 5 REV 1.

2. **Proposal for a Council Regulation determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States**

(11287/93 ASIM 32, 6661/95 ASIM 134, 7298/95 ASIM 167,
5587/3/95 ASIM 79 REV 3 and 7671/95 ASIM 174)

The outstanding items, principally concerning the treatment of territorial entities and authorities not recognized by all Member States and the entering of certain third countries in the list, could not be resolved.

The state of play as at the close of the K.4 meeting is described in 7936/95 ASIM 186.

The dossier has been forwarded to the Permanent Representatives Committee and to the Council (Justice and Home Affairs).

3. **Draft Council Resolution on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis**

(5319/95 ASIM 65, 6093/95 ASIM 103, 7172/95 ASIM 158, 7198/95 ASIM 160 and 7702/95 ASIM 175)

Scrutiny reservations remain, particularly with regard to the Council's draft brief to the K.4 Committee and the statements which the delegations would like to make concerning the non-voluntary transfer of displaced persons between Member States.

The outcome of proceedings, contained in 7859/95 ASIM 183, has been forwarded to the Permanent Representatives Committee and to the Council (Justice and Home Affairs).

4. **Draft joint action on harmonizing means of combating illegal immigration and illegal employment and improving the relevant means of control**

(4764/4/95 ASIM 30 REV 4)

The text was forwarded to the Permanent Representatives Committee (see 7846/95 ASIM 182) with reservations on the legal form.

5. **Draft Convention on controls on persons crossing external frontiers**

– Presidency progress report

(5917/2/95 ASIM 95 REV 2 and 7704/95 ASIM 176)

The Committee did not want to take a stance on the five main outstanding items (7769/95 ASIM 179). Nevertheless, in order to respond to the Essen brief of 9 and 10 December 1994, it asked the Presidency to prepare a report for the European Council dealing with the three technical questions (the definition of "external frontiers", the list of persons to whom entry is to be refused and the rules of adoption for the implementing measures) and the two substantive questions (the competence of the Court of Justice and the territorial application) which are still hampering finalization of the Convention (8097/1/95 JAI 19 REV 1).

During discussions, the Belgian and Netherlands delegations spoke in favour of adopting the implementing measures by a two-thirds majority (Article 26 of the Convention).

6. Interpretation of the Dublin Convention and communication from the Netherlands delegation

(5118/95 ASIM 52 and 6152/95 ASIM 104)

The Committee:

- agreed to the replies given in 6152/1/95 ASIM 104 REV 1 to the questions raised by the Austrian delegation (see 5118/95 ASIM 52), with the proviso that they would have to be approved by the Article 18 Committee following the entry into force of the Convention;
- noted that those replies would be included in the compilation of texts on European practice with respect to asylum.

The Committee also :

- took note of the wish expressed by the Netherlands delegation to submit a draft protocol to the Dublin Convention conferring on the Court of Justice the jurisdiction to interpret its provisions;
- noted that, given the existing contact between the Presidencies of Steering Group I and the Asylum Working Party, and bearing in mind the K.4 Committee's busy agenda, the Troika should meet with the HCR at a forthcoming meeting.

7. Points for discussion relating to the conclusions to be drawn from the Judgment in the Case Vanderelst v. OMI of 9 August 1994

- Presidency report

(7243/95 ASIM 164 and 7710/95 ASIM 177)

Since some delegations had suggested various amendments (see 7396/95 ASIM 168), the Committee asked the Migration Working Party (Admission) to finalize the presentation of this report.

8. Relations with third countries in the JHA sector

(a) Transatlantic dialogue (United States – Commission – Presidency)

- Record of the meeting of the Working Party on combating international organized crime on 24 May 1995 (7520/95 ENFOPOL 47)

The Committee took note of the record of the meeting of the Working Party on combating international crime held in Paris on 24 May 1995.

(b) United States/Canada

- Preparation for the meeting of the ministerial Troïka

The Presidency announced its intention of explaining at the above meeting the new rules with regard to relations with third countries.

(c) Cyprus and Malta

- Preparation for the meeting of the ministerial Troïka

The Presidency announced that it would establish the topics for this meeting in the light of discussions with the Cyprus and Malta delegations. In any event, dialogue with those countries must look towards their future accession.

(d) Countries of Central and Eastern Europe (and Baltic countries)

- Preparation for the ministerial meeting
(7066/95 CIREFI 15 and 7212/1/95 ENFOCUSTOM 15 REV 1)

The proceedings of the Committee on this item are contained in 7806/95 CK4 28.

9. Measures to combat counterfeiting

- **Adoption of reports by the Working Parties on Drugs and Organized Crime and Customs Cooperation**

(6181/95 ENFOPOL 31 and 7167/1/95 ENFOCUSTOM 14 REV 1)

The Committee:

- took note of a provisional reservation from the German delegation on the above two documents;
- agreed to suggest to the Council, if the German reservation was withdrawn, that it approve the proposals designed to facilitate the combating of counterfeiting (7849/95 ENFOPOL 55 ENFOCUSTOM 20).

