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1. Adoption of the agenda

11269/94 OJ/CONS 80 JAI 64

The Council adopted the agenda as set out in the above document, transferring item 10: "Draft Council Resolution on the admission of third-country nationals to the territory of the Member States of the European Union for study purposes" to the "A" items.

2. Approval of the list of "A" items

11270/94 PTS A 57

The Council adopted the "A" items listed in the above document, as well as the above-mentioned item 10.

3. Presidency progress report on the draft Convention on the establishment of Europol

10825/1/94 EUROPOL 121 REV 1, 10901/94 EUROPOL 122, 10949/94  
EUROPOL 123, 10181/94 CK4 82

1. The Council congratulated the German Presidency on its quite remarkable efforts to complete the work on the draft Convention establishing Europol by the end of October 1994.

Although substantial progress had been made, notably in the course of the Working Party's 28 days of meetings, the major issues mentioned in 10825/1/94 EUROPOL 121 REV 1 remained unresolved.

2. At this meeting the Council examined in particular two questions still to be resolved, namely:
  - the time from which Europol would be active in the field of terrorism, the principle of the inclusion of which in the objectives posed no problem;
  - the architecture of the system, in particular direct access for liaison officers to analysis data.

Several delegations stressed the difficulty of adopting positions on individual topics so long as the outline of an overall compromise had not emerged. Some reasserted that their positions on other issues would depend on the solution for the architecture of the system.

3. After recording that agreement could not be reached, the Presidency put forward the following compromise:
- (a) The Ministers for Justice and Home Affairs of the European Union emphasize the need to establish Europol.
  - (b) They agree that the draft Convention put forward by the German Presidency is an appropriate basis for further work. They will endeavour to conclude the work during the first half of 1995, under the French Presidency.
  - (c) (i) Article 2 of the draft Convention and its Annex set out in full Europol's objectives in the fight against organized crime and terrorism.
  - (ii) The forms of crime set out in the Annex will be included in Europol's activities in stages following a unanimous decision by the Council.
  - (iii) Initially, as an affirmation of the need for Europol, the Council has agreed to widen the tasks of the Europol Drugs Unit (EDU) (under a joint action pursuant to Article K.3 of the Treaty on European Union) to include the following forms of crime:
    - crime relating to illegal traffic in motor vehicles;
    - nuclear crime;
    - crime linked with illegal immigration.
4. The Council was unable to reach agreement on the above compromise, and the Presidency announced that it would be submitting the dossier to the Essen European Council meeting on 10 and 11 December 1994.

#### **4. EDU/Europol staff**

The Ministers for Justice, Home Affairs and Public Order, meeting within the Council:

- signed an amendment to the Ministerial Agreement on the setting up of the Europol Drugs Unit; the main thrust of the amendment is to enlarge the management team from 3 to 5 persons;
- agreed to the appointment, from 1 January 1995 for a period of three years or until the Convention enters into force, on the assumption that it will enter into force before the three-year period expires, of:
  - = Mr Willy BRUGGEMAN and Mr Georges RAUCHS as Assistant Coordinators;
  - = Mr Emanuele MAROTTA and Mr David Lawrence WALLS-RUSSEL as members of the management team.

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#### **5. Presidency report to the Council on burden-sharing with regard to the admission and residence of displaced persons**

**10881/94 JAI 47**

After noting the state of play and progress made in this field, the Council called upon the Permanent Representatives Committee, assisted by the K.4 Committee, to continue examining the questions still outstanding, in particular the criteria to be adopted for burden-sharing and the relevant financial aspects on the basis of the comments made by the various delegations.

The results of those proceedings will be discussed at a future meeting of the Council under the French Presidency.

6. Draft joint action concerning travel facilities for third-country school pupils resident in a Member State

10720/2/94 JAI 42 REV 2, 10902/94 JAI 51 + COR 1

The Council decided to:

- adopt the Decision as set out in 10902/94 JAI 51 + COR 1, and
- publish it in the Official Journal of the European Communities.

