

SN 1468/99 (JUR)
OR.f

K.4 Committee meeting on 21 January 1999

MEETING DOCUMENT

Subject: *Future of conventions drawn up on the basis of paragraph (c) of the second indent of Article K.3(2) of the TEU, and of the conventions referred to in Article 220 of the TEC, in the areas which are to be communitarised under the Treaty of Amsterdam*

A distinction should be drawn between the period prior to the entry into force of the Treaty of Amsterdam and the period following its entry into force.

1. Period prior to the entry into force of the Treaty of Amsterdam

- 1.1. The requirement of loyalty on the part of the Member States, laid down in Article 5 TEC, together with the obligation on them not to defeat object and purpose of the Treaty of Amsterdam prior to its entry into force (see Article 18 of the 1969 Vienna Convention on the Law of Treaties) prohibits, as of now, Member States and the Council from embarking on negotiations with a view to drawing up new Conventions.
- 1.2. Conventions already in force must continue to be applied, until the entry into force of a Community act replacing all or part thereof.

2. Period following the entry into force of the Treaty of Amsterdam

- 2.1. In theory, the ratification procedures under way at national level should be interrupted in respect of conventions concerning areas which will fall under the exclusive competence of the Community (Articles 62 and 63 TEC). In practice, bearing in mind the decision taken by the JHA Council on 3 December on EURODAC, that consideration will have no consequences.
- 2.2. For other conventions in the process of being ratified, their subject-matter will be covered by Article 65 TEC, an area for which the Community will have only joint competence. Accordingly, Member States will be able to continue their ratification procedures. However, they will be obliged to interrupt them on the date on which the Commission (or another Member State) submits a proposal (or an initiative) for the adoption of a Community act (requirement of loyalty under Article 5 TEC).
- 2.3. With regard to conventions already in force in certain Member States, it will in any event be possible to continue the ratification procedures for conventions which permit the accession of other Member States, or of protocols which allow of interpretation by the Court of Justice.
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