

4282/96

LIMITE

JUST 1

OUTCOME OF PROCEEDINGS

of : Steering Group III

on : 11 and 12 January 1996

No. prev. doc.: Telex No 5174 of 21 December 1995

1. Adoption of the agenda

The Group adopted the agenda set out in Telex No 5174 of 21 December 1995 and agreed to include the questions given in point 12 under "Other business".

CIVIL MATTERS

2. Presentation of the Presidency's programme for the first half of 1996

13020/95 JUST 14

The Presidency presented its programme for the first half of 1996 in the field of judicial cooperation in civil matters as set out in 13020/95 JUST 14.

3. Draft Convention on jurisdiction and the enforcement of judgments in matrimonial matters

– Progress report and prospects

11268/95 JUSTCIV 79

7916/94 JUSTCIV 16 + ADD 1

- (a) The Presidency reported on progress with work on the draft Convention under discussion.

The Steering Group instructed the Working Party to continue its examination of the draft Convention and in particular:

- to examine the proposal made by the Swedish, Finnish and United Kingdom delegations for Article 2 (11999/95 JUSTCIV 88);
 - to continue examination of the provisions on the recognition and enforcement of judgments, the transitional provisions, relations with other conventions and the final provisions on the basis of the provisions, set out in 7916/94 JUSTCIV 16 ADD 1.
- (b) In response to the Irish and United Kingdom delegations in particular, all delegations agreed on the need for a joint approach at the Hague Conference, at the October 1996 meeting, on the revision of the 1961 Hague Convention on the protection of minors.

The Steering Group held a through discussion on the best way of establishing such a joint approach. Following the discussions, the Group agreed that:

- the Troika (Presidency, Spanish and Irish delegations), assisted by the Council Secretariat, and the Commission, would hold a preparatory meeting before the second meeting of the Working Party on the Extension of the Brussels Convention (6 and 7 February 1996) at which concrete proposals were to be prepared;

- these proposals would be submitted to the Working Party on the Extension of the Brussels Convention in due course;
- the findings of these proceedings would subsequently be submitted to Steering Group III.

(c) Steering Group III also noted that the Troika, with the assistance of the Commission and the Council Secretariat, would be holding an informal meeting with the Hague Conference alongside the meeting, further to the conclusions of Steering Group III in Madrid on 30 and 31 October 1995.

4. Draft Convention on the simplification of the transmission of judicial and extrajudicial documents in civil or commercial matters

- oral report on the discussions of the Working Party on 9 and 10 January 1996
11586/95 JUSTCIV 85

The Presidency gave an oral report on progress with this question with special reference to the points still unresolved as regards the draft Convention.

The Steering Group also noted that, at its meeting on 9 and 10 January 1996, the Working Party had examined:

- Article 8 on which the Presidency was to submit a proposal based on the discussions within the Working Party;
- issues relating to the complementarity between the draft Convention and other Conventions. The Group noted that:
 - = the United Kingdom and Irish delegations were to submit a compromise formula which would allow priority to be given to the draft Convention,
 - = the Belgian delegation would be submitting an inventory of the links between the draft Convention and the 1965 Hague Convention covering the same issues.

5. Accession of the new Member States to the Rome and Brussels Conventions

– Procedure

13080/95 JUSTCIV 92

The Group's findings on this item are set out in 4284/96 JUSTCIV 2.

6. Outcome of the seminar on judicial cooperation: present situation and prospects of enlargement (Rome, 11 and 12 December 1995)

13009/95 JUSTCIV 90

The Group took note of the outcome of the seminar on judicial cooperation held in Rome on 11 and 12 December 1995 (see 13009/95 JUSTCIV 90) and of the three priorities adopted at that seminar, viz.:

- injunctions for payment,
- provisional measures,
- legal assistance.

CRIMINAL MATTERS

7. Presentation of the Presidency's programme for the first half of 1996

13020/95 JUST 14

The Presidency presented its programme for the first half of 1996 with respect to judicial cooperation in criminal matters as set out in 13020/95 JUST 14.

8. Remits for Working Parties

(a) Extradition

11795/95 JUSTPEN 159

The Steering Group instructed the Working Party to continue its proceedings on the basis of 11795/95 JUSTPEN 159.

(b) Criminal law, Community law

The Steering Group instructed the Working Party on Criminal Law/Community Law to examine:

- the Presidency's draft Convention on the fight against corruption of officials of the European Communities or officials of the Member States of the European Union (4265/96 JUSTPEN 8), and
- the Commission's draft Additional Protocol to the Convention on the protection of the European Communities' financial interests.

The draft Protocol had not yet been officially forwarded by the Commission to the Council ⁽¹⁾. The Commission representative gave the Steering Group a brief outline of the draft which, in the context of the protection of the financial interests of the European Communities, relates in particular to the criminal liability of legal persons, laundering, priority jurisdiction with a view to the centralization of proceedings, judicial assistance, the establishment of a register of prosecutions for fraud and the jurisdiction of the Court of Justice.

⁽¹⁾ The draft has in the meantime been received and is contained in 4727/96 JUSTPEN 17.

With respect to the provisions put forward on judicial assistance, the German, Netherlands and United Kingdom delegations wondered if a horizontal approach should not be adopted on the matter rather than specific provisions on judicial assistance on specific crimes or specific types of crimes, such as for instance fraud against the Communities. They observed that a proliferation of provisions and procedures under a non-horizontal approach could cause problems for those required to implement the rules and pointed out that the Working Party on Mutual Assistance in Criminal Matters had been asked to examine a number of questions across the board.

