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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Committee of Experts on the Operation of European Conventions in the Penal Field
(PC-OC)

ARREST
in the context of the
European Convention on Extradition

Human Rights and other requirements

Secretariat memorandum
prepared by the
Directorate General of Legal Affairs

The following material concerning the European Convention on Extradition is separately available with the Secretariat:

Explanatory Report to the Convention

Reservations and declarations to the Convention

Chart of signatures and ratifications

Guide to Extradition Procedures

Recommendations of the Committee of Ministers on the practical application of the Convention

Explanatory notes on the Convention

INTRODUCTION

The Parties to the European Convention on Extradition undertook to surrender to each other, subject to the provisions and conditions laid down in the Convention, all persons against whom the competent authorities of the requesting Party are proceeding for an offence or who are wanted by the said authorities for the carrying out of a sentence or detention order. (Article 1 – Obligation to extradite).

However, the extradition procedure is not a criminal procedure in the requested State. This is due to the fact that the extradition procedure is not aimed at:

- the investigation of a criminal offence, nor
- the investigation of facts that are likely to corroborate a reasonable suspicion that an offence was committed, nor
- determining criminal charges against a person.

Hence, Article 6 ECHR does not directly apply to extradition procedures.

Extradition procedures are also not international procedures, once States - that have agreed to accept an obligation to extradite - have their own national provisions for carrying out their obligation to extradite. Not only can national extradition procedures be very different from each other, there can also be a plurality of procedures in each State (e.g. administrative procedure + judicial procedure + political procedure).

Article 5 of the European Convention on Human Rights, on its own terms, applies directly to extradition procedures.

Human rights requirements relating to arrest in the context of extradition are discussed in this paper.

The interpretation of the term 'provisional arrest' within the framework of the Convention has given rise to doubts[1]. That was noted in particular at the 37th meeting of the PC-OC in respect of the interpretation of a document containing a synthesis of the replies to a questionnaire on the maximum duration, in the different Member States, of provisional arrest under Article 16 of the Convention (Addendum to PC-OC / INF 4). A new questionnaire assisted in clarifying this matter. As a result, a revised version of the Addendum to PC-OC / INF 4 was published It is now being integrated into this document.

INTERPOL's views, as they were stated to the PC-OC, in particular in document PC-OC (99) 8 were also integrated into this document.

[1] As Mr Hatapka pointed out in document PC-OC (99) 2

I. THE LEGAL PROVISIONS

1. European Convention on Human Rights

Article 5 - Right to liberty and security

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

c. the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

f. the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition;

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him;

3. Everyone arrested or detained in accordance with the provisions of para 1(c) of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation."

2. The European Convention on Extradition

Article 12 - The request and the supporting documents

[...]

2. The request shall be supported by:

a the original or an authenticated copy of the conviction and the sentence or detention order immediately enforceable or of the warrant of arrest or other order having the same effect and immediately enforceable or of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of a requesting party;

b a statement of the offences for which extradition is requested. The time and place of their commission, their legal descriptions and a reference to the relevant legal provisions shall be set out as accurately as possible; and

[...]

Article 16 - Provisional Arrest

1. In case of urgency the competent authorities of the requesting Party may request the provisional arrest of the person sought. The competent authorities of the requested Party shall decide the matter in accordance with its law.

2. The request for provisional arrest shall state that one of the documents mentioned in Article 12, paragraph 2(a), exists and that it is intended to send a request for extradition. It shall also state for what offence extradition will be requested and when and where such offence was committed and shall so far as possible give a description of the person sought.

3. A request for provisional arrest shall be sent to the competent authorities of the requested Party either through the diplomatic channel or direct by post or telegraph or through the International Criminal Police Organisation (Interpol) or by any other means affording evidence in writing or accepted by the requested Party. The requesting authority shall be informed without delay of the result of its request.

4. Provisional arrest may be terminated if, within a period of 18 days after arrest, the requested Party has not received the request for extradition and the documents mentioned in Article 12. It shall not, in any event, exceed 40 days from the date of such arrest. The possibility of provisional release at any time is not excluded, but the requested Party shall take any measures which it considers necessary to prevent the escape of the person sought.

