JHA K4
3 MINS

EUROPEAN UNION
THE COUNCIL

Brussels, 5 April 1994 (11.04)
(OR. f)

5448/94

RESTREINT

CK4 24

CONCLUSIONS

of: meeting of the Co-ordinating Committee set up by Article K.4 of the TEU

on: 3 and 4 March 1994

1. Adoption of the agenda
(5126/94 OJ/CK4 3)

The Committee agreed to adopt the agenda with the inclusion of the items listed in 13 below under "Other business".

I. PREPARATION FOR THE COUNCIL MEETING ON 23 MARCH 1994

The Committee took note of a statement by the Presidency to the effect that the Commission had asked to present its communication on immigration and asylum to the General Affairs Council on 7 and 8 March. This item would also be entered on the agenda for the Justice and Home Affairs Council for presentation by the Commission and discussion.

2. **Commission initiative on a Decision establishing the Convention on External Frontiers**

   – **examination of questions of principle concerning the legal nature of the Decision**

   (9500/93 JUR 131
   11404/93 CK4 14
   4421 ASIM 13 items I.A. 1 to 3)

The Committee

– held a discussion on matters relating to the legal nature of the Decision;

– agreed not to enter this item on the Council agenda;

– instructed the Legal Counsellors from the Permanent Representations to examine the nature of the Council instrument, the content of the instrument and of the Convention and the matter of the signing of the Convention, and to report back to the K.4 Committee for its next meeting on 14 and 15 April 1994.
In addition to the documents mentioned under the heading of this section, the Counsellors will base their examination on the Commission's explanatory memorandum and on the note from the Legal Service on the Customs Convention (4483/94 JUR 16 ENFOCUSTOM 3, 4.2.1994).

3. **Asylum: nationals of other Member States**

   (4316/94 CK4 7 + ADD 1
   4105/3/94 ASIM 2 REV 3
   4783/94 ASIM 33
   4644/94 ASIM 25)

The K.4 Committee continued the discussion on nationals of other Member States.

At the end of the discussion, the Committee agreed to instruct an ad hoc Working Party to look into this matter and report back.

The Working Party's proceedings will be based on:

- the conclusions of the European Council of 10 and 11 December 1993;

- the various documents produced hitherto in discussions on this matter.

The Committee agreed to delete this item from the provisional agenda of the Justice and Home Affairs Council.

4. European information system

(4077/94 CK4 2
9925/93 CK4 7)

The Committee noted that:

- progress had been made towards finding a solution to the major outstanding issue, viz. whether provisions on police and judicial co-operation should be included in the Convention;

- the Spanish delegation had consulted the other Member countries who were parties to the Schengen Convention on this question in the context of Article 142 of that Convention;

- a draft solution could be put forward before the next meeting of the JHA Council on 23 March 1994;

- the Presidency would retain the item on the agenda for the JHA Council on 23 March 1994.

5. **EDU: appointments**

The Committee held an exchange of views on the appointments to the posts of co-ordinator and two assistant co-ordinators for the EDU/Europol, in the light of the proceedings of the Interview Board on 23 February 1994.

It was agreed that Coreper would be sent a document containing the names of the two candidates having obtained the highest number of points for each post.

6. **Draft Council recommendation concerning the legal/judicial interception of telecommunications**

- **initiative of the Netherlands delegation**

  (10090/93 ENFOPOL 40
  4125/94 ENFOPOL 2
  5092/94 CK 4 19 ENFOPOL 27)

The Committee finalized the text of the above draft Recommendation and proposed that the Council adopt it at its meeting on 23 March (see 5373/94 JAI 4 ENFOPOL 33).

7. **Operational co-operation on terrorism**

- **report to the Council**

  (5091/94 CK4 18 ENFOPOL 26)

The Committee finalized the text of the draft report which it was proposing to submit to the Council on operational co-operation on terrorism (see 5372/94 JAI 3 ENFOPOL 32) and recommended that the Council examine it at its meeting on 23 March 1994, with a view to its adoption.

8. **Extradition**

(10733/93 JUSTPEN 14
4638/94 JUST 1
5129/94 JUSTPEN 10)

The Committee finalized the report which it was proposing to submit to the Council on conditions relating to extradition, as contained in 5366/94 JUSTPEN 13.

Some delegations entered scrutiny reservations in view of the fact that the document was not available in their languages.

9. **Draft provisional agenda for the Council on 23 March 1994**

(4901/94 JAI 1)

The Committee finalized the provisional agenda for the Council meeting as it stands in 4901/94 OJ/CONS 10 JAI 1.

