

5992/96

LIMITE

PV/CONS 10

JAI 23

**DRAFT
MINUTES
of the 1909th Council meeting
(Justice and Home Affairs),**

held in Brussels on Tuesday 19 and Wednesday 20 March 1996

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1. **ADOPTION OF THE AGENDA**

(5736/96 OJ/CONS 10 JAI 19)

The Council adopted the above agenda.

2. **APPROVAL OF THE LIST OF "A" ITEMS**

(5737/96 PTS A 12)

The Council approved the "A" items listed in 5737/96 PTS A 12, with the exception of items:

3. Draft Resolution on individuals who cooperate with the judicial process in the fight against international organized crime
6. EDU: coordinator's report for 1995
7. Draft declaration on organized crime (taken as a "B" item - see point 15 of this document).

3. **DRAFT CONVENTION ON THE CROSSING BY PERSONS OF THE EXTERNAL FRONTIERS OF THE MEMBER STATES**

(5438/96 ASIM 36 + ADD 1 and 12092/3/95 ASIM 326 REV 3)

The President gave a reminder of the directives given to the Council by the Essen, Cannes and Madrid European Councils to complete the work. He also drew attention to the general interest expressed by Ministers at their informal meeting in Rome on 26 January 1996.

As regards the state of play, he noted with satisfaction the progress made by the Working Party on External Frontiers. The Presidency's aim was to prepare a text for submission to the political authorities with only the points concerning the competence of the Court of Justice (Article 29) and territorial scope (Article 30(5), covering Gibraltar), outstanding.

The President called upon the Council's subordinate bodies also to examine the technical aspects of those problems.

Lastly, he emphasized the importance of finding a satisfactory solution as regards adoption of the implementing measures referred to in Article 26 on the basis of a draft Commission text. The Council took note of the Presidency's remarks.

4. RETURN OF REFUGEES FROM FORMER YUGOSLAVIA

– Information from the Presidency on the Oslo Conference

(5703/96 ASIM 41)

The Council took note of the information from the Presidency on preparations for the Oslo meeting on 8 March 1996 (see 5703/96 ASIM 41). The President made particular mention of the importance of effective cooperation with the UNHCR, which had been entirely satisfactory hitherto and should continue in future.

5. EURODAC

– Information from the Presidency

The President informed the Council that work on a draft Convention on the legal aspects of Eurodac had begun on the basis of a draft prepared by the Presidency. He called for further work on the Convention, in line with the wish expressed at the informal Council meeting (26 January 1996). He stated that examination of the technical and financial aspects would also be resumed in parallel with work on the Convention. Priority would nevertheless be given, at the present stage, to the draft Convention.

6. INFORMATION FROM THE PRESIDENCY:

(a) Annual report on organized crime

(b) Dialogue with the Andean Pact countries

(5863/96 ENFOPOL 60)

(c) Seminar on Islamic fundamentalism (Rome, 4 to 6 March 1996)

The Council noted with interest the information provided by the Presidency on the above three dossiers.

7. MULTIANNUAL WORK PROGRAMME

– Policy debate

(5837/96 JAI 21 and 5365/96 JAI 10)

The Council held a detailed discussion on the basis of the above two documents.

All delegations which took the floor emphasized the need to include the exercise in the priorities set by the European Council at its Madrid meeting on 15 and 16 December 1995, to retain only two or three measures per objective, to adhere to strict discipline while providing for an evaluation at the end of each Presidency and, if possible, to set a timetable to accompany the list.

Several delegations (in particular GR/FIN/L/F/IRL) endorsed the Presidency's proposal that the multiannual work programme take the form of a Council Resolution. The Netherlands delegation, for its part, proposed that the programme be adopted by the European Council.

During the discussion several delegations indicated the subjects which they regarded as priorities. In that context, the United Kingdom delegation stated that, although it approved the broad lines thereof, it was unable to adopt a position on the priorities to be pursued under its Presidency owing to the long period which would elapse between adoption of the programme and the beginning of its Presidency.