5. Release shall not prejudice re-arrest and extradition if a request for extradition is received subsequently.

II. ANALYSIS

1. "In accordance with a procedure prescribed by law"

(a) procedures laid down by domestic law must have been complied with. Presumably in cases of provisional arrest for extradition purposes, the procedures laid down in the Extradition Convention should also be complied with (i.e. provisions in Art. 16 including the existence of one of the documents specified in Art. 12.2.a).

Art. 16.3 specifically allows that a request for provisional arrest may be sent to the competent authorities among other methods through Interpol. The provision is extremely broad as to the formal requirements for such a request, so it would appear that "red notices" may fulfil this provision, although issues arising from Art. 16.3 are discussed below in paragraph 8. Art. 16 is

governed by Art. 22 of the Extradition Convention so that the procedures concerned are those of the requested State and decisions on that procedure will be made by the requested State.

(b) and that these procedures themselves are fair and proper (Wintwerp case[2]... "namely that any measure depriving a person of his liberty should issue from and be executed by an appropriate authority and should not be arbitrary"). Procedures laid down in the Extradition Convention should fulfil this requirement.

2. That the deprivation of liberty be "lawful"

This means both that the domestic law has been complied with and that there has been no abuse of authority or "bad faith". The latter requirement derives from Art. 18 of the Convention on Human Rights which provides that "the restrictions permitted ... shall not be applied for any purpose other than those for which they have been prescribed". (Bozano case[3]). It is designed to avoid arbitrary arrest or detention.

According to Art. 16.1 of the Extradition Convention, requests for provisional arrest will only be made in cases of urgency but only the requesting State may judge whether the situation is urgent or not, this may lead to an arbitrary decision from the competent authorities in the requested State on a warrant for provisional arrest. This will be discussed below in paragraph 7.

3. Article 5.1.c / Article 5.1.f

In general, Art. 5.1.f applies to arrest for extradition purposes. The Quinn Case[4] established that there is no question of the procedural guarantees contained in Art. 5.3 applying to cases covered by Art. 5.1.f. The British House of Lords, however, in the case *Reg v Gov. Pentonville, Ex p. Sotiriadis*[5] stated that:

"A person arrested on a provisional warrant is not at that stage subject to extradition at all and may never become so. He becomes subject to extradition only when a requisition for his surrender has been received by the Secretary of State. Although the provisional warrant charges him with an offence committed abroad the charge is as yet inchoate."

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[2]Judgment of 24.10.79, No 033

[3] Judgment of 18.12.86, No 111

[4]Judgment of 22.3.95, No. 311

[5] [1975] AC I at 11

G. Gilbert in his book *Aspects of extradition law*[6] interprets this as meaning that an arrest under provisional warrant should be subject to the limits imposed by Art. 5.3 as the detention is in accordance with Art. 5.1.c rather than Art. 5.1.f, thus ensuring an additional judicial safeguard in cases of requests for provisional arrest.

4. Article 5.2

The purpose of this provision is to ensure that a detainee is adequately informed of the reasons for his deprivation of liberty so as to permit him to judge the lawfulness of the measure affecting him and, if he thinks fit, to take advantage of the right under Art. 5.4 to challenge it. This is an "integral part of the scheme of protection afforded by Art. 5"[7]

The legal basis for the detention together with the essential facts relevant to the lawfulness of the decision must be given in "simple, non-technical language" that the person concerned can understand"[8]. This of course concerns both the wording and the "language" strictly speaking. It does not however extend to a need to make the individual aware of the grounds for suspicion of involvement in an offence.

According to Commission and Court jurisprudence, it now appears that promptness means within four days in respect of Art. 5.3[9], but this would seem an excessive interpretation of the term "promptly" for informing the detainee according to Art. 5.2. It would seem that in the interests of promptness, the warrant itself should contain adequate information concerning the reasons for detention.

