



COUNCIL OF THE EUROPEAN COMMUNITIES
GENERAL SECRETARIAT



PRESS RELEASE

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1167th Council meeting

- Justice -

Brussels, 25 May 1987

President: Mr Jean GOL

Deputy Prime Minister and
Minister for Justice and
Institutional Reforms
of the Kingdom of Belgium

The Governments of the Member States and the Commission of the European Communities were represented as follows:

Belgium:

Mr Jean GOL Deputy Prime Minister and Minister
for Justice and Institutional
Reforms

Denmark:

Mr Erik NINN-HANSEN Minister for Justice

Germany:

Mr Hans Arnold ENGELHARD Federal Minister for Justice

Greece:

Mr Alexandros VAYENAS Ambassador, Director at the
Ministry of Foreign Affairs

Spain:

Mr Fernando LEDESMA BARTRET Minister for Justice

France:

Mr Albin CHALANDON Keeper of the Seals, Minister
for Justice

Ireland:

Mr Gerry COLLINS Minister for Justice

Italy:

Mr Virginio ROGNONI

Minister for Justice

Luxembourg:

Mr Jean SPAUTZ

Minister for the Interior,
Minister for Family Affairs,
Housing and Social Solidarity

Netherlands:

Mrs V.N.M. KORTE-van HEMEL

State Secretary for Justice

Portugal:

Mr LENCASTRE DA VEIGA

Ambassador

United Kingdom:

Mr Kevin CHAMBERLAIN

Counsellor
(Legal Affairs)

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Commission:

Mr Peter SUTHERLAND

Member

Part 1: Conference of Ministers

A. Signing ceremony:

The Conference proper was preceded by the opening for signature of three international instruments to encourage the creation of a European legal area.

These are:

- the Agreement on application between the Member States of the European Communities of the Council of Europe Convention on the transfer of sentenced persons;
- the Convention between the Member States of the European Communities on double jeopardy;
- the Convention abolishing the legalization of documents in the Member States of the European Communities.

These three instruments, which are more clearly defined below, are the result of initiatives taken by the Italian Presidency during the first half of 1985.

Finalization of the instruments was completed under the Belgian Presidency.

These three instruments were very favourably received.

The Agreement on transfer has been signed by 10 partners, while the Convention on double jeopardy has been signed by 7 partners; the Convention on the abolition of legalization has been signed by 8 partners.

B. Conference

In the presence of Mr P. SUTHERLAND, Member of the Commission of the European Communities, the Ministers for Justice of the Twelve Member States of the European Communities reiterated the need to increase international legal co-operation in criminal and civil matters so as to encourage the creation of a European legal area, a fundamental aim in the process of achieving free movement within the Community as laid down in the Single Act.

1. Co-operation in criminal matters

a. Transfer of sentenced persons

The Ministers are aware of the myriad problems posed by imprisonment of foreign nationals and the need to encourage their transfer to their countries of origin to serve their sentences there; they therefore welcomed the signing of the Agreement on application between the Member States of the European Communities of the Council of Europe Convention on the transfer of sentenced persons.

The Agreement has the advantage of enabling those States which do not intend to become Parties to the European Convention to apply the provisions thereof together with the other Member States of the Communities.

It also extends the scope of the Council of Europe Convention by enabling a Member State to place on the same footing as its own nationals the nationals of another Member State who habitually and regularly reside on its territory.

b. Double jeopardy

Here too, the Ministers welcomed the signing between the Member States of the European Communities of the Convention on double jeopardy.

In order to remove a major obstacle to the free movement of persons within the territory of the community, this Convention is aimed at ensuring that a person finally judged in one Member State may not be prosecuted and sentenced in another Member State for the same actions.

In addition to confirming the principle, contained in most national legal systems, that a person shall not be placed in double jeopardy, the Convention has the advantage of setting up between the partners an exchange of information ensuring greater observance of that principle.

c. Extension to all the Member States of the European Communities of the Dublin Agreement concerning the implementation of the European Convention on the Suppression of Terrorism

After considering the usefulness of the Dublin Agreement, which may provide an appropriate framework for close judicial co-operation in combating terrorism, the Ministers examined the possibility of extending this Agreement to all the Member States of the Communities.

In its present form, this instrument is open for signature only by those States that were Members of the Communities on the date it was opened for signature, i.e. 4 December 1979.

The Ministers considered it essential that the possibility of satisfying its legitimate desire to accede to the Agreement should be offered to each State that had become a Member of the Communities after that date.

They felt that the draft Additional Protocol to the Dublin Agreement, drawn up on the initiative of the Belgian Presidency, was in its broad outlines an appropriate solution to the desired extension.

In addition, in order to strengthen co-operation in combating terrorism, the Ministers decided to ask experts to examine the possibility, in relations between the Twelve, of withdrawing the reservations entered with respect to the European Convention and the Dublin Agreement.

d. Simplification and modernization of means of forwarding requests for extradition

Considering it necessary to eliminate as far as possible the risk of failure to meet absolute deadlines for the communication of extradition documents, which is sufficient grounds in itself for extradition to be refused, the Ministers examined the scope for simplifying and modernizing extradition procedures.

