

11461/95

LIMITE

CK4 55

OUTCOME OF PROCEEDINGS

of : K.4 Committee

on : 7 and 8 November 1995

The K.4 Committee met in Brussels on 7 and 8 November 1995. The outcome of its proceedings may be summarized as follows:

1. Adoption of the agenda

Following an exchange of views on improving the organization of its agendas, the K.4 Committee agreed to the draft agenda (11250/1/95 OJ/CK4 10 REV 1).

2. Information on the agenda for the JHA Council meeting on 23 and 24 November 1995

At the Presidency's suggestion, this item was taken at the end of the Committee's proceedings.

It gave rise to a wide-ranging discussion of the operation of the Third Pillar bodies.

3. Draft Joint Action on measures to combat racism and xenophobia

The Committee's findings are set out in 11337/95 JUSTPEN 152.

4. Draft Convention on improving extradition between the Member States of the European Union (11267/95 JUSTPEN 148)

The Presidency appealed to delegations to withdraw their reservations on Articles 1, 2(1) and (2), 4, 5(1) and (2), 6 and 7.

The Committee noted that delegations were unable to withdraw the reservations set out in 11267/95 JUSTPEN 148, with the exception of the United Kingdom delegation, which withdrew its scrutiny reservation on Article 4(2).

In this context the Presidency suggested that a draft statement for submission to the Council be prepared concerning the results achieved and the further action to be taken in future proceedings. Most delegations accepted that suggestion.

Following a request from the United Kingdom delegation, the Presidency did not rule out the possibility that the Council would examine the question of the refusal of extradition based on political offenses and that of conspiracies and associations to commit offenses.

5. Draft Convention on jurisdiction and the enforcement of judgments in matrimonial matters (11268/95 JUSTCIV 79)

The Presidency sounded out Committee members on the advisability of concluding a Convention on matrimonial matters confined to those Member States which were interested, on the basis of Article K.7.

The representative of the Council Legal Service drew attention to the wording of Article K.7 of the TEU. He pointed out in particular that this Article was not an adequate legal basis for the conclusion of a Convention. The purpose of the Article was to safeguard existing closer cooperation between two or more Member States established or developed in other contexts.

The Council also examined the extent to which the exercise of parental authority over children could be addressed in the Convention (Article 3). Delegations maintained their positions as set out in 11268/95 JUSTCIV 79, with the exception of:

- the Danish delegation, which would prefer only the first paragraph to be adopted,
- the Portuguese delegation which wanted only paragraphs 1 and 2 to remain

In these circumstances the Presidency said he would submit a draft text for the Council's attention setting out the state of play on this draft Convention.

6. Draft Convention on simplification of the service of judicial and extrajudicial documents in civil and commercial matters (11263/95 JUSTCIV 78)

The Committee noted the progress of the work on this draft Convention and the fact that the Working Party was to meet on 7 and 8 November 1995.

In view of the outcome of the Working Party's proceedings, the Committee did not reexamine the dossier at its meeting.

7. Draft Protocol to the Convention on the protection of financial interests (officials)

The Presidency confirmed that its aim was to reach political agreement and, if possible, have the Council act establishing the Protocol adopted and the Protocol signed at the JHA Council meeting on 23 November 1995.

The Committee noted the report from Steering Group III and instructed the ad hoc Working Party of Counsellors/Attachés (Criminal Law/Community Law) to examine the questions outstanding at its meeting on 9 and 10 October 1995 with a view to preparing a text for the Council.

8. Draft explanatory report on the Convention on simplified extradition procedure between the Member States of the European Union

(6711/1/95 JUSTPEN 60 REV 1 + ADD 1)

As the Netherlands delegation had withdrawn its scrutiny reservation, the Committee agreed to submit this item to the Permanent Representatives Committee with a view to its adoption at the next JHA Council meeting.

9. Relations with third countries

(a) Programme of contacts with third countries following the ministerial meetings on 25 and 26 September 1995
(10913/95 JAI 48)

(b) Structured dialogue with the CCEE
– Outcome of the meeting on 25 September 1995
(10710/95 JAI 45)

(c) Structured dialogue with Cyprus and Malta
(10710/95 JAI 45)

- (d) Conclusions of the meeting of the Ministerial Troika with Switzerland, Norway and Morocco (26 September 1995)
(10912/95 JAI 47)
- (e) Conclusions of the meeting of the Ministerial Troika with the Ministers of the Andean Group responsible for combating drug trafficking (26 September 1995)
(10765/95 JAI 44)

The Committee focused its attention on 10913/95 JAI 48 as regards items (a) to (e). The outcome of its proceedings is set out in 10913/1/95 JAI 48 REV 1.

