EUROPEAN UNION
THE COUNCIL

Brussels, 17 May 1994 (31.05)
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RESTREINT

JUSTPEN 35

OUTCOME OF PROCEEDINGS

of: Working Party on Extradition

~~on: 10 May 1994~~

~~Subject: Outcome of proceedings of Working Party on Extradition~~
(Brussels, 10 May 1994)

1. Adoption of the agenda

The Working Party adopted the agenda as set out in telex No 1787 of 3 May 1994.

2. Examination of extradition procedures

The Working Party continued examining extradition procedures.

Most delegations were not in favour of the total abolition of judicial control.

As an alternative, the Working Party considered the possibility of direct extradition between prosecuting authorities and those responsible for the enforcement of penalties. In this context the Working Party noted the streamlined system applied between the Benelux States on the one hand and Denmark and the other Nordic Union States on the other.

A large number of delegations could agree to the possibility of direct extradition between prosecuting and penalty-enforcement authorities provided the individual to be extradited gave his consent.

The giving of consent should take place in all cases before an independent authority which would be responsible for checking that the conditions for extradition were fulfilled. Some Member States thought this authority should be the local court.

In any case this procedure could not be initiated without a prior request for extradition by the requesting State. Two delegations also raised the possibility of looking into whether notice of the issue of an arrest warrant as provided for in the Schengen information system could constitute a valid and sufficient basis for initiating the procedure.

In order to make the extradition procedure as efficient as possible, the Working Party could agree to renunciation of the speciality rule taking place at the same time as the individual consented to extradition.

However, renunciation must be quite distinct from consent to extradition.

The Working Party also examined the possibility of streamlining the extradition procedure in cases where the individual did not consent to be extradited, and in particular whether the judicial investigation could be confined to a single authority. Most delegations were against such a solution.

(a) Simplification of political control (control by the executive)

The question of simplification of political control (control by the executive) under the extradition procedure was also raised.

It emerged that in most Member States the final decision to extradite was taken by the executive, under procedures which differed from one Member State to another.

Several delegations were not in favour of reducing or abolishing political control by the executive, except where the individual consented under the conditions mentioned above. In the absence of consent, most of the delegations would be unable to agree to restricting the executive's control.

(b) Simplification of documentation and speedier forwarding of documents

In the light of the synopsis regarding the length and frequency of extradition proceedings (6354/94 JUSTPEN 26), the Working Party found that in a large number of cases the method used to forward documents slowed down the procedure considerably.

The Working Party considered that the aspects relating to the number and type of documents liable to be used in an extradition procedure should be examined at a later date at a meeting of experts.

To speed up the forwarding of documents, the quickest means available should be used. Use of facsimile transmission could be usefully explored.

The Working Party felt that the Convention between the Member States on the Simplification and the Modernization of Methods of Transmitting Extradition Requests (San Sebastian Convention) should be ratified as soon as possible.

3. Exchange of views on the form of the instrument to be adopted for extradition

The Working Party agreed to consider the question at a later date.

4. Progress report on discussions on extradition
[6664/94 JUSTPEN 30]

The Working Party examined the draft report on proceedings on extradition as set out in 6664/94 JUSTPEN 30.

The Presidency invited delegations to send proposals for alternative texts to the General Secretariat of the Council if they wished.

The Working Party held an exchange of views concerning the desirability of submitting this file to the Council on 20 and 21 June 1994. Some delegations considered that several areas would not yet have been examined in enough detail to allow for a Council discussion. Other delegations, however, thought it appropriate that the Council should be able to concentrate on assessing the proceedings. Some of these delegations said that particular emphasis should be given to the difficulties involved in making substantial progress. Two delegations suggested that the informal Council of Ministers for Justice to be held at the end of May 1994 should discuss these questions.

The Working Party agreed to submit the revised draft progress report on extradition to Steering Group III.