

**5543/95**

**LIMITE**

**PV/CONS 9**

**JAI 10**

**DRAFT**

**MINUTES**

**of the 1831st Council meeting**

**(Justice and Home Affairs)**

**held in Brussels on Thursday 9 and Friday 10 March 1995**

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1. **ADOPTION OF THE AGENDA**

(5408/95 OJ/CONS 9 JAI 8)

The Council adopted the agenda as set out in the above document.

It agreed to include under "Other Business" the draft Convention on the service of judicial and extrajudicial documents in civil and commercial matters and the question of disqualification from driving .

The Council also noted the following statement by the Netherlands delegation:

"The Netherlands delegation deplored that all the necessary documents had not been transmitted in its language in good time, thereby ruling out satisfactory participation in the meeting. It urged that documents for the forthcoming June Council be transmitted well before the meeting, particularly with a view to the necessary contacts with the Netherlands Parliament. Should this not be the case, it will be unable to adopt a final position."

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

(5410/95 PTS A 9)

(a) The Council approved the "A" items listed in 5410/95 PTS A 9, **with the exception of:**

– "Proposal for a Council Regulation laying down a uniform format for visas",

which it decided to treat as a "B" item (see item 3 below).

(b) In addition, when approving items 2(a) and 3(b) on the list, the Council agreed to note the following statements for these minutes, taking account of amendments to certain language versions of the documents quoted:

### 2. EDU

(a) Joint action concerning the EUROPOL Drugs Unit  
(5345/95 CK.4 16 + **COR 1 (d)**)  
(5346/95 CK.4 17 + **COR 1 (en) + REV 1 (s)**)

– a statement by the Italian delegation that it reserved the right to return to the issue of the security cost of installations when the Convention on the establishment of Europol was adopted.

### 3. Drugs and organized crime

(b) Strategy to combat drug trafficking  
(4339/3/95 ENFOPOL 13 REV 3 + COR 1)

– a statement by the German delegation that the task-force formula referred to in the third paragraph of point II should serve solely to ensure better coordination between national law enforcement agencies, with task forces having no operational or exclusive powers whatsoever.

3. **PROPOSAL FOR A COUNCIL REGULATION LAYING DOWN A UNIFORM FORMAT FOR VISAS**

(5353/95 ASIM 69, 5365/95 ASIM 71)

Following a statement by the Austrian delegation that the six-month period in Article 8(2) was too short for Austria, the Council unanimously agreed to deal with the matter immediately as a "B" item.

The Council agreed to the following form of words proposed by the President in order to accommodate the Austrian delegation:

Re second paragraph of Article 8:

Article 1 shall become applicable six months after the adoption of the measures referred to in Article 2".

The Greek delegation announced that it would contact the Secretariat to resolve a number of terminology questions in the Greek version of the draft Regulation, and particularly in the Annex.

The United Kingdom delegation tabled a parliamentary scrutiny reservation.

The Swedish delegation tabled a linguistic scrutiny reservation.

The President having noted agreement in principle on the proposal, the Council agreed that it would be formally adopted as an "A" item as soon as possible and that, on that occasion, the statements set out in 5353/95 ASIM 69 would be entered in the minutes.

4. **COMBATING TERRORISM: conclusions of the seminar on 17 February 1995 and continuation of the Ministers' discussion on 26 January 1995**

The Council:

- (a) heard an oral report by the French delegation on the seminar organized in Paris on 17 February 1995 concerning Islamic integrationist terrorism;
- (b) held an exchange of views on the conclusions of that seminar, on the terrorist threat in the Member States of the Union and on various measures to combat that threat;
- (c) instructed Steering Group II to:
  - continue studying the problem of combating terrorism (strengthening of cooperation between security services) and to put forward proposals;
  - take account of today's discussion in the document on the external and internal threat posed by terrorism to the countries of the European Union, which the Council was to examine at its next meeting planned for 20 and 21 June 1995;
- (d) agreed to inform the General Affairs Council and the European Council of the proposals which would be adopted during discussion of the question of Islamic integrationist terrorism.

## 5. EUROPOL CONVENTION

(a) The Presidency submitted a package consisting of documents 5404/95 EUROPOL 31, 5406/95 EUROPOL 33 + COR 1 and 5405/95 EUROPOL 32, on the understanding that delegations could return to these texts when making an overall evaluation on completion of proceedings.

(i) Articles considered to be provisionally blocked  
(5404/95 EUROPOL 31)

The Council agreed provisionally to suspend work on the Articles listed on page 2 of 5404/95 EUROPOL 31, on the understanding that it was a minimum list and that the Articles would be examined for the last time, in due course, in the light of the entire text of the Convention.

