

5614/97

LIMITE

ASIM 19

OUTCOME OF PROCEEDINGS

of : Asylum Working Party

on : 7 and 8 January 1997

1. Adoption of the agenda

The agenda was adopted as given in telex No 5213 of 17.12.1996.

2. Presentation of the Netherlands Presidency's programme 12743/96 CK 4 61

The Presidency commented on those points of Steering Group I's work programme which related to asylum (12743/96 CK 4 61, points III 1 to 8). Given events in the offing – forthcoming entry into force of the Dublin Convention and preparation for accession by the CCEE on the one hand, awaiting the outcome of the IGC on the other – the emphasis during these first six months of the year would be more on technical preparations for implementation of the Dublin Convention and the ministerial meeting with the CCEE under the structured dialogue. However, efforts to achieve greater coordination/harmonization of Member States' asylum policies would continue, particularly with regard to unaccompanied minors seeking asylum, and the return of refugees to Bosnia-Herzegovina; a Decision following up the texts already adopted would be submitted to Council.

The work programme was favourably received by all delegations.

The Irish delegation pointed out that the draft text on the **reception of asylum seekers** had not been submitted to the JHA Council in November because the Irish Presidency had felt – in common with the UNHCR – that its content was insufficient; it welcomed the Netherlands Presidency's decision to hold a conference to look into the subject (see point 5 of the work programme), which might perhaps lead to a more substantial text in future.

With regard to the **parallel convention to the Dublin Convention** (see point 8 of the work programme), the Irish delegation told the Working Party that a meeting had been held between the Irish Presidency and Norway in December ⁽¹⁾, during which Norway had expressed interest in negotiating with the Union for participation in such a convention. The Austrian delegation hoped that the possibility of opening negotiations with Switzerland and the CCEE would also be considered. The Presidency felt that as the K.4 Committee had initially confined itself to Iceland and Norway, a further K.4 Committee decision would be needed to open negotiations with other third countries.

The Presidency questioned the Commission on how it planned to use the appropriations entered in the 1997 budget under the three budget headings for asylum and refugees ⁽²⁾, and on its intentions as to temporary protection.

⁽¹⁾ See Irish note to the K.4 Committee: 5068/97 CK 4 1.

⁽²⁾ Heading B3-4113 – Refugee integration programme
(ECU 10 million in reserve)
Heading B5-803N – Actions in the field of asylum and immigration policy
New heading entered by the EP
(ECU 3 750 million in reserve)
Heading B7-6008N – Actions in favour of refugees who have found temporary
protection in the European Union
New heading entered by the EP
(ECU 10 million)

The Commission representative stated that information on the use of appropriations would be provided at the Working Party's next meeting; as for temporary protection, he reminded those present that at the K.4 Committee meeting on 4 and 5 November 1996, the Commission had said that it wished to analyze Member States' replies to its working document (10531/96 ASIM 136) before deciding whether to make any move in this area; as scrutiny of the replies was not yet complete, the matter would have to be considered at a later date.

The Presidency asked the Commission to act with dispatch, as this issue was extremely important for the Netherlands, and it could not be ruled out that the Presidency might take the initiative if the Commission was dilatory in bringing forward proposals on temporary protection. It took the opportunity of pointing out that Working Party scrutiny of all documents for submission to the Council would have to be finished by the end of March.

3. Structured dialogue with the countries of Central and Eastern Europe (CCEE) in the field of asylum

The Presidency briefed the Working Party on the procedure it was planning for preparation of the ministerial meeting of the structured dialogue with the CCEE, at the JHA Council meeting on 27 and 28 May 1997, the central theme of which would be asylum:

Two papers would be prepared:

- a factual paper, drawn up by the Commission, which would provide the necessary background for preparation of discussions in Council (statement of the Union's priorities, description of its "acquis", description of the situation in each of the CCEE);
- a draft statement to be submitted for adoption by the Ministers, to which would be attached a programme of action and technical assistance for each of the CCEE, taking account of the specific situation in each of these countries regarding asylum, which would be drawn up by the Presidency.

The factual paper would be scrutinized by the Asylum Working Party at its meeting in early February.

The CCEE representatives would be invited to attend part of the Asylum Working Party's meetings at the end of February and beginning of March, during which they would be asked to give their views on the factual paper and the draft statement.

Furthermore, on 10 December 1996, the Irish Presidency had sent the CCEE the texts formally adopted by the Ministers with responsibility for immigration (pre-Maastricht) and by the Council (post-Maastricht) (a copy of the forwarding letter, containing a list of the texts sent, was distributed to delegations).

The Working Party agreed to the procedure proposed by the Presidency.

4. Informal meeting of the Troika and a UNHCR delegation at the K.4 Committee meeting on 17 December 1996

The Presidency briefed the Working Party on the above meeting, which had been organized by the Irish Presidency; the topics discussed had covered the structured dialogue with the CCEE on asylum, coordination of the repatriation of Bosnians, temporary protection and unaccompanied minors seeking asylum. Commission representatives had taken part in the meeting.

The Netherlands intended to continue these Troika-level contacts under their Presidency.

The Irish delegation stated that in addition to this meeting, Ireland had maintained on-going informal relations with the UNHCR throughout its Presidency, and these had proved extremely constructive.