In at least one UN study[10], it is suggested that detained persons should be informed immediately of the reasons for their detention. Another study advises that a written decision containing the reasons for the decision and the facts on which it is based should be given to the detainee at the moment of arrest[11]. A recommendation on this point states that a detention order should be issued before arrest, or not more than 24 hours after arrest and that the detainee should receive a copy[12]. In the interests of protecting the rights of the detainee, it seems that the adequate information should be given immediately and as soon as possible in written form[13].

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[6] Gilbert, G. - Aspects of Extradition Law, 1991 (at p.38)
[7] Fox et al. Court Judgment 30.8.90, para 40
[8] Ibidem
[9] Brogan et al, Court Judgment, paras 61-62, together with Commission Decision of 9.5.88 in Egue v France
[10] Kingston study Doc; UN st\tao\hr\29 §237 ji
[11] Doc UN e/cn. 4/826, Rev 1 p.255
[12] ICJ 3 p 461 recommendation 21
[13] See the paper by Christine Ledure, "Garanties Minimales contre la détention arbitraire" in *Revue Belge de Droit International, vol xxvii 1994 - 2*

5. Independence of body issuing a warrant

If the arguments expressed by Gilbert on the basis of the Sotiardis judgment (above) are not proved to be valid, then a provisional warrant for arrest would not be protected by the safeguard included in Art. 5.3 of the ECHR; a prompt audience before a judge or other legal officer to decide on how to proceed with the case. In such circumstances it is important that the body issuing the warrant should take its decision from an impartial viewpoint based on the merits of the request. Michael Abbell in his paper *Controlling the Abusive Use of Provisional Arrest*[14] raises the possibility that prosecutors and administrative bodies may be tempted to use provisional arrest as a matter of course. Therefore they may not be as diligent as necessary in processing such requests in the hope that their compliance with incoming requests will be reciprocated when they are in the position of requested State. He also worried about a tendency under a heavy workload with diplomatic considerations to take the path of least resistance. Should these factors have any bearing on real cases, this could compromise the protection of the individual concerned's human rights (although it should be noted that when questioned on this point, Abbell was unable to cite any particular case where abuse of process in this way had occurred).

Abbell also raises the point that persons arrested for extradition and denied bail or other form of provisional release are less likely and less able to put up a hard fight against extradition. This may be a factor which makes provisional arrest attractive to prosecuting authorities. This situation may be due to the fact that a detainee is deprived of income or resources with which to mount a serious defence and it should be considered whether such a situation is compatible with respect for an individual's rights[15].

In common law systems, the warrant for provisional arrest must be obtained by a judicial decision. In the UK, that decision will come from a magistrate or justice of the peace, based on "such information or complaint and such evidence as would, in his opinion, justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction."

No kind of "international warrant" or warrant emanating from another jurisdiction will suffice. In the UK, the Interpol "red notices" are not acceptable as requests for provisional arrest, although in other jurisdictions such as Switzerland they are. The acceptability may be connected to the nature of the warrant issuing body and whether it is administrative or judicial.

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[14] In "L'extradition. Actes du Séminaire international tenu à l'Institut supérieur international de sciences criminelles". Syracuse, 4.-9.12.1989. Revue internationale de droit pénal. V 62 nos 1/2, 1991

[15] Ibidem

6. Red notices: INTERPOL's views

Interpol comments that red notices should be considered judicial documents and that they are indeed considered as such by many countries. One reason for this is that they are issued on the basis of a judicial document (warrant of arrest) issued by a judicial authority in a member State. Interpol points out that the Interpol National Central Bureaux do not have the authority to request that a red notice be issued. When they ask the General Secretariat to issue a red notice, it is in response to a request from their country's judicial authority.

Red notices are communicated to judicial authorities, which then decide whether to issue an arrest warrant with a view to the provisional arrest of the person wanted. Even if red notices include police information (mainly identification details) which is useful for the judicial authority, it still remains a document that is forwarded from one judicial authority to another.

The fact that red notices are published and forwarded by a police body (i.e. Interpol) does not affect their legal value. Interpol's view is that to state the contrary would in their view be to deny the fact that part of the role of the police is to serve judicial authorities.

