



**EUROPEAN UNION
THE COUNCIL**

Brussels, 27 April 1999

7666/99

LIMITE

MIGR 28

OUTCOME OF PROCEEDINGS

from: Migration (Expulsion) Working Party

dated: 8 March 1999

1. Adoption of the agenda

The Working Party adopted the agenda set out in Telex No 749 of 17 February 1999, with the addition, at the Presidency's initiative, of the item mentioned under 'Other business' below.

- 2. Strategy on migration and asylum policy**
9809/2/98 CK4 27 ASIM 170 REV 2
5337/99 CK4 4 ASIM 3
14265/98 ASIM 260 MIGR 31 ASILE 12
6097/99 MIGR 8

The outcome of the discussion of this item is in 7263/99 MIGR 18.

Consideration of paragraph 113 of 6097/99 MIGR 8 was continued under item 6 'Readmission clauses' below.

3. **Implementation of the terms of reference of the High-Level Working Group on Asylum and Migration**

5264/2/99 JAI 1 AG 1 REV 2

6101/99 JAI 9 AG 8

6105/99 MIGR 10

The Presidency presented the questionnaire in 6105/99 MIGR 10, aiming to establish the state of play and the requirements for the third countries concerned as regards point 1(c) (v), (vi) and (x) of the High-Level Group's terms of reference

Delegations that had not yet replied were requested to do so urgently (delegations' replies are in 6993/99 MIGR 15 + ADD 1; the summary report of these contributions, drawn up by the Council Secretariat, is in 7609/99 JAI 35 AG 15 MIGR 26).

4. **Letter to third countries concerning the use of standard travel documents for the expulsion of third-country nationals**

11768/2/98 ASIM 208 MIGR 16 REV 2

The outcome of the discussion of this item is in 6580/99 MIGR 12 (see also 7298/99 MIGR 21 and 7665/99 MIGR 27).

5. **Assistance in case of transit for the purposes of expulsion by air**

14348/99 ASIM 261 MIGR 32

The Presidency outlined the benefits that could be drawn from the proposed forms of cooperation.

The Greek delegation referred to possible difficulties in this area arising from Greek constitutional law requirements. The United Kingdom delegation also mentioned legal difficulties and cautioned against setting up new procedures in this sensitive area too hastily. It thus suggested as a first step looking at the way the Council Recommendation of 22 December 1995 on concerted action and co-operation in carrying out expulsion measures (OJ No C 5, 10.1.1996, p. 2) had been useful to Member States, so as to identify areas in which cooperation could produce further positive results.

Following this suggestion, the Presidency stated that at the next meeting delegations would be requested to indicate their experience as regards the implementation of this Council Recommendation, as well as any difficulties that they encounter in this area.

The Austrian delegation suggested that the 21 April 1998 decision by the Schengen Executive Committee (see SCH/Com-ex 98(10)) should constitute the basis for future work in this area. The Presidency agreed that the Schengen decision should be taken into account for this purpose. The United Kingdom delegation further referred to the ongoing work within IGC.

6. Readmission clauses in Community agreements and “mixed agreements”
6098/99 MIGR 9

The Presidency introduced the proposal, as contained in the above-mentioned document, to include readmission clauses as a fixed part of Community and mixed agreements.

During the debate that followed, delegations generally agreed with the Presidency's approach, and further expressed the following views (including comments made in the context of item 2 above).

The United Kingdom delegation stressed that the result sought by the Presidency might be difficult to achieve, since these agreements are negotiated with different priorities in mind; however, it was confident that the Presidency would succeed in putting forward these views with its own national authorities with responsibility in this area. The Presidency stressed that this possibility was indeed worth exploring.

The Austrian delegation suggested that the conclusion of a comprehensive Community readmission agreement in conjunction with such agreements with third countries would be more effective than the mere insertion of readmission clauses. The Presidency, while not ruling out this possibility, emphasized that it would entail greater difficulties.

The French delegation regretted that the readmission clauses are too general and constitute a mere commitment to negotiate more detailed agreements, thus Member States cannot use them for immediately operational purposes. The Spanish and German delegations, on the other hand, saw merit in clauses whereby a third country declares itself prepared to enter into an agreement for the readmission of own nationals as well as third-country nationals. In this connection, the Presidency observed that the insertion of clauses would be the minimum requirement, but would not exclude more stringent obligations.

The Commission representative recalled that the Commission is currently undertaking an overall reflection on readmission policy in the light of the Amsterdam Treaty. According to the Commission representative, the experience with readmission clauses is not entirely problematic: the clauses were adopted only in 1995 and 1996, and have been since taken into account in negotiations, though with occasional concessions being made. Furthermore, the Commission representative was cautious as regards the proposal of 'non-negotiable clauses', which would create difficulties vis-à-vis third countries that do not pose readmission problems.

The Italian delegation agreed that the negotiation of association and cooperation agreements could offer the opportunity to discuss readmission questions with third countries, but suggested that discussion of this matter should take place in the broader context of the consequences of the Amsterdam Treaty.

The Belgian delegation proposed establishing a link between compliance with the readmission clauses and possible suspension or revision of the agreement. The Presidency commented that it might be difficult to introduce such a link in agreements with all third countries, and this might again pose the difficulty of some third countries feeling discriminated against with respect to others.

The Presidency indicated that the implications of the Amsterdam Treaty in this area still need to be fully assessed before a decision is taken, and concluded that it would submit a new document on this item shortly.

7. **Draft Readmission Agreement between the Member States of the European Union and a third country**

- **Effects of the Amsterdam Treaty**

Delegations took note that since the Council Legal Service and the Commission services had not been able to deliver their contributions as yet, this matter would be postponed until the next meeting of the Working Party.

- **Further discussion of the text
10338/1/98 ASIM 184 MIGR 8 REV 1**

The outcome of the discussion of this point is in 10338/2/98 ASIM 184 MIGR 8 REV 2.

8. **Other business**

- *Draft protocols to the United Nations Convention against transnational organised crime*

The Danish delegation suggested that the EU should draw up, in the framework of the Migration (Expulsion) Working Party, a common position on two of the three draft protocols supplementary to the above-mentioned draft Convention, viz. the draft protocol to combat the smuggling of migrants (proposed by Italy and Austria), and the draft protocol to combat international trafficking in women and children (proposed by the United States).

The Commission representative mentioned that the Multi-Disciplinary Group on Organised Crime (MDG) had already agreed to set up a joint position on all three protocols supplementary to the Convention, as well as the Convention itself, but this did not exclude the involvement of the Migration (Expulsion) Working Party on the migration-related points.

The Commission representative further informed delegations as follows:

- the latest unofficial version of the draft protocol to combat the smuggling of migrants included provisions on migration issues, as had been proposed by the United States and Canada;

- the Commission services and the Council Secretariat had undertaken to provide a survey of the existing *acquis* in this area for the GMD. This contribution could be provided to the Working Party as well.

The Presidency invited delegations to examine the text of the draft Protocols with a view to reaching a common position at the Working Party's next meeting on the expulsion-related issues.