They took note of a draft agreement on the subject drawn up on the initiative of the Belgian Presidency, which will be studied in detail under the Danish Presidency.

The draft aims to speed up extradition procedures, inter alia by the use of modern communication techniques (such as facsimile machines).

2. Co-operation in civil matters

(a) Abolition of the legalization of documents in the Member States of the Communities

The Ministers welcomed the signature of the Convention abolishing the legalization of documents in the Member States of the Communities.

Under that Convention, each Member State will treat public documents issued by the authorities of another State in the same way as the same documents drawn up by its own authorities.

This instrument is part of progress towards the free movement of persons and goods.

(b) Custody of children

The Ministers exchanged information on the situation with respect to ratification of the Luxembourg Convention of 20 May 1980 and the Convention of The Hague of 25 October 1980 on the civil aspects of the international abduction of children.

They noted that no partner had any fundamental objection to ratifying these two instruments in the fairly near future. France also stated that it was considering withdrawing the most significant reservation it had entered regarding the Luxembourg Convention.

On the subject of the operation of these two Conventions, it was judged necessary to exchange precise information on the difficulties encountered by the partners in enforcing the Conventions, and means of overcoming them. To this end, the Ministers considered it useful for the Presidency to ask the Secretariat to prepare a questionnaire with the help of the partners that had already ratified the instruments in question.

In the Community context, it was noted that the system of appointing national correspondents in each country was a step forward, although improvements were possible, and this item could be included in the questionnaire mentioned above.

(c) Maintenance obligations

The Ministers discussed the problems raised by the fulfilment of international maintenance obligations, with a view to helping those in receipt of maintenance.

It was also agreed that each Member State would provide a report from its central authority on its relations with other Member States regarding application of the New York Convention on the matter, taking account of the implications of other Conventions dealing with the recognition and enforcement of decisions on maintenance obligations.

3. General discussion

(a) Measures against drug addiction

The Ministers for Justice examined the follow-up to the European Council held in London on 6 December 1986, which had expressed its deep concern at the drug problem, and decided that the Community and the Member States should continue to participate in measures to combat drug addiction.

They confirmed the absolute need, in the context of achieving the internal market and free movement of persons as propounded by the Single Act, to establish at Community level a multifaceted strategy to combat production, trafficking and consumption of drugs.

The Ministers are aware of the dangers of adopting divergent attitudes in this respect and confirmed the need to harmonize national anti-drug legislation.

Having taken note of a reservation entered by one delegation, they decided that the working party on mutual assistance in criminal matters would be the appropriate framework for achieving the necessary harmonization while avoiding overlapping with the proceedings of other bodies (Trevi Group, Pompidou Group, etc....)

(b) Frequency of meetings

The Ministers agreed to meet in future at least once a year to ensure that their decisions were followed up and to provide the necessary impetus to proceedings in the political co-operation context.

They confirmed their determination in future to implement this decision which, although it had already been adopted in Luxembourg in 1982, had not previously been followed through.

Part 2: Council of Ministers

BRUSSELS CONVENTION OF 27 SEPTEMBER 1968 ON JURISDICTION AND THE ENFORCEMENT OF JUDGEMENTS IN CIVIL AND COMMERCIAL MATTERS

- Stage reached in ratification of Conventions of Accession

The Brussels Convention, based on Article 220 of the EEC Treaty and concluded between the original Member States of the EEC on 27 September 1968, has been in force between these States since 1 February 1973.

The same is true for the Protocol on the interpretation of the above Convention by the Court of Justice, which was signed in Luxembourg on 3 June 1971 and which entered into force on 1 September 1975.

On 9 October 1978, the six original Member States and the three acceding States (Denmark, Ireland and the United Kingdom) concluded in Luxembourg a Convention of Accession to the Brussels Convention of 1968 and to the 1971 Protocol.

The Council and the Ministers for Justice welcomed the entry into force of this Convention on 1 November 1986 following the deposit of the instruments of ratification by the six original Member States of the Community and Denmark, and the entry into force of the Convention of Accession on 1 January 1987 between the seven abovementioned Member States and the United Kingdom. The Council and the Ministers for Justice, also noted with satisfaction that Ireland, which has yet to complete the ratification procedures, hopes to do so by the end of this year.

Following the accession of Greece to the European Communities, the ten Member States concluded in Luxembourg on 25 October 1982 a Convention on the accession of the Hellenic Republic to the Brussels Convention of 1968 and to the Protocol of 1971, as amended by the Convention of Accession of 1978.

Six States (Belgium, Denmark, France, Italy, Luxembourg, Netherlands) have already ratified this Convention. Having noted the stage reached in ratification by the countries which have yet to complete their ratification procedures, the Council and the Ministers for Justice invited these States to take all useful steps to expedite completion of national ratification procedures.

- Opening of negotiations with a view to the accession of Spain and Portugal

The Act of Accession of Spain and Portugal to the European Communities lays down that the new Member States shall undertake to accede to the Conventions provided for in Article 220 of the EEC Treaty and to the Protocols on the interpretation of those Conventions by the Court of Justice.