10. Racism and Xenophobia

- (a) Conclusions of the Paris seminar on 11 and 12 April 1995

(7029/1/95 ENFOPOL 40 REV 1)

The Committee proposed that the Council take note of the above conclusions (7847/95 ENFOPOL 53).

- (b) Adoption of the statistical report on crimes and offences committed (6804/95 ENFOPOL 35 + ADD 1 (RESTREINT))

The Committee proposed that the Council take note of the statistical report as contained in 7848/95 ENFOPOL 54.

11. Terrorism

– **Assessment of the terrorist threat: adoption of the report**

The Committee proposed that the Council adopt the Presidency's summary document of 15 May 1995 on the assessment of the external and internal terrorist threat for the Member States of the European Union (7808/95 ENFOPOL 52).

12. Customs Cooperation

– **Report on the international maritime cooperation operation "Piranha"**

(6410/1/95 ENFOCUSTOM 13 REV 1)

The Committee proposed that the Council take note of the above report (7892/95 ENFOCUSTOM 23).

13. Europol Drugs Unit

(a) 1994 budget: adoption of the final budget
(7179/95 EUROPOL 56)

(b) 1995 budget: examination of the amending draft for adoption by the JHA Council
(7180/95 EUROPOL 57)

(c) 1996 draft budget (7181/95 EUROPOL 58)

The Committee agreed on the above three documents. It asked COREPER to suggest to the Council that it adopt the documents as "A" items.

14. EUROPOL

– **Examination of the draft Convention**

(10324/4/94 EUROPOL 112 REV 4 + ADD + ADD 2,
7325/95 JUR 115 EUROPOL 59 and 7037/95 EUROPOL 54)

The Committee examined the institutional questions on the basis of 7037/95 EUROPOL 54.

The Committee's findings are summarized in 7811/95 EUROPOL 62.

15. Draft Convention on extradition between the Member States of the European Union

– **Progress report**

(6229/1/95 JUSTPEN 66 REV 1)

The Committee took note of 6229/1/95 JUSTPEN 66 REV 1 and agreed to submit to the Permanent Representatives Committee and to the Council a progress report on:

- work completed;
- the items which would need to be developed further;
- the questions on which the Council would have the opportunity to exchange views, concerning political offences, the extradition of nationals and the requirement for dual criminality with regard to criminal organizations.

The Committee also noted that the explanatory report on the Convention on simplified extradition procedures would be examined shortly by the Working Party on Extradition.

16. Draft Resolution on the protection of witnesses in the fight against international organized crime

(5719/95 JUSTPEN 36 and 7323/95 JUSTPEN 75)

The outcome of the Committee's proceedings is to be found in 7963/95 JUSTPEN 85.

17. Draft Convention on the protection of the Communities' financial interests

(7124/95 JUSTPEN 70 + ADD 1 + EXT 1 (fin,s), 7372/95 JUSTPEN 77 and 7734/95 JUSTPEN 80)

The Committee noted that this dossier was currently being examined by the Permanent Representatives Committee.

18. Seminar on mutual judicial assistance

– Selection of priorities

(7193/95 JUSTPEN 72 and 7757/95 JUSTPEN 81)

The Committee noted the outcome of the seminar as set out in 7193/95 JUSTPEN 72 and particularly emphasized the importance of points I (on compliance with letters rogatory and on problems caused by the compliance rules depending on the law of the requested state) and II (on the hearing of witnesses and new ways of taking evidence).

The Committee also took note of Steering Group III's report contained in 7757/95 JUSTPEN 81 and agreed that work in this area would be continued under the Spanish Presidency.

19. Draft Convention on jurisdiction and the enforcement of judgments in matrimonial matters

– Presidency note

(7160/1/95 JUSTCIV 28 REV 1 and 7736/95 JUSTCIV 32)

The Committee noted the opinions expressed by the delegations on the possibility of including applications ancillary to procedures relating to the existence or nullity of a marriage, to divorce and to the legal separation of spouses which concern the exercise of parental authority over the children of both spouses.

The Committee agreed to submit to the Permanent Representatives Committee and to the Council:

- this question, bearing in mind that it was technically possible to include the custody of children in the Convention and that the approach adopted (7160/1/95 JUSTCIV 28 REV 1) fitted in well with developments in preparatory work for the review of the 1961 Hague Convention on the protection of infants;
- a progress report on the first part of the future Convention which should deal with its scope and rules of jurisdiction.

20. Concerted position on the draft Exequatur Convention discussed at the International Conference on Private Law in The Hague

(7735/95 JUSTCIV 31)

The Committee agreed with the content of the common approach concerning the drafting of a convention on the recognition and enforcement of foreign judgments in civil and commercial matters, as contained in 7735/95 JUSTCIV 31.

It was decided to submit the proposal for agreement as an "A" item at a forthcoming Council meeting, taking into account the fact that this approach would be dealt with orally by the Presidency at the Conference.

21. Financing of Title VI

- Progress report

The Committee reiterated the urgent need for a solution to the problem of financing, still being examined by the Permanent Representatives Committee.

22. Presentation of common positions and joint actions in the Justice and Home Affairs fields

(7751/95 JAI 18 JUR 137)

The Committee agreed to forward the above document to the Permanent Representatives Committee.

23. Other business

No points were raised under "Other business".

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