5. Implementation of the Dublin Convention

- **Rules of procedure of the Committee provided for in Article 18 of the Dublin Convention**

9589/94 JUR 215 ASIM 183

4891/95 ASIM 37

5862/95 ASIM 93

12910/96 ASIM 178

The Working Party held a detailed examination of the note submitted by the Presidency (ASIM 178), which contained proposals for finalizing the text of the rules of procedure of the Executive Committee of the Dublin Convention. These proposals were mainly concerned with rules to be followed regarding transparency and Commission participation.

The German delegation pointed out that the Netherlands had tabled a proposal to the IGC for the Schengen structure to be integrated into the European Union; given that the same should apply to the Dublin structure, this eventuality would not be without implications for the current discussions.

The Presidency emphasized that they should continue to work within a separate structure for the moment, as without wishing to rule out the possibility of a single structure in future, it would be some time before it could take effect, given the time needed to negotiate and ratify the arrangements.

In general, delegations welcomed the proposals in ASIM 179; the draft rules of procedure (ASIM 183 of 1994) would be revised on the basis of that note and of delegations' comments.

As regards transparency, the question which gave rise to most comment and query was the publication of the Committee's decisions, particularly the voting procedure (simple majority/unanimity) whereby it would be decided to make them public, and where the decisions would be published (national official gazettes, Bulletin of the European Communities or Official Journal of the European Communities).

The approach favoured at this stage consisted of publishing decisions in the Official Journal of the European Communities:

- automatic publication of decisions directly affecting implementation of the Convention (Article 16(3) – revision – 17(2) – authorization for a Member State to suspend application) and qualified majority decision (one delegation wanted unanimity) to publish the Executive Committee's other decisions;
- the representative of the Council Legal Service told the Working Party that, given the progress on the issue of publication of Title VI Conventions, the Legal Service felt that publication in the Official Journal of the European Communities would be possible; he also suggested that the Dublin Convention be published in the Official Journal when it entered into force.

Regarding amendments under the "Commission" chapter, the Greek and French delegations did not want the Committee's rules of procedure to exceed the terms of the Convention itself.

The Working Party returned to the French delegation's note (ASIM 37 of 14.12.1995) suggesting amendments to Article 6 of the rules of procedure. The proposed amendment to Article 6 was accepted. Since the amendment to Article 3 (unanimous decision on procedural questions) had met with little support from the other delegations initially, the Presidency concluded that the original text would stand as it was for the time being, and could be revised at a later date if delegations so wished.

– **Practical implementation of the Dublin Convention**

8672/96 ASIM 100

11683/96 ASIM 159

12948/96 ASIM 179

· ***Organization of a technical meeting in one of the Schengen offices***

Introducing the discussion on practical implementation of the Dublin Convention, the Presidency asked delegations whether they would be interested in holding a meeting in one of the Schengen offices for people who would be required to implement the Dublin Convention. The meeting would serve a dual purpose: firstly to show them how Schengen worked, and secondly to enable them to make contacts.

The Presidency noted that all delegations were in favour, and that some of them would be interested in having the costs met from the Community budget by way of funding Title VI measures. It would keep delegations informed of the arrangements for holding and funding the meeting. However, Community funding would not be acceptable to the Netherlands if it meant that the length of the procedure to be followed might put its project at risk.

Delegations were asked to send the General Secretariat of the Council the information necessary for updating the list of "details of national contact authorities in connection with the Dublin Convention" (SN 4290/6/93 WGI 1631 REV 6).

· ***Proposal for inclusion in the implementation of the Dublin Convention of a number of practical solutions in the light of practical experience in applying the asylum section of the Convention implementing the Schengen Agreement***

The Working Party held a general examination of the proposals contained in the Presidency note (ASIM 179).

All delegations agreed with the thinking behind the note, that the manner of applying certain provisions of the Dublin Convention should be spelt out in decisions to be taken by the Executive Committee, with the exception of the Belgian delegation, which thought this should be done by amendment of the Convention itself.

Delegations welcomed the proposals contained in the Presidency note regarding points 2 (time limits), 3 (means of proof) and 5 (responsibility for dealing with an asylum application in cases where the transfer period is exceeded); comments were made on points 2 and 5.

Points 6 (statistics) and 7 (points for discussion) will be examined at the next meeting.

The Presidency stated that ASIM 179 would not be revised for the time being, but that a supplementary note would be prepared to take account of delegations' comments (see 5539/97 ASIM 15). It also asked the Council Legal Service to give an opinion on whether the disappearance of the applicant could be dealt with – along the lines of the decision of the Schengen Executive Committee – as in the proposal for a Decision on cases where the transfer period is exceeded, as requested by the German, French, Portuguese and United Kingdom delegations (see 5295/97 JUR 17 ASIM 9).

The Presidency's intention was to finalize these proposals quickly in the Asylum Working Party, so that they could be put to the Council in May.

6. Draft joint position on the conditions for unaccompanied minors seeking asylum
9586/1/96 ASIM 115 REV 1

A revised version of the text would be prepared by the Presidency, in the light of delegations' comments.

Furthermore, the German delegation would be submitting a proposal on the subject of the "identification" of minors (see 5247/97 ASIM 6).
