EUROPEAN UNION
THE COUNCIL

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"A" ITEM NOTE

from: Permanent Representatives Committee

to : Council (Justice and Home Affairs)

Subject: **Draft statement by the Council (JHA) on extradition**

The Council of the European Union:

A. Recognizing that serious crime often assumes trans-border forms,

B. Concerned to strengthen judicial co-operation between the Member States in the fight against crime,

C. Recognizing the importance of extradition in the area of judicial co-operation,

D. Noting the results achieved within the framework of the Judicial Co-operation Working Party in enhancing the effectiveness of forms of judicial co-operation between the Twelve other than on extradition,

E. Convinced that further progress could be made concerning extradition,

F. Having in mind the inter-relationship between the work of the Judicial Co-operation Working Party on this point and work relating to the setting up of a European information system,

G. Emphasizing that all Member States have a common interest in ensuring that extradition processes and procedures work effectively and expeditiously,

H. Expressing confidence in the structure and operation of each other's judicial systems, and in the correlative ability of all Member States to ensure a fair trial for their own and other States' nationals,

I. Taking into account the rights of the individual under the European Convention for the Protection of Human Rights and Fundamental Freedoms,

J. Having in mind the importance of examining the expediency of concluding between the Member States of the European Communities a convention supplementing the Council of Europe Convention of 13 December 1957, and amending some of its provisions with a view to facilitating extradition,

1. Hereby decides to give the following working programme on extradition to the relevant Working Party and invites the Working Party to report to it on the points listed below within one year;

Regarding extradition requirements

2. In order to increase the efficiency of judicial co-operation within the Community, the requirements and grounds for refusing extradition, including reservations expressed by the Member States when ratifying the European Convention on Extradition, should be re-examined with a view to relaxing them to the fullest extent compatible with the basic principles of Member States' laws;

3. In preparation for future decisions, the following measures should in particular be examined by the Working Party for the purpose of assessing the expediency of incorporating them in a convention on extradition between the Twelve;

extraditable offences:

(a) reducing to one year the imprisonment threshold required for extradition in all Member States;

(b) setting aside the imprisonment threshold requirement for the requested State, provided that the conduct concerned carries a custodial penalty in that State and is an extraditable offence according to the law of the requesting State;

political offences:

(c) exclusion of the political nature of the offence as a ground for refusal of extradition in connection with requests submitted between Member States for one of the offences defined in Article 1 or covered by Article 2 of the European Convention on the Suppression of Terrorism of 27 January 1977;

fiscal offences:

(d) assimilation of fiscal offences to ordinary law offences for the purposes of extradition, at least concerning excise duties, value added tax and customs;

lapse of time:

(e) assessment of whether there is immunity from prosecution or punishment by reason of lapse of time by exclusive reference to the law of the requesting State;

extradition of nationals:

(f) extradition of nationals, possibly with conditions,

life sentence:

(g) extradition for offences punishable by life imprisonment under the requesting State's law, if that sentence is not provided for in the requested State's legislation, provided that the requesting State gives an assurance that measures will be provided in respect of the sentence which would be for the benefit of the requested person pursuant to its legislation and practice;

speciality rule:

(h) waiving the speciality rule in specific cases;

Regarding extradition procedures

4. In order to increase the efficiency of judicial co-operation within the Community, extradition procedures should be re-examined, on the basis of the discussions relating to the requirements and grounds refusing extradition, with a view to simplifying and accelerating those procedures in a way compatible with the basic principles of the Member States' domestic laws;

5. In preparation for future decisions, the following measures should in particular be examined by the Working Party for the purpose of assessing the expediency of incorporating them in a convention on extradition in the framework of the European Union;

(a) simplification of judicial control of the extradition decision, at least in some circumstances;

(b) simplification of the procedure where the person agrees to extradition.