II. OTHER ITEMS

10. **Eurodac: choice of consultant**

The Committee noted that, in accordance with the Belgian law on public works, public supply and public service contracts applicable to the Eurodac invitation to tender, the successful consultant would not be allowed to take part in the procedures for awarding the contract for the actual implementation of the system designed, studied or prepared by him.

In addition, the Committee held a discussion on the choice of the firm which should carry out the study.

The Committee agreed to instruct an ad hoc Working Party to consolidate the selection criteria on the basis of which the choice would be made.

11. Implementation of Article K.5: defence of common positions in international organizations and at international conferences on the subject of asylum (4511/94 ASIM 22)

The Committee held an exchange of views on the implementation of Article K.5, on the basis of a document submitted by the Presidency (4511/94 ASIM 22).

The Committee felt that this was an across-the-board issue, which went beyond the framework of asylum matters. Several delegations felt that flexible rules should be made here.

At the close of the discussion the Committee:

- considered that this was a matter which called for a global approach;

- agreed to continue discussions on this point at its next meeting on the basis of 4511/94 ASIM 22.

12. **Forwarding documents to the European Parliament**

(10085/2/93 ENFOPOL 35 REV 2
9908/2/93 CRIMORG 1 REV 2 + ADD 1)

The Committee took note of the French scrutiny reservation on the forwarding to the European Parliament of Annex II (report of the ad hoc Working Party) to 9908/2/93 CRIMORG 1 REV 2. It also noted that the Netherlands delegation's Parliamentary scrutiny reservation had still not been withdrawn. The Chairman invited the Netherlands delegation to withdraw its reservation as soon as possible.

13. **Other business**

(a) Information from the Presidency on relations with the European Parliament

The Presidency:

- drew the Committee's attention to 5064/94 CK4 17, which included the Resolutions adopted by the European Parliament on Justice and Home Affairs at its February sitting;

- informed the Committee that the Council had adopted the text of the letter to be forwarded to the European Parliament seeking the latter's view on the Commission's initiative relating to the Convention on External Frontiers;

- informed the Committee of the appearance of Mr Papathemelis (Minister for Public Order, Greece) before the European Parliament Committee on Civil Liberties, and of the Minister's intention to have further contact with the Committee during the month of April.

(b) Relations with Interpol

The Committee took note of the information provided by the Presidency on a letter sent by Interpol. It agreed to have its content examined by the Group on Drug Trafficking and Organized Crime.

(c) Progress report on classification of documents

The Presidency reported that the ANTICI Group, assisted by experts, would meet on 11 March and would make a report to Coreper. The Presidency would ensure that the K.4 Committee was informed of the results of the Working Party's proceedings.

The Italian delegation drew the Committee's attention to a note from the Staff Committee of the Council General Secretariat.

(d) Escorting Albanians from Kosovo back to their homeland

The Committee discussed the current difficulties surrounding the escorting of Albanians from Kosovo back to their region of origin.

It instructed the appropriate fora (Asylum Group and CIREA) to discuss the matter as soon as possible with the aim of finding solutions.

(e) Conference on urban crime to be organized by the Commission

The Committee noted information from the Commission representative to the effect that DG V was organizing a seminar on urban crime with the theme of prevention. The Commission representative stated that he would inform the Committee of the outcome of the seminar.

(f) Relations with applicant countries

The representative of the Legal Service informed the Committee that the note from the Legal Service dated 22 February had not yet been formally examined by the competent bodies.

The Presidency stated that the subject was on the agenda for the meeting of the General Affairs Council on 7 and 8 March.

(g) Speeding up work on Europol

The Committee's proceedings on this point are contained in 5365/94 Europol 15.

(h) Language arrangements for the EDU/Europol

The Committee took note of a statement from the French delegation, supported by several other delegations, to the effect that the language rules applicable in the other Union institutions must be complied with in the proceedings of the EDU/Europol.

(i) Accession by the Community to the European Convention on Human Rights

Belgium requested that this item be entered under "Other business" on the Council's agenda.

The representative of the Council Legal Service stated that, following the JHA Council on 29 and 30 November 1993, during which it was decided that the request for a Court of Justice opinion on whether accession to the European Convention on Human Rights was compatible with the Community Treaties would be the subject of a decision under the "A" items at a future Council meeting, the Legal Service had drawn up an outline memorandum, which had been submitted to the delegations for comments by 15 March. The memorandum would then be formalized by the Legal Service and the matter could be entered on the Council agenda (JHA or General Affairs – certain delegations, in particular France, expressing a preference for General Affairs).

The Committee agreed to suggest that this item be entered in the Council's provisional agenda under "Other business."