Furthermore, Interpol points out that the its General Secretariat's position has always been that a red notice is not an arrest warrant *per se*. It is merely a request for provisional arrest, which is then the subject of a decision by the judicial authority empowered to authorise an arrest. This means that the judicial authority assesses the information contained in a red notice. This fact prompted the General Secretariat to increase the amount of judicial information in red notices and to refuse to issue notices which do not contain enough such information.

7. Article 12.2.a

An example case: Article 12.2.a related to Estonian law.
Under Estonian domestic law, 'provisional arrest' is a preventive measure. It is therefore not possible to apply the restraint before presenting the first accusation. If a person has been taken into custody there are no legal possibilities and/or obligations after finding out that the same person committed other crime(s) to make a new warrant of arrest because the person is already under custody. The main document during the preliminary investigation is the **accusation order**, which can be changed and supplemented many times.

Problems have arisen when Estonian extradition request were refused – or only satisfied partly – on the grounds that the warrant of arrest did not mention all the offences for which the person was accused. However, under Estonian domestic law, all necessary documents had been supplied.

This example case shows different problems;
A warrant for arrest is absolutely necessary when extradition is sought. The words *'or other order having the same effect and issued in accordance with the procedure laid down in the law of the requesting party'* should be interpreted restrictively to mean a warrant of arrest even where a warrant of arrest bears a different name.
A warrant of arrest may be defined as a formal document, issued by a 'competent authority' in the meaning of Art. 1 of the Convention. The French language expresses this concept with the words 'autorité judiciaire', whereby that authority certifies that a given person is wanted because proceedings against that person for an offence are pending in the requesting State.

A warrant of arrest has therefore the legal value of certifying that measures taken by the requested State pursuant to the extradition request, which restricts the person concerned's right to liberty, are justified under Art. 5.1.c of the European Convention on Human Rights. A warrant for arrest must therefore make a reference to facts that amount to the offence(s) for which the person is sought.

Art. 12.2.b requires that such facts be described separately, one by one, in detail. Vague references (e.g. 'a number of thefts committed between January and April 1997') should be avoided. There must be a clear accord between the facts mentioned in the warrant of arrest and those described for the purposes of Art. 12.2.b.

According to the rule of speciality (Art. 14 of the Convention), there should be no misunderstanding as to the fact for which extradition is granted. A person who has been extradited should therefore not be proceded against (or sentenced, etc.) for any offence committed prior to his surrender other than the one for which he was extradited. 'Offence' should be read as meaning facts punishable under criminal law.

Closely connected to this issue is the question weather different facts either qualify as one single offence, committed in a continuous fashion, or as several offences. This should be resolved in terms of the national law of the requesting State.

The best practise in this field should probably be for States, when requesting extradition, to use an ad hoc 'warrant of arrest' which (a) is issued by a competent authority / autorité judiciaire and (b) makes references to all the facts for which extradition is requested.

8. Article 16.1

As stated above, Art. 16.1 of the Extradition Convention specifically states that requests for provisional arrest should only be used in urgent cases and that it is for the requesting State to decide on the urgency although procedure should be that of the requested State. This raises some problems with regard to human rights and the ability of the warrant issuing authorities in the requested State to come to a decision in the light of all the facts presented. The authorities in the requested State are unable to judge the arbitrary nature of any decision on urgency. This seems to defeat the protection against arbitrariness and the possibility for judicial review envisaged under Art. 5.4 of the Convention on Human Rights. It would seem that, at least under English law, the authorities in the requested State should not even question the reasons for the urgency or whether it could reasonably have been avoided, they must only look at the urgency as it exists at the time of the issue of the warrant for provisional arrest. This means that there is no procedural control on the requesting authorities to pursue the case with reasonable diligence in order to avoid unnecessary use of the provisional arrest procedure[16].

[16] R. v Bow Street Magistrates' court, Ex p. Allison (1996) The Times, 5 June (QBD) (Halsbury's Laws, Vol 18, p. 221)

It would seem that any decision by the requesting State as to urgency must be flawed as the competent authorities are likely to have less information regarding the current position of the person concerned in the requested State. The authorities in the requested State may have information regarding the person concerned's personal or work ties in the requested State which would indicate that flight is unlikely, but that information cannot be used to question the urgency of the request. This seems to render any decision under these provisions arbitrary to some extent, as an independent decision cannot be made on the full extent of the facts at any moment.