The Council instructed the K.4 Committee and the Permanent Representatives Committee to submit to it a draft Resolution containing a selective list of the projects which should be adopted and measures which should be implemented over the next two years with a view to attaining the objectives set by the Madrid European Council.

8. FINANCING OF TITLE VI FOR 1996

– Policy debate

(5838/96 JAI 22)

The Council examined in detail the projects likely to be financed in 1996 alone and the multiannual programmes set out in 5838/96 JAI 22.

Several delegations (in particular NL/F/D/P) stressed the close link that should be established between the list in question and the multiannual work programme.

Various additions were proposed:

- the Greek delegation proposed that the list of 1996 projects incorporate the strengthening of checks at external frontiers and the fight against illegal immigration;
- the Portuguese delegation requested that legal aid be incorporated and that the square brackets round the indent concerning liaison and contact magistrates be deleted;
- the Finnish delegation called for Russia to be added to the list of third countries with which there should be cooperation;
- the Swedish delegation wanted it to be stated that the list could be added to if the need arose.

The German delegation wanted the list reduced owing to the limited resources available.

Although formal agreement was not reached on every aspect of 5838/96 JAI 22, the Presidency concluded that it was a basis to be built. The legal basis for financing was still to be examined by the Permanent Representatives Committee.

9. **EUROPOL**

(a) **Role of the Court of Justice**

(5356/96 JUR 53 COUR 3 + COR 1 (f))

The Council noted a statement by the United Kingdom delegation that it could not, at that stage, give its agreement to the Court of Justice having competence to interpret the Europol Convention.

The proceedings of the ad hoc Working Party on the Court of Justice had been worthwhile, and the document prepared by the Council Secretariat (5356/96) following the Working Party's last meeting was still being examined.

The United Kingdom delegation wanted to hear the other delegations' views before adopting a definitive position.

(b) **Financial regulation**

(5845/96 EUROPOL 21 and 5460/96 EUROPOL 18)

The Council agreed to block the text in 5845/96 EUROPOL 21, on the understanding that the Committee provided for in Article 36(2) of the draft Convention establishing Europol would be asked for its opinion after the Convention entered into force.

(c) **Rights and obligations of liaison officers**

(5459/96 EUROPOL 17 + EXT 1 (fin,s) + COR 1 (d) + COR 2 (en))

The Council agreed to block the text in the above document, with the exception of Article 8, on which the Permanent Representatives Committee was asked to adopt a position in the light of the opinion of the Council Legal Service (see 5889/96 JUR 79 EUROPOL 22).

10. **DRAFT CONVENTION ON EXTRADITION**

(5852/96 JUSTPEN 36)

As regards political offences, the Council noted a reservation by the Greek delegation on Article 3 owing to possible incompatibility with the Greek Constitution. The Council also examined the suggestion by the Spanish delegation that Article 3(2) include offences arising from participation in a criminal conspiracy or in an association to commit offences. Some delegations (in particular B/F/GR) entered reservations on this addition, but there was an inclination towards limiting the scope of the Spanish proposal to the terrorist acts referred to in the European Convention on the Suppression of Terrorism.

As regards the extradition of nationals (Article 5), the Council noted the position adopted by the Spanish delegation (see pages 2 and 3 of 5852/96 JUSTPEN 36), to the effect that the statements made by Denmark, Sweden and Finland in the context of the 1957 European Convention on Extradition gave too broad a scope to the term "national".

The Danish, Swedish and Finnish delegations argued that the question did not arise in practice and were open-minded on a solution. In particular, the Swedish and Finnish delegations mooted the possibility of amending their statements to restrict the meaning to be given to the term "national" in the draft Convention under examination. These three delegations also wanted nationals of the States of the Nordic Union to be treated similarly to their nationals.