The Danish delegation entered a reservation on Article 14a.

The Italian delegation favoured a five-man management team modelled on that of the EDU (see Article 26).

The German delegation tabled a reservation on that suggestion, preferring a management team composed of a Director and two Deputies.

(ii) Articles 1 to 5 (5406/95 EUROPOL 33 + COR 1)

The Council approved the text of Articles 1 to 5 as set out in 5406/95 EUROPOL 33, adding the following sentence in Annex 4 to that document: "*That study will in no way condition the commencement of Europol's activities in this area.*".



The following provisions of Article 2(2) were, however, set aside for finalization by Steering Group II at its meeting on 23 and 24 March 1995:

– definition of "terrorism":

The Danish delegation favoured a minimal definition of competencies regarding terrorism. The Presidency felt that the concept ought to be defined on the basis of the relevant international texts;

– processing of data on related criminal offences:

The Presidency advocated leaving data on related criminal offences outside the general information system. However, data in that system could be flagged to indicate that data on related criminal offences were held by national units. Any national units interested could contact the one holding the data.

The Council was favourably inclined towards that approach, on which the German delegation would be stating its views as soon as possible.

(iii) Architecture of the system and access to analysis data (5405/95 EUROPOL 32)

The Council agreed on 5405/95 EUROPOL 32, noting a statement by the Netherlands delegation on the need to supplement the data to be stored in the general information system.

The Council called upon the relevant subordinate bodies to adapt the Articles concerned on the basis of the above document.

(b) Oral report by the Presidency on the right of citizens to be informed of data concerning them

The Presidency presented its compromise proposal given in 4928/95 EUROPOL 16, designed to preserve Member States' national laws by making Europol the single window to which citizens could apply.

Most delegations supported the Presidency's approach.

The German, Austrian and Netherlands delegations did not agree to the proposal. The German delegation favoured an arrangement entailing:

- an individual right to information;
- exceptions to be spelled out in the text of the Convention;
- the possibility of recourse to Europol or an independent supervisory body.

The Belgian delegation made the point that a system with too many exceptions could render citizens' right to information meaningless.

6. **MINIMUM GUARANTEES FOR ASYLUM PROCEDURES**

(5354/95 ASIM 70)

The Swedish and Danish delegations entered reservations on account of certain inaccuracies in their language versions of the text.

In this connection the Council:

- recorded political agreement on the entire draft Resolution as set out in 5354/95 ASIM 70;
- noted statements by the Belgian, Danish and United Kingdom delegations (see Annex), and also those in Annexes II to IV of 5354/95 ASIM 70;
- agreed to transmit the Resolution to the European Parliament for information after approving it definitively.

7. **DRAFT COUNCIL RESOLUTION ON BURDEN-SHARING WITH REGARD TO THE ADMISSION AND RESIDENCE OF DISPLACED PERSONS ON A TEMPORARY BASIS**

(5319/95 ASIM 65)

The Council's findings on this item are set out in 5832/95 ASIM 91.

**8. DRAFT CONVENTION ON SIMPLIFIED EXTRADITION BETWEEN THE MEMBER STATES OF THE UNION**

(5238/95 JUSTPEN 27 and 5130/95 JUSTPEN 25 + COR 1 (gr) + COR 2 (dk) + COR 3 (d) + COR 4 (gr) + COR 5 (dk) + COR 6 (en) + COR 7 (i) + COR 8 (gr) + COR 9 (p) + COR 10 (nl) + REV 1 (fin) + REV 2 (s) + REV 2 COR 1 (s))

The Council:

- adopted the Act drawing up the Convention on simplified extradition procedures between the Member States of the European Union, as set out in 5130/95 JUSTPEN 25 + COR 1 (gr) + COR 2 (dk) + COR 3 (d) + COR 4 (gr) + COR 5 (dk) + COR 6 (en) + COR 7 (i) + COR 8 (gr) + COR 9 (p) + COR 10 (nl) + REV 1 (fin) + REV 2 (s) + REV 2 COR 1 (s)<sup>(1)</sup>;
- noted that the Act and its Annex would be published in the C series of the Official Journal of the European Communities.

**9. RELATIONS WITH THIRD COUNTRIES**

(5376/95 JAI 7 and 5121/1/95 JAI 4 REV 1)

The Council agreed on documents 5121/1/95 JAI 4 REV 1 and 5376/95 JAI 7 setting out arrangements for relations with third countries in the context of Title VI.