As the decision on urgency is taken in the requesting State, it impinges on the detainee's access to judicial review, at least in respect of the urgency of the request which is a key element in the decision for issuing a warrant. Therefore, logically, the lawfulness of the decision on urgency cannot be challenged under Article 5.4 of the Convention on Human Rights.

9. Article 16.3

This Article specifically states that a request for provisional arrest may be made by the requesting State through Interpol. The form that a request may take according to this provision is very vague, allowing for "or any other means affording evidence in writing or accepted by the requested Party". This provision seems to allow enormous latitude and offers little to safeguard the interests of the person concerned.

The use of Interpol "red notices" as a channel for requests for provisional arrest may obscure communication between the requesting and requested Parties reducing the information available for the requested Party to come to a measured decision on issuing a warrant for provisional arrest. The final sentence of Art. 16.3 states that "The requesting authority shall be informed without delay of the result of its request." In cases where Interpol is acting as the channel of the request, it may become unclear who should be informed and by whom. In the interests of a speedy flow of information it seems that bilateral communications between the requested and requesting State should be maintained. In this scenario both authorities are informed of the current situation and provisional arrests would only be made in exceptional cases of urgency, so that the person is only detained as long as necessary.

10. Article 16.5

It is clear from this provision that release from provisional arrest does not prejudice re-arrest and extradition "if a request for extradition is received subsequently". As stated above, Art. 16.5 is governed by Art. 22 that states that the procedure with regard to extradition and provisional arrest shall be in accordance with the procedures of the requested State.

When a request for provisional arrest is being forwarded through Interpol, it may go to a number of States. Therefore, a person who has been released from provisional arrest in one requested State, may be arrested again in another requested State, this third State being unaware of the situation regarding the first arrest or the reasons for release. Multiple releases and re-arrests may therefore take place with no formal request for extradition ever being issued due to blockages in communications between the Parties. Such a situation leads to potential arbitrary detention due to lack of information which may not be considered "lawful" under Art. 5.1 of the Convention on Human Rights.

11. INTERPOL's view on items 9 and 10 above

As stated above, one could think that red notices are unchangeable documents, which cannot take account of developments in an individual case. However, this is not how the red notices' system works. In actual fact, red notices are updated by addenda and NBCs are required to communicate to the General Secretariat any new information relevant to locating the individual.

When the General Secretariat receives such information, it informs the NBCs accordingly and issues an addendum to the red notice in question. A red notice may well state that the individual concerned has been arrested in a certain place and subsequently released. All Interpol Member States receive these addenda and this enables them to adapt whatever action they make take in that respect.

The serious drawback of a purely bilateral exchange of information between requested and requesting States, is that other countries likely to be visited by the fugitive following his release are not informed of his arrest and release. Interpol acts as an intermediary, which means that the Organisation does not keep the information it receives to itself, but that it forwards it to States that may find it useful, i.e. all Member States. This is the basic principle of Interpol's co-operation system. Interpol already plays a vital and central role insofar as it circulates information in an appropriate way. In this way, the system can protect human rights, because it keeps all Parties as fully informed as possible.

In cases of extradition, Interpol takes all possible precautions to ensure that the extradition is requested when the individual is provisionally arrested. The form that is used to request publication of a red notice clearly specifies that the requesting NBC must obtain an assurance from its country's competent authorities that extradition will be requested.

It is not due to the nature of the red notices that some States fail to request extradition. That can happen regardless of which document or procedure will have led to provisional arrest. The point of view of INTERPOL in this matter is that States must respect their commitments in extradition cases, otherwise the whole system of co-operation runs the risk of losing credibility and collapsing completely. These are issues that go beyond the question of red notices and their legal value.

The General Secretariat of INTERPOL may cancel a red notice if the refusal to extradite the fugitive or to assist the requesting State is based on the concept of 'political exception' in extradition law or general principles of criminal law such as *non bis in idem*.