The Council and the Ministers for Justice noted the need to open the negotiations provided for in the Act of Accession of Spain and Portugal with a view to the rapid conclusion of a Convention by both these Member States. These negotiations will take place on the basis of a memorandum which will be provided by Spain and Portugal.

Progress report from the Chairman of the Joint EEC-EFTA Working Party on the negotiations with the EFTA countries for the conclusion of a Convention parallel to the Brussels Convention

The negotiations between the countries of the EEC and EFTA for the conclusion of a Convention parallel to the Brussels Convention are currently in progress. These negotiations have been going on for two years and should enable the text of a preliminary draft parallel Convention enjoying broad agreement and intended to serve as a basic document for a diplomatic conference to be finalized in the next few months. After taking note of the report by Mr SAGGIO (Italy), co-Chairman for the Twelve, together with Mr VOYAME (Switzerland), of the EEC-EFTA Working Party (Exequatur), on these negotiations, the Ministers for Justice noted with satisfaction the progress made in the negotiations with the EFTA countries and voiced the hope that the forthcoming meetings with the EFTA countries in the framework of these negotiations would enable the necessary progress to be achieved on the points still under discussion, so that a decision could be taken to convene a diplomatic conference for the conclusion of the parallel Convention.

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After the discussions, the following Resolution was adopted:

RESOLUTION

I.

The Council and the Ministers for Justice meeting within the Council:

- welcome the entry into force on 1 November 1986, following the deposit of instruments of ratification by the six original Member States of the Community and Denmark, of the Convention of Accession of 9 October 1978 of the Kingdom of Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland to the Brussels Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters and to the Protocol of 3 June 1971 on its interpretation by the Court of Justice and the entry into force of that Convention of Accession on 1 January 1987 as between the aforementioned seven Member States and the United Kingdom;
- aware that it is important, in particular from the point of view of completion of the internal market, for application of the Brussels Convention of 27 September 1968 and the Protocol of 3 June 1971 to be extended rapidly to the whole of the Community;
- invite the Member States concerned to take every step necessary to expedite completion of the national procedures for ratification of the said Convention of Accession of 9 October 1978 and the Convention of 25 October 1982 on the Accession of the Hellenic Republic to the Brussels Convention of 27 September 1968 and to the Protocol of 3 June 1971;

- note the need to open the negotiations provided for in Article 3(2) of the Act of Accession of Spain and Portugal to the European Communities with a view to the rapid conclusion of a Convention of Accession of both these Member States to the Brussels Convention of 27 September 1968 and to the Protocol of 3 June 1971, as amended by the Conventions of Accession of 9 October 1978 and 25 October 1982; these negotiations will take place on the basis of a memorandum on the necessary adjustments which will be provided by Spain and Portugal.

II.

The Ministers for Justice meeting within the Council:

- aware of the importance of the existence, alongside the Brussels Convention, of a parallel Convention, based on the same principles and intended to govern relations between the Member States of the EEC and those of EFTA, concerning the legal protection of persons established in all these States and the simplification of formalities for the mutual recognition and enforcement of judgments;
- note with satisfaction the progress achieved in negotiations for the conclusion with the EFTA countries of such a parallel Convention and express the hope that the forthcoming meetings within the framework of the joint EEC-EFTA Working Party (Exequatur) will make it possible to achieve the additional progress necessary for a decision to be taken, in agreement with the EFTA partners, to convene a diplomatic conference for the conclusion of the parallel Convention.

Bruxelles, le 22 mai 1987

Note Bio (87) 138 aux bureaux nationaux
cc. aux membres du Service du Porte-Parole

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Préparation Conseil Justice du 25 mai 1987 (E. REUTER)

Les ministres de la Justice des Etats membres se réunissent à Bruxelles le 25 mai 1987 au Palais d'Egmont sous la présidence de M. Jean Gol. Cette réunion se divisera en deux parties. D'abord une conférence informelle des ministres de la Justice, relevant de la coopération inter-gouvernementale comme la coopération politique, ensuite une réunion formelle d'un Conseil de la Communauté.

La conférence examinera un certain nombre de points qui ont trait à ce qui a été décrit comme l'espace judiciaire européen. Sur le plan du droit pénal, cela concerne surtout l'application de conventions du Conseil de l'Europe relatives au transfert de personnes purgeant des peines et à l'extradition de terroristes. Sur le plan du droit civil, les ministres évoqueront des questions du droit de la famille, notamment le droit applicable à des situations de rupture du lien familial (garde des enfants, enlèvement d'enfant, obligation alimentaire).

La session formelle du Conseil traitera de la mise en oeuvre de la Convention de Bruxelles de 1968 sur l'exequatur, c.à.d. l'exécution des décisions judiciaires en matière civile et commerciale à travers les frontières intérieures de la Communauté. Les points à discuter concernent l'application de la Convention par des Etats qui se sont joints à la Communauté depuis l'adoption de la Convention (ratification par le Danemark et la Grèce et ouverture des négociations avec l'Espagne et le Portugal) et aussi la possibilité d'étendre cette Convention aux Etats de l'AELE.

M. Sutherland représentera la Commission à cette réunion.

Amitiés,
G. ANOUIL - comeur