The sentence reading "*The Presidency, assisted by the General Secretariat of the Council, will report to the K.4 Committee on its contacts with the third countries and on the exchanges of information*", contained in 5376/95 JAI 7, will be inserted before the last indent in 5121/1/95 JAI 4 REV 1.

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<sup>(1)</sup> The Convention was signed in Brussels on 10 March 1995, alongside the Council meeting.

**10. RACISM AND XENOPHOBIA**

- Adoption of the contribution of the Justice and Home Affairs Council  
(5374/95 JAI 6)

The Council adopted the final report on racism and xenophobia (5374/95 JAI 6) and decided to submit it to the General Affairs Council for preparation of an overall strategy to be adopted by the Cannes European Council.

The Portuguese delegation pointed out that for the purposes of improving international cooperation (see point C.1 in 5374/95 JAI 6) national documentation centres specialized dealing with human rights issues, could help improve Member States' mutual information on the phenomenon of racism and xenophobia.

**11. DRAFT CONVENTION ON JURISDICTION AND THE ENFORCEMENT OF JUDGMENTS IN MATRIMONIAL MATTERS (Brussels Convention II)**

- **progress report**  
(5195/95 JUSTCIV 11)

Bearing in mind the work being carried out in this area, the Council held a policy debate on the scope and competence criteria of the draft Convention.

At the end of the debate the Council instructed its relevant subordinate bodies to continue discussing the matter actively with a view to submitting to it at its June 1995 meeting the first part of the future Convention, which should cover the scope and competence rules to govern applications relating to:

- divorce, separation or annulment;
- custody of children further to these proceedings.

12. **PROTECTION IN CRIMINAL LAW OF THE FINANCIAL INTERESTS OF THE COMMUNITIES**

- **policy debate**  
(5375/95 JUSTPEN 29)

The Council held a policy debate on further work in this area. It noted that proceedings to date were lagging far behind the political mandate given by the Essen European Council, calling for the establishment of a legal instrument on the protection of the Community's financial interests. In the light of that situation and delegations' comments the Council:

- recorded political agreement on the advisability of first drawing up a separate legal instrument covering certain basic questions and then continuing work on a more comprehensive legal instrument;
- instructed the appropriate bodies to prepare the separate instrument as soon as possible for submission to the Council before the end of the first half of 1995. The instrument should cover:
  - definition of fraud, which should be at once precise and broad;
  - fittingness of penalties;
  - possibility of extradition in serious cases;
  - criminal liability;
  - competence of courts;

*Regarding criminal liability, the Council asked experts to consider how, and to what extent, liability of decision-makers in businesses ought to be covered.*

- instructed the experts to consider the advantages and disadvantages of making fraud a specific offence as provided for in the Commission's draft Convention, and to report to the Permanent Representatives Committee;
- instructed the experts to look into the question of gross negligence appearing in the Commission's draft Convention.

13. **DRAFT CONVENTION CONCERNING THE USE OF INFORMATION TECHNOLOGY FOR CUSTOMS PURPOSES (CIS Convention)**

(5413/95 ENFOCUSTOM 10 and 5257/1/95 JUR 35 ENFOCUSTOM 9 REV 1)

The Council:

- held an exchange of views on the Presidency compromise proposal (5413/95 ENFOCUSTOM 10). A number of delegations could agree to that solution; others pressed for re-examination of the two points under discussion;
- instructed the Permanent Representatives Committee to consider the outstanding points further and to report back to it as soon as possible.

14. **OTHER BUSINESS**

(a) **draft Convention on the service of judicial and extrajudicial documents in civil and commercial matters**

The Council instructed the relevant bodies to expedite their work, so that a Convention between Member States on the service of judicial and extrajudicial documents in civil and commercial matters could be drawn up rapidly on the basis of the document submitted by the Presidency (4621/95 JUSTCIV 8).

(b) **Disqualification from driving**

The Council instructed its preparatory bodies to expedite their work on the draft Convention on disqualification from driving with a view to finalizing a draft agreement by the next Council meeting.

**Re item 6**

Minimum guarantees for asylum procedures

Statements for the Council minutes

**Statement by the United Kingdom and Danish delegations:**

"The United Kingdom and Denmark state that they will apply the procedure provided for in the second sentence of paragraph 20 insofar as the legislation of their countries so permits."

**Statement by the Belgian delegation:**

"The Belgian delegation interprets the reference to the European Convention on Human Rights as implying that compliance therewith will not be affected:

- either by the use of the possibility offered by Article 15 of that Convention to derogate significantly therefrom;
- or by departures from the case law of the European Court in the interpretation of Article 13 of that Convention on the right to "an effective remedy".