The Commission representative indicated that the purpose of Mr Langdon's report was to help the CCEE submit their applications for assistance. That report was not to be forwarded, nor approved by the K.4 Committee but could be made available to it.

He also pointed out that the budgetary implications of third-country participation in the seminars needed to be examined.

- (f) Relations with the United States and Russia and relations in the framework of the Euro-Mediterranean Conference (11291/95 JAI 49)

1. Relations with the United States

The Presidency gave a brief outline of the progress made, where the Third Pillar was concerned, on the action programme for the Transatlantic Dialogue.

The French delegation thought the creation of further fora should be avoided. The Netherlands delegation made specific comments on the Third Pillar part of the document.

The President concluded by saying that it would forward delegations' comments to the Coreper Chair.

2. Relations with Russia

The Committee examined 11291/95 JAI 49, a document drawn up by the Presidency, as regards the Third Pillar aspect of the preparation of the strategy for relations with Russia.

Following a brief discussion, delegations were asked to send the Presidency any comments they might have before 15 November 1995, the date on which the dossier was next to be examined by Coreper.

3. Relations in the framework of the Euro-Mediterranean Conference

The Netherlands delegation thought that operational cooperation with the countries of the Mediterranean was difficult as no legal texts had been signed. The legal systems were very different.

(g) Oral report from the General Secretariat of the Council on contacts with Canada, Morocco and Bulgaria

The representative of the General Secretariat of the Council reported on the contacts with Canada, Morocco and Bulgaria.

At the request of the Netherlands delegation, a written report will be prepared on this subject.

(h) Relations with China (59/95 ASIE)

The Committee held a brief discussion on the Third Pillar section of the draft conclusions set out in the above document (see page 3).

The French delegation entered a general scrutiny reservation while the German delegation reserved its position.

In general, the Committee thought that the examination of the features of the Third Pillar should be given closer attention in the documents regarding relations with certain third countries or groups of countries. While the K.4 Committee had managed to follow and participate in discussions in the transatlantic sphere, that had not been as easy in other cases.

The Committee was favourably disposed to the suggestion made by the Commission representative that an early-warning system be set up for cases where certain general communications had or should have a bearing on areas covered by the Third Pillar. The General Secretariat of the Council and the relevant Commission departments were asked to implement that suggestion so that the K.4 Committee had time to examine the aspects of interest to it in communications regarding third countries.

10. Budapest Academy (ILEA)

- Oral report from the Presidency

The Committee instructed Steering Group II to prepare a draft general strategy for European Union participation in the work of the ILEA.

11. Draft Convention on the European Information System (EIS)

- Progress report

(11292/95 CK4 53)

The Committee asked the Horizontal Working Party on Data Processing to submit to it at its next meeting the questions still outstanding regarding the above draft Convention.

12. Report on seminars (terrorism, violence in sport and protection of the cultural heritage)
- Oral report from the Presidency

The Committee noted the conclusions of the above three seminars.

13. Memorandum of understanding on the lawful interception of telecommunications
- Oral report from the Presidency on the signing procedure
(10037/95 ENFOPOL 112)

The Committee was informed that the above memorandum was expected to be signed alongside the JHA Council meeting, on 23 November 1995.

14. EDU
(a) Programme of activities for the first half of 1996
(10301/4/95 EUROPOL 97 REV 4)

The Committee's findings on this point are summarized in 10301/5/95
EUROPOL 97 REV 5.

- (b) Summary report on activities during the first half of 1995
(9534/95 EUROPOL 82)

The Committee agreed to the above document and asked Coreper and the Council to adopt it as an "I/A" item.

15. EUROPOL

- Approval of the Rules of Procedure of the Europol Management Board
(9203/4/95 EUROPOL 72 REV 4)

The Committee's findings on this item are summarized in 9203/5/95
EUROPOL 72 REV 5.

16. Information on the proceedings of the Expert Working Party on Drugs

- Oral report from the Presidency

The Committee took note of the information supplied by the Presidency on the progress with preparation of the report to the Madrid European Council.

17. Report on organized crime in 1994

(10506/95 ENFOPOL 108 + ADD 1)

The Presidency briefed the Committee on progress in preparing the report. The Working Party on Drugs and Organized Crime is expected to be preparing a new version of this document at its meeting on 10 November 1995 further to delegations' comments. The Presidency intends to submit that report to the Council at the earliest opportunity.

The addendum, which relates to the methodology and the guidelines resulting from the conclusions of the report, will have to be examined later but in any event before the end of 1995.

