

10771/97

LIMITE

ASIM 177

OUTCOME OF PROCEEDINGS

of : Working Party on Asylum, with migration experts

on : 9 and 10 September 1997

1. Adoption of the agenda

The agenda set out in telex No 3321 of 4 August 1997, supplemented by telexes Nos 3337 of 11 August 1997 and 3463 of 5 September 1997, was adopted.

2. Concept of "safe third country"

Preparation of a coordinated position on the Council of Europe's draft recommendation CAHAR (97) 4 of 7 March 1997
Meeting document of 11 July 1997, REV 1

The Working Party adopted the text set out in SN 3555/97. It will be sent to the K.4 Committee for information at its meeting on 18 and 19 September, and then presented by the Presidency of the Union, as the Union's coordinated position, to the Council of Europe Working Party responsible for preparing the proceedings of CAHAR (planned to meet on 22 and 23 September).

3. Dublin Convention

- *Note from the German delegation on the interpretation of Article 12 of the Convention*
8326/97 ASIM 108, point 1

The Danish and Austrian delegations were in favour of the solution suggested by the German delegation, aimed at applying Article 12 of the Dublin Convention to asylum applications lodged at the internal land borders of the Member States where checks are still made on individuals. The Greek delegation, although not affected in this regard, was also favourable to this interpretation.

The French, Italian and United Kingdom delegations entered scrutiny reservations.

The Chairman concluded that the Working Party would return to this item at its next meeting.

It was recalled that point II of the German note would be settled between the Member States involved.

– *Application ratione temporis of the Dublin Convention*
DUBLIN CONV 2407/1/97 REV 1

This item was added to the agenda following the meeting of the Permanent Representatives Committee, Part 2, on 4 September, at which delegations were unable to agree to DUBLIN CONV 2407/97 (draft decision of the Committee set up by the Dublin Convention on the application ratione temporis of the provisions of the Convention, drawn up on the basis of the compromise reached within the K.4 Committee on 24 and 25 July).

The Working Party on Asylum worked on the basis of DUBLIN CONV 2407/1/97 REV, drawn up following the meeting of the Permanent Representatives Committee, Part 2.

The outcome of proceedings of the Working Party on Asylum is set out in the note from the Presidency to the K.4 Committee (DUBLIN CONV 2410/97).

– *Information provided by the Presidency*

Delegations were informed:

- of the publication
 - = of the Dublin Convention in OJEC No C 254/1 of 19 August 1997
 - = of information on the date of entry into force of the Convention in OJEC No C 268/1 of 4 September 1997 and No L 242/63 of 4 September 1997
- of the favourable responses of the Member States to the written procedure on the adoption of decisions Nos 1/97 and 2/97 of the Committee set up by Article 18 of the Dublin Convention of 15 June 1990 (see telex No 3510 of 9 September 1997).

4. **Council Decision on monitoring the implementation of instruments concerning asylum**
Presentation of The Netherlands Presidency's questionnaire
9631/1/97 ASIM 144 REV 1 + ADD 1

Part II of the questionnaire (ASIM 144 ADD 1), on the implementation by Member States of instruments other than the Resolution on minimum guarantees for asylum procedures, was adopted without any change, except for the date by which Member States' replies must reach the Council General Secretariat, which has been deferred to 1 November 1997.

Part I of the questionnaire (ASIM 144 REV 1), on the Resolution on minimum

guarantees for asylum procedures, has been revised to take account of the minor adjustments requested at the July meeting.

The Chairman thanked the outgoing Presidency for the work done, and asked delegations which had not yet replied to Part I of the questionnaire to do so as soon as possible in order to enable the Presidency to prepare the seminar on the practical application of the Resolution, which will be held in Luxembourg on 4 and 5 November 1997.

5. Presidency briefing on the proceedings of the Dublin Convention handbook drafting committee
DUBLIN CONV 2408/97

The Drafting Committee's first meeting was held on the morning of 9 September. In addition to the Asylum Troika, Denmark, Germany, Italy and the Commission sit on this Committee.

The Drafting Committee worked on the basis of the draft prepared by the Presidency (DUBLIN CONV 2408/97). This will be revised before the next meeting of the Drafting Committee (the date of which has not yet been set), to take account of the suggestions made. It will also be supplemented by summaries of national procedures, and, in due course, with practical examples and significant elements of case law.

After the Spanish delegation had asked whether it would be possible to consider having common languages for the exchange of information, the Netherlands and German delegations advised against reopening the futile and protracted discussions which had been held in the past in this regard and to deal with this issue on a bilateral basis, on the assumption also that the bilateral agreements between the Schengen partners would continue to apply. The Spanish delegation wanted these bilateral agreements to be mentioned in an annex to the handbook.

With regard to an asylum applicant's transfer document, the Belgian delegation suggested that, as for the Schengen document, the wording should appear in all the official languages of the Member States. The Chairman invited this delegation to make its request in writing, so that it could be examined at the next meeting of the Working Party (see DUBLIN CONV 2411/97).

6. Commission proposal for a joint action concerning temporary protection of displaced persons

7042/97 ASIM 64
10410/97 ASIM 165 + ADD 1

See the outcome of proceedings in 10684/97 ASIM 174.

7. Other business

- *Question from the German delegation concerning the protection of persecuted women (see telex No 3337 of 11 August 1997)*

The Danish, Spanish, French, Italian, Netherlands, Austrian, Swedish and United Kingdom delegations replied to the question raised by the German delegation.

Broadly speaking, there did not exist in the Member States general rules like the Canadian rules, on recognizing the right of asylum for reasons of sexual persecution. Women were not considered to be a social group falling within application of the Geneva Convention and sexual violence (rape, mutilations) was not considered to be persecution under the Geneva Convention, unless the circumstances in which it took place fulfilled the Convention's criteria. In all cases there was individual examination of the application, in which the fact that the applicant was a woman could be regarded as an aggravating factor. As regards procedure, special attention (sanitary conditions, specific appropriate surroundings, sensitivity in interviews) was paid to women who had suffered sexual violence.

Delegations which have not yet replied are asked to do so in writing for the next CIREA meeting on 22 and 23 September.

- Ratification by Latvia of the 1951 Geneva Convention
Letter from the HCR

The Presidency passed on to the Working Party the letter sent to it by the HCR, asking the Council if it wanted to join the representations being made by the HCR for the Latvian Parliament to abolish the geographical limitation with which it had ratified the Geneva Convention.

The Working Party expressed satisfaction at the ratification of the Geneva Convention by Latvia, while regretting this geographical limitation, which delegations hoped would disappear in the future, and in any event at the time when Latvia joined the European Union. They felt that it was not for the Working Party on Asylum to decide whether to be associated with the HCR's representations, since this was more a matter for the CFSP.

The Swedish delegation also informed the Working Party that a condition of the agreement removing the requirement for visas between Sweden and Latvia was that Latvia should withdraw its geographical restriction on the application of the Geneva Convention.

- *Organization of work*

The Presidency provided the following information:

- next meeting of Working Party on Asylum: 2 and 3 October 1997;
- the meeting of the Working Party on Asylum on 4 November was cancelled, because of the seminar on asylum (see following point);
- 4 and 5 November: seminar, in Luxembourg, on the practical application of the resolution on the minimum guarantees that must be provided by asylum application procedures, with the participation of the CCEE, Cyprus, USA and Canada. Delegations will receive invitations to this seminar very shortly;
- meeting of the Working Party on Asylum on 17 and 18 November (to be confirmed).