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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



**COUNCIL OF
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NOTE

From : Presidency
To : Article 36 Committee
Subject : Draft Council authorisation for the Presidency to negotiate agreements with Norway and Iceland on judicial cooperation in criminal matters

In doc 14138/00 JUR 397 COPEN 82, the Legal Service of the Council suggested that the Council should consider the possibility of determining which provisions of the 1995 Convention on simplified extradition and the 1996 Convention relating to extradition constitute a development of the Schengen acquis within the meaning of Article 2 (3) of the agreement with the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen acquis.

This matter was discussed in the Article 36 Committee at its meeting on 10-11 April 2001. In that context, the question came up of the association of Norway and Iceland also to other parts of the two Extradition Conventions and also to those parts of the 2000 Convention on Mutual Legal Assistance in Criminal Matters which are not Schengen related and which Norway and Iceland are not already bound by (see Articles 2 and 29 of the 2000 Convention).

At the Article 36 Committee meeting in Visby on 3-4 May 2001, the delegations agreed on the principle that discussions should begin with Norway and Iceland with a view to ensuring that they should become bound by all the provisions of the two extradition conventions and the 2000 Convention and that the Presidency should initiate the procedure foreseen in articles 24 and 38 TEU to that effect.

The Kingdom of Sweden will soon take an initiative relating to the Schengen related provisions of the two Extradition conventions.

As regards the 1995 Extradition Convention, all provisions in that Convention are Schengen related and will consequently be covered by the Council Decision following the Swedish initiative.

The procedure foreseen in Articles 24 and 38 TEU should therefore be used for the 1996 Extradition Convention and for the 2000 Convention in respect of those Articles that do not constitute measures amending or building upon the Schengen acquis.

The Article 36 Committee is invited to agree to the mandate in the Annex with a view to submitting this matter to Coreper/Council.

Council authorisation to the Presidency to open negotiations to conclude agreements with Iceland and Norway on the application of certain provisions in relation to extradition and mutual legal assistance on the basis of Articles 24 and 38 of the Treaty on European Union.

Background

1. Before the entry into force of the Treaty of Amsterdam, the Council, by an act of 10 March 1995, drew up on the basis of Article K.3 of the TEU, the Simplified Extradition Convention. By an act of 27 September 1996, the Council drew up on the same legal basis the Extradition Convention. The Simplified Extradition Convention and the Extradition Convention have not yet entered into force, but their provisions are already being applied in relations between certain Member States which have ratified them and have made a declaration to that effect.
2. The provisions of the Simplified Extradition Convention and of the Extradition Convention do not at apply to Iceland and Norway but an initiative will soon be taken by Sweden with a view to identify the provisions of these Conventions which constitute a development of the Schengen acquis and to associate Iceland and Norway with the application of these provisions. In the view of the Council Legal Service, all provisions in the 1995 Simplified Extradition Convention are Schengen related and will be covered by the Council Decision following the initiative.
3. According to Articles 2 and 29 of the 2000 Convention on Mutual Legal Assistance in criminal matters, adopted by the Council on 29 May 2000, certain provisions of that Convention constitute a development of the Schengen acquis and will be applied by Norway and Iceland when certain procedures of the Association Agreement with Norway and Iceland have been fulfilled. The 2000 Convention has not yet been ratified by any Member State of the European Union.

4. The situation that only certain provisions in the Extradition Convention and the 2000 Convention on Mutual Legal assistance are applied by Iceland and Norway is unsatisfactory for the sake of transparency and legal certainty and would be difficult to apply in practice for the practitioners, in particular as regards mutual legal assistance. Already today practitioners are facing difficulties with the practical application of many instruments and it is necessary for the Council to take steps to ensure that the procedures are simplified and not complicated.
5. The Presidency proposes that the Council take the following Decisions on the basis of Articles 24 and 38 TEU.

Draft Council authorisation

6. The Council authorises the Presidency, assisted by the Commission as appropriate, to open negotiations with Iceland and Norway in order to conclude an agreement with those States on the application of certain provisions in relation to extradition.

This agreement should make those substantive provisions of the EU Convention of 27 September 1996 relating to extradition applicable in the relations between Iceland and Norway and between each of those States and the Member States of the EU, which are not covered by the Decision of the Council identifying the provisions of that Convention which constitute a development of the Schengen acquis. The agreement should not establish a specific institutional framework, but provide for a mechanism for settling disputes.

7. The Council authorises the Presidency, assisted by the Commission as appropriate, to open negotiations with Iceland and Norway in order to conclude an agreement with those States on the application of certain provisions in relation to mutual legal assistance in criminal matters.

This agreement should make those substantive provisions of the EU Convention of 29 May 2000 relating to mutual legal assistance in criminal matters applicable in the relations between Iceland and Norway and between each of those States and the Member States of the EU, which are not covered by Article 2(1) of that Convention. The agreement should not establish a specific institutional framework, but provide for a mechanism for settling disputes, as well as a provision allowing Iceland and Norway to rely on the case law of the Court of Justice of the European Communities.

8. The Presidency shall keep the Article 36 Committee fully informed of the discussions with Norway and Iceland and of any problems in connection with the negotiations.

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