18. Lawful interception on telecommunication systems operating outside national frontiers

(4118/2/95 ENFOPOL 1 REV 2)

The Committee noted the recommendations set out in point 7 of the above-mentioned document.

19. Harmonized application of the definition of refugee status in Article 1 of the Geneva Convention

(8628/4/95 ASIM 209 REV 4)

The Committee's findings are set out in 8628/6/95 ASIM 209 REV 6

20. EURODAC

– Examination of the report from Steering Group I

(11309/95 ASIM 304)

The Committee recorded agreement on the conclusions set out in the above document regarding the study to be carried out on users' needs and requirements.

It was agreed that these conclusions, as set out in 11382/95 ASIM 306, would be put before the Permanent Representatives Committee and the Council.

21. Proposal for a joint position on the status of third-country nationals residing legally in the territory of the Member States of the European Union for a long period

(8629/7/95 ASIM 210 REV 7)

The Committee's findings are set out in 8629/7/95 ASIM 210 REV 7.

22. Monitoring the implementation of texts already adopted regarding admission

(10267/2/95 ASIM 262 REV 2)

The Committee approved the content of 10267/2/95 ASIM 262 REV 2. The United Kingdom delegation upheld a scrutiny reservation on the Decision (Beschluss) form of this instrument.

23. Discussion paper on the consequences to be drawn from the Vander Elst v. OMI judgment

(7710/1/95 ASIM 177 REV 1)

The Danish delegation having withdrawn its scrutiny reservation, the K.4 Committee took note of the content of 7710/1/95 ASIM 177 REV 1.

24. Proposal for a recommendation on concerted action and cooperation in carrying out expulsion measures

(8631/4/95 ASIM 212 REV 4 and
SN 4173/95 – version revised by the Legal Service)

The K.4 Committee approved the draft recommendation set out in 8631/4/95 ASIM 212 REV 4. It took note of the text revised by the Council Legal Service (SN 4173/95). Several delegations, in particular the German delegation, wanted to retain the text in 8631/4/95 ASIM 212 REV 4.

25. Report on the establishment of a standard travel document for the expulsion of third-country nationals

(10721/94 JAI 43 and 10340/2/95 ASIM 266 REV 2)

The K.4 Committee noted this report.

26. Draft Council act adopting a joint action on airport transit arrangements

(9287/2/95 ASIM 218 REV 2)

The Committee's findings are given in 9287/3/95 ASIM 218 REV 3.

27. Draft Council Resolution concerning local consular cooperation regarding visas
(10713/1/95 ASIM 285 REV 1)

The Committee's findings are set out in 10713/2/95 ASIM 285 REV 2.

28. Possible application of Article K.9 of the TEU in matters relating to asylum

The K.4 Committee noted that the Commission intended to submit a report on the matter.

29. Draft Convention on the crossing of external frontiers

– Progress report

The Presidency promised a brief report on the progress made during the second six months of 1995 (11787/95 ASIM 318).

30. Progress report from the Working Party on Consular Cooperation on the European travel document

– Oral report from the Presidency

The K.4 Committee noted an oral report from the Presidency to the effect that the above Working Party (operating under the Second Pillar) had made significant progress, so that application of the travel document in question could be expected as from 1996.

31. Other business

(a) Combating terrorism

As regards terrorism, the Belgian delegation welcomed the Presidency's desire to harmonize the European Union's attitude between the Second and Third Pillars.

However, it asked that the La Gomera declaration on terrorism should not be deemed to say what it did not in fact say, namely that terrorism was nothing more than common crime.

(b) ECRE (European Consultation on Refugees and Exiles)

On a proposal from the Presidency, it was agreed that regular contacts with the ECRE would not be institutionalized, although contacts could take place in case of need on an ad hoc basis (Presidency or K.4 Committee).

(c) Freedom of movement Directives – "Monti package"

The United Kingdom delegation stressed the need for this dossier eventually to be discussed at Ministerial level; the Presidency said that the matter had been placed for information on the agenda for the Internal Market Council.

(d) The Commission drew attention to a seminar on traffic in women and to developments in the procedure for drawing up the budget (funding of Title VII).

- (e) The agenda for the JHA Council was also discussed at some length with a number of delegations querying some of the agenda items. The discussion also covered the respective responsibilities and powers of the K.4 Committee and Coreper in preparing the agenda for the JHA Councils.

The question of Third-Pillar structures was raised in the discussions. The Chairman pointed out that this question had been discussed at the informal Ministerial meeting on La Gomera. The Italian Presidency said it could include this item on the agenda for an early K.4 Committee meeting under the Italian Presidency.