EUROPEAN UNION
THE COUNCIL

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8158/97

LIMITE

JUSTCIV 45

N O T E

from : Presidency

~~to : Working Party on Extension of the Brussels Convention~~

No. prev. doc.: 8157/97 JUSTCIV 44

Subject: Preparations for revision of the Brussels and Lugano Conventions

I. Introduction

1. At its meeting on 9 and 10 January 1997, Steering Group III held a wide-ranging discussion on the appropriateness of revising the Brussels Convention of 1968 and the Lugano Convention of 1988. Steering Group III worked at that meeting on the basis of 12644/97 JUSTCIV 100.

2. Further to the views expressed at the meeting, the Presidency held talks with the depositary of the Lugano Convention (i.e. Switzerland) specifically in order to seek extension of the deadlines for communicating Member States' comments on the revision of the Lugano Convention (see 5618/97 JUSTCIV 8) and to discuss the creation of a joint working party for the revision of both Conventions.

3. As things stand, the General Secretariat has already received most Member States' comments on the revision of the two Conventions. Those comments are set out in 8157/97 JUSTCIV 44. The other Member States are finalizing their contributions and will send them very shortly.

4. Delegations have submitted a wide range of proposals. Some of these bear on fundamental aspects of the Convention and have the support of many delegations. Others relate to more specific points.

5. Given the work schedule envisaged, the Presidency is submitting to delegations the guidelines set out below, which seek to define the working method for the revision exercise, particularly for the Brussels Convention.

6. The guidelines are intended as a first step towards framing terms of reference for the revision of the Brussels and Lugano Conventions. The Presidency's view is that terms of reference for the revision exercise should be finalized after the meeting of the Lugano Convention Standing Committee scheduled for the week beginning 15 September 1997. After that meeting the priorities developed by the Working Party from this Presidency proposal might need some adjustment.

II. Revision of the Brussels Convention

(a) General guidelines

7. During the negotiations the Presidency considers that all aspects of revision should respect the structure of the Brussels Convention.

8. The revision exercise should take into account the case-law of the Court of Justice.

9. Moreover, preparations should be conducted with a view to the revision exercise starting in December 1997 or January 1998 and being finalized, if possible, at the end of 1998 or the beginning of 1999.

(b) Priorities

10. The following four aspects could be selected as priorities for the revision of the Brussels Convention:

(i) Practical aspects of application of the Convention:

- Article 5(1)
- Articles 21 and 22
- Article 24
- Articles 27 and 28.

(ii) Modernization or updating of Convention provisions:

- Articles 2, 52 and 53
- Article 5(3)
- second and third paragraphs of Article 20
- Article IV of the Protocol.

(iii) Coordination with the Rome Convention of 1980:

- Articles 13, 14 and 15.

(iv) Correction of technical errors in the Convention:

- Article 4
- Article 22.

(c) Other questions

11. The Presidency considers that examination of all the remaining proposed amendments to the Brussels Convention should wait until the priority amendments have been finalized (see point 10).

III. Revision of the Lugano Convention

12. The Presidency proposes aligning the priorities for revision of the Lugano Convention on the priorities identified in section II for the Brussels Convention.

After the meeting of the Lugano Convention Standing Committee in September 1997, other priorities relating purely to the revision of the Lugano Convention may need to be added to this list, so that terms of reference can be drawn up for the proceedings.