The Steering Group agreed to return to this question at its next meeting.

(c) International organized crime

– Racism and xenophobia

See 4350/96 JUSTPEN 10

– Presidency's draft Resolution on informers in the judicial process in the fight against international organized crime (4118/96 JUSTPEN 1)

The Steering Group instructed the Working Party on International Organized Crime to examine the draft.

– Common criminal offence of organized crime

The Presidency pointed out that this item was included in the Presidency's priorities and alluded to the possibility of drawing up a legal instrument on the question on the basis of Article K.3 of the Treaty on European Union.

– Drugs and organized crime

Citing 12247/95 CORDROGUE 69 SAN 115 and the conclusions of the Madrid European Council on 15 and 16 December 1995, the Presidency indicated, that, notwithstanding Coreper's forthcoming examination of this item, it might at a later date be appropriate to examine a number of questions concerning drugs and criminal law.

– Belgian delegation's initiative

The Belgian delegation informed the Steering Group that Belgium intended to present an initiative on the establishment of a European network of contact points for the purposes of mutual judicial assistance in the combating of organized crime. This initiative was to be formally submitted to the Council in the near future.

(d) Mutual assistance

12955/95 JUSTPEN 170

The Steering Group instructed the Working Party on Mutual Assistance in Criminal Matters to begin substantive proceedings on mutual assistance on the basis of:

- the draft text to be submitted by the Italian Presidency examining in detail the solutions to be adopted on each of the topics in this context (see 4256/96 JUSTPEN 7);
- the guidelines set in the programme of work contained in 12955/95 JUSTPEN 170 and in the Annex to 12854/95 JUSTPEN 169.

(e) Driving licences

9242/95 JUSTPEN 110

The Steering Group instructed the Working Party on Disqualification from Driving to continue its proceedings.

Horizontal questions

9. Presentation and examination of the draft joint action concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union

12745/95 JUST 13

The Group's findings are set out in 4283/96 JUST 2.

10. Relations with third countries

- Progress of replies to the questionnaire to be sent to the CCEE, with regard to the territorial extension of the Lugano Convention
- Implementation of the action programme with the CCEE to combat international organized crime
12956/95 JUSTPEN 171
- Joint EU-US Action Plan
12353/95 USA 3 + COR 1(en)
- Euro-Mediterranean Conference in Barcelona
(EURO-MED 1/95)
- Russia
12916/95 JAI 59
- China
12918/95 JAI 60
- Other third countries

The outcome of the Group's proceedings is set out in 4287/96 JAI 1.

11. Exchange of views on multiannual programmes

The Steering Group held an initial exchange of views on the guidelines to be adopted for a multiannual programme. During the discussions it emerged that the following topics would be likely to be included in the programme.

(a) Criminal matters

- Draft Convention on improved extradition between the Member States of the European Union
- Mutual judicial assistance in criminal matters
- Other forms of judicial cooperation
- Protection of the European Communities' financial interests
- Specific measures in the field of judicial cooperation to help combat certain types of crime, particularly as regards trafficking in drugs, works of art, stolen vehicles, and money laundering
- Adoption of common positions or approaches in external fora
- Draft Convention on disqualification from driving
- Progress of signing and ratification, prospects and identification of problems in respect of Conventions relevant to judicial cooperation in criminal matters including certain Conventions concluded under EPC, in particular:
 - = Agreement between the Member States on the transfer of proceedings in criminal matters
 - = Convention between the Member States on the enforcement of foreign judgments in criminal matters

(b) Civil matters

- Draft Brussels Convention II on matrimonial matters
- Draft Convention on the service of judicial and extra-judicial documents in civil or commercial matters
- Accession of the new Member States to the Brussels and Rome Conventions

- Storme report: approaches to be followed on harmonizing civil procedures regarding orders to pay, judicial assistance and interim measures
- Examination of the desirability of setting up a data bank containing court decisions re. the application of the Brussels Convention
- Examination of the possibility of drawing up draft Conventions on jurisdiction and the enforcement of judgments in respect of:
 - = matrimonial property régimes
 - = wills and successions
- Examination of the desirability of drawing up a draft Convention on the law applicable to non-contractual obligations (Rome II)
- Progress of signing and ratification, prospects and identification of problems in respect of Conventions relevant to judicial cooperation in civil matters (including certain Conventions concluded under EPC and the Hague Conference)
- Adoption of common positions or approaches in external fora (particularly the Hague Conference).

With a view to discussion of the multiannual programmes at the (JHA) Council meeting on 19 and 20 March 1996, the Group agreed to reexamine these items at its meeting on 21 and 22 February 1996.

To allow the Presidency to put forward at that meeting a preliminary draft programme in the sphere of judicial cooperation, delegations were asked to send the Council Secretariat their comments at the earliest possible opportunity.

12. Other business

- (a) Draft Convention on mutual assistance in customs matters (Naples II)**
– coordination problems

The outcome of the proceedings is set out in 4346/96 JUSTPEN 9.

- (b) Informal (JHA) Council meeting on 26 and 27 January 1996**

The Presidency gave details of the questions it would like raised at the informal Council meeting.