At the end of the discussion the Council directed that:

- a complete draft Convention on Extradition should be submitted to it at its meeting on 4 and 5 June 1996 with a view to reaching agreement then;
- the possibility be looked into of including in Article 3(2) offences arising from participation in a criminal conspiracy or in an association to commit one or more of the offences referred to in Articles 1 and 2 of the European Convention on the Suppression of Terrorism;

- such a solution should be examined in conjunction with Article 2(3), which deals with participation in a criminal conspiracy or in an association to commit offences from a more general standpoint;
- a solution be found to the question of extradition of nationals.

11. COOPERATION IN THE FIGHT AGAINST TERRORISM

This item was discussed in restricted session.

12. DRAFT CONVENTION ON THE SERVICE OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS

– Policy debate

(5562/96 JUSTCIV 21 + ADD 1)

The Council discussed the Presidency's suggestion that initially a draft Convention should be prepared which introduced in particular a system of direct transmission of documents between the authorities designated by States, as contained in the present draft Convention. Other aspects, which would transitionally be governed by the 1965 Hague Convention, would be examined in a second stage.

Several delegations agreed to such an approach, some arguing that it was the only possible solution. Furthermore, a number of delegations stressed the importance of establishing an overall Convention encompassing all methods of transmission and service of the documents referred to in the 1965 Hague Convention.

At the end of the discussion the Council directed that:

- work should continue with a view to submitting a draft Convention to it at its meeting on 4 and 5 June 1996;
- the possibility should be looked into of establishing a Convention which made provision, initially, for a system of direct transmission of documents between the authorities designated by Member States, in so far as such a solution would make it possible to establish an efficient mechanism which gave effective added value compared with the 1965 Hague Convention.

13. DRAFT COMMON ACTION ON ACTION AGAINST RACISM AND XENOPHOBIA

(5853/96 JUSTPEN 37)

The amended text of the draft common action and of the draft statements for the Council minutes as they stand following the Council's discussion are set out in 6115/96 JUSTPEN 41.

The President of the Council recorded that, without prejudice to a parliamentary scrutiny reservation by the Netherlands delegation and linguistic scrutiny reservations by the Netherlands and Swedish delegations, there was political agreement on those amended texts.

14. CONVENTION ON CORRUPTION

– Progress report

(5502/96 JUSTPEN 33)

Without prejudice to its more specific comments on Articles 4 and 12 in particular, the Danish delegation withdrew its general scrutiny reservation on the draft Convention.

The French delegation entered a general substantive reservation on the draft as regards both the legal basis, legal form and content of the draft. It observed in particular that although it was in favour of measures to combat corruption in general, it was opposed to the approach in the proposed text, which it felt would involve the harmonization of national laws and was not, moreover, sufficiently clear on certain points.

The Council discussed the Presidency's suggestion that the European Parliament be consulted on the draft Convention. In the light of delegations' comments and of the French delegation's general reservation, the President of the Council concluded that the European Parliament should not be consulted on the draft at this juncture.

The Council instructed the relevant bodies to continue working on the draft.

15. DRAFT DECLARATION ON ORGANIZED CRIME PREPARED FOLLOWING THE INFORMAL COUNCIL MEETING (Rome, 26 January 1996)

(5834/96 JAI 20 EXT 1 (fin,s))

At the Netherlands delegation's request, this item, originally on the list of "A" items (see 5737/96 PTS A 12), was placed on the Council agenda as a "B" item.

At the meeting the Council:

- noted the agreement of all delegations on the draft declaration, with the exception of the Netherlands delegation, which entered a parliamentary reservation;
- agreed to enter the item in part "A" at a forthcoming Council meeting, once the Netherlands delegation had been able to withdraw its parliamentary reservation.

16. OTHER BUSINESS

The Council noted with interest the report distributed by the Netherlands delegation on the activities of the European Documentation and Research Network on Cross-border Crime.

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– **STRUCTURED DIALOGUE WITH THE CCEE**

The discussions on this item are summarized in 7286/96 JAI 29.

– **STRUCTURED DIALOGUE WITH CYPRUS AND MALTA**

The proceedings on this item are set out in 7287/96 JAI 30.