The Commission requested that the following statement be entered in the Council minutes:

*"The Commission fully subscribes to the political objective of the Decision concerning travel facilities for third-country school pupils resident in a Member State.*

*However, the Commission reserves its position on the legal basis used by the Council with regard to the free movement within the Community of third-country nationals lawfully resident in the Community. It accordingly declares that the adoption of this measure does not in any way prejudice Community competence in this area.*

*It therefore reserves the right to put forward proposals for Community legislation directed in particular at short journeys by such nationals."*

**7. Draft Resolution on minimum guarantees for asylum procedures**

**11217/94 JAI 61, 10173/94 ASIM 200, 10679/94 ASIM 220**

The Council:

- noted that the Spanish delegation had withdrawn its reservation on point 23;
- agreed to amend point 20 in accordance with the wording in 11217/94 JAI 61 ADD 1;
- accordingly noted the agreement of all delegations to the draft Resolution as it stands in 11217/94 JAI 61 and ADD 1, with the exception of the Spanish delegation, which entered a general reservation linked with the question of asylum applications lodged by a national of one Member State in another Member State (see 10679/94 ASIM 220);
- instructed Coreper and the K.4 Committee to seek solutions to the question raised by Spain.

**8. Presidency progress report to the Council on the proposal for a Council Regulation laying down a uniform format for visas**  
**10927/94 JAI 52**

After noting the progress made on the proposal for a Regulation, the Council asked Coreper, assisted by the K.4 Committee, to:

- examine the questions still outstanding;
  
- re-examine the Presidency's compromise text in the light of the European Parliament's Opinion, as soon as the latter was available, in order to enable the Council to adopt the Regulation at the earliest opportunity. The Commission pointed out that it might decide to amend its proposal further to the European Parliament's Opinion.

**9. Draft Council Resolution on the further improvement in security at external borders**  
**11184/94 JAI 59**

After being unable to reach agreement on the text of the Resolution, the Council decided to refer it to Coreper, assisted by the K.4 Committee, in order to enable the Council to reach agreement as soon as possible.

**10. Draft Resolution on the admission of third-country nationals to the territory of the Member States of the European Union for study purposes**  
**11218/94 JAI 62**

This Resolution was adopted as an "A" item.

11. 1994 budget – draft Council Decision on a joint action concerning cooperation measures to be taken in the JHA sector  
11208/94 JAI 60

The Commission stressed the urgent need for a Decision.

However, the President was obliged to note that the French and United Kingdom delegations were standing by their negative positions on the draft Decision.

The Council agreed to instruct Coreper, assisted by the K.4 Committee, to examine as a matter of urgency the question of the financing of the JHA sector.

12. Draft conclusions of the JHA Council on relations with third countries in the fields of Justice and Home Affairs  
11155/94 JAI 58, 8808/94 CK4 64

The Council agreed to 8808/94 CK4 64, subject to the addition, at the beginning of point I (Role of the K.4 Committee) of: *"In compliance with the decisions taken by the Council with regard to relations with the associated CEEC,"*.

The Council instructed Coreper, assisted by the K.4 Committee, to submit to it, before the end of the coming six-month period, specific proposals for applying those general principles to third countries taken individually or in groups.

**13. Relations with Cyprus and Malta in the fields of Justice and Home Affairs**

**10678/94 CK4 92**

After hearing:

- Greece's request, supported by Italy and Spain, that the above two countries be invited to the next meeting of the JHA Council;
- assurances from the future French Presidency that it would, at a time, and in accordance with detailed arrangements, to be decided on, organize a meeting between the Troika and Cyprus and Malta during the first half of 1995,

the Council approved that approach and instructed France to organize such a meeting.

**14. Implementation of the Berlin Declaration of 8 September 1994**

**10950/94 JAI 54**

The Council agreed to 10950/94 JAI 54 and instructed the K.4 Committee to look into the possibility of implementing the proposed cooperation measures in the near future.

Following a suggestion from Italy, the study will also cover cooperation in the field of forged documents (visas in particular).

**15. Draft interim report on combating racism and xenophobia**

**10595/1/94 CK4 89 REV 1**

The Council discussed 10595/1/94 CK4 89 REV 1, which it approved and forwarded – as an interim report – to the Essen European Council.

During the discussion, several delegations and the Commission placed emphasis on the need to study the shortcomings in Member States' legislation, notably as regards the printing of racist propaganda and its circulation in other Member States, and the possibilities of greater cooperation, including specific measures such as police training. Such measures should be seen as a contribution to the elaboration of an overall strategy.

**16. Draft interim report on cooperation in the campaign against international organized crime**

**10829/94 JUSTPEN 89**

The Council:

- took note of the interim report on cooperation in the campaign against international organized crime (see 10829/94 JUSTPEN 89);
- gave instructions for discussions to continue, with examination of the following questions as a priority:
  - = Member States' legislation on what constitutes offenses by criminal or similar organizations;
  - = rules on complicity, attempted crime and preparatory acts;
  - = improvement of mutual assistance, with a view to making progress vis-à-vis Article 5(1) of the European Convention on Mutual Assistance;
  - = protection of witnesses, in particular testimony by remote link, and informants;

- requested that a progress report be submitted to it at the end of the first half of 1995;
- noted with satisfaction the outcome of the World Ministerial Conference on Organized Transnational Crime in Naples from 21 to 23 November 1994.

**17. Report and draft Resolution on the protection of the financial interests of the Communities**

**11342/94 JAI 66**

The Council:

- approved the Resolution on criminal sanctions and ordered that it be published in the "C" series of the Official Journal of the European Communities after its formal adoption <sup>(1)</sup>;
- agreed to submit the approved Resolution to the Essen European Council in December 1994;
- gave instructions that work should press ahead on the basis of the draft joint action submitted by the United Kingdom and the draft Convention forwarded by the Commission, so that a draft legal instrument could be submitted to the Council as early as possible in 1995.

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<sup>(1)</sup> The Resolution will be formally adopted after legal/linguistic finalization.

**18. Draft Convention to improve extradition between the Member States of the European Union**

**10827/94 JUSTPEN 87**

The Council held an exchange of views on extradition, with the Irish, Spanish and Greek delegations withdrawing their scrutiny reservations. Furthermore, some delegations suggested laying down a maximum period for the normal extradition procedure. In particular, the Netherlands delegation suggested setting that period at 9 months.

In the light of the discussion, the Council:

- noted that all delegations could agree to the results achieved on the chapter dealing with the simplified procedures in the draft Convention on Extradition as contained in 10827/94 JUSTPEN 87 <sup>(1)</sup>;
- recorded that political agreement existed within the Council on preparing a separate legal instrument on the simplified procedure. In that context, the Council instructed the relevant bodies to resolve the last questions outstanding so that a draft Convention could be submitted to it before the end of the first half of 1995;
- gave instructions that the other proceedings should continue in parallel on the basic conditions for extradition and on extradition procedures, as well as on the possibility of laying down a maximum period for normal extradition procedures.

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(1) Articles 15 and 16 need further examination.

19. Draft Convention on jurisdiction and the enforcement of judgments in matrimonial matters (Brussels II Convention)

10873/94 JUSTCIV 38

The Council:

- took note of progress on the draft Convention (see 10873/94 JUSTCIV 38);
- agreed that work should continue on the basis of the working document submitted by the Presidency and that there should be further examination of the possibility of including custody in the scope of the Convention, as children were relevant to the procedures for dissolving marriages;
- wanted specific progress on the draft Convention to be made in 1995.

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20. Draft Convention on insolvency procedures

11353/94 DRS 32, 11013/94 DRS 30

The Council deferred its examination of this item.

21. Draft report to the European Council on the implementation of the December 1993 action plan in the JHA field  
11347/94 JAI 67

The Council agreed on the report to the European Council contained in  
11607/94 JAI 71

22. Other business

No issue was discussed under this item on the agenda.