The role of the Supervisory Board for the Control of Interpol's Archives

Interpol emphasises the role played by the Supervisory Board for the Control of Interpol's archives. The idea behind the control of the Organisation's archives is to be found in Art. 8 of the Headquarters Agreement, which was concluded with France on the 3rd of November 1982. In an Exchange of Letters, Interpol was asked to set up a supervisory board for the control of its archives. The Exchange of Letters also defined the Board's responsibilities.

The Supervisory Board for the Control of Interpol's Archives is composed of five independent members from outside the Organisation. The Board makes checks requested by individuals or carries out spot checks, in accordance with procedure defined by the Board itself. It can to request that the information it monitors be amended, updated or destroyed. The Board may ask for the information given in red notices to be amended. In the past, the board has also requested that certain red notices be cancelled. Such request are carried out by the General Secretariat, at times against the wish of the country which had asked for the red notice in question to be published.

The Supervisory Board's activities constitute another level of control, in addition to that carried out by the judicial authorities in Member States.

12. Outcome of the Questionnaire on 'Provisional Arrest'

Article 16 – 'provisional arrest'

As stated above, a questionnaire was circulated to the members of the PC-OC regarding the term 'provisional arrest' under Art. 16 of the Extradition Convention. The following is based on the replies received.

In the context of extradition, an arrest may occur under different circumstances thay may vary from one country to another. 'Arrest' may mean:

a) Police custody pending the examination of the request for provisional arrest;
b) Arrest pending receipt of a formal request for extradition;
c) Arrest pending a decision on a formal request for extradition;
d) Arrest pending the surrender of the person whose extradition has already been decided upon (in Lithuania, maximum duration of such an arrest is determined by the court);
e) (c) + (d) = arrest from receipt of a formal request for extradition until the surrender of the person (in the Slovak Republic, called custody pending extradition).

'Provisional arrest' under the provisions of Art. 16 of European Convention on Extradition only means arrest pending receipt of a formal request for extradition[17].

Article 16.4

In response to a question as to the maximum duration of provisional arrest awaiting a formal request for extradition, most Member States base their practise in Art. 16.4 of the European Convention on Extradition. This Article provides for provisional arrest to be terminated within a period of 18 days after arrest, if a formal request for extradition has not been received by the requested Party and that provisional arrest shall not, in any event exceed 40 days from the date of the arrest.

However, provisional or conditional release at any time is not excluded. Indeed, the person should be unconditionally released if it appears that the intended request for extradition is not being proceeded with[18].

III. CASE-LAW

13. Decisions by the European Commission of Human Rights concerning the regularity of procedures for arrest

On several occasions, the Commission has had to decide on applications against States (requesting extradition) which had had a person handed over in a process involving irregularities at some point. The term often used in this context is abduction. None of these applications has been successful, the Commission taking the view on each occasion that the irregularities committed in the requested State did not render unlawful the detention in the requesting State, which had a basis in law and was in conformity with the ECHR.

Examples to be noted in this context are:

- Application No. 10689/83, Klaus Barbie v. France[19], concerning a 'disguised extradition' from Bolivia to France, rejected as being manifestly ill-founded;

- Application No. 8916/80, Freda v. Italy[20], concerning the handing over of the applicant, who had absconded following provisional release, by the Costa Rica authorities to Italian

[17] This interpretation was confimed in the replies from : Albania, Austria, Croatia, Iceland, Ireland, Israel, Lithuania, Netherlands, Norway, Portugal, Slovak Republic, Sweden, Switserland and 'the former Yugolav Republic of Macedonia'.

[18] See document PC-OC / INF 4 ADDENDUM – REV for more detailed information.

[19] Decision of 4 July 1984, DR 37, p. 230

[20] Decision of 7 October 1980, DR 21, p.254

police officers who came to fetch him from Costa Rica and made him get into an Italian air force plane. The Commission took the view that the fact that the applicant had not been notified of the arrest warrant until his arrival in Italy did not deprive his detention of a basis in law;

- Application No. 28780/95, Illich Ramirez Sanchez (know as 'Carlos') v. France[21], concerning the conditions in which the applicant was handed over by the Sudanese authorities, in Khartoum, to officials of the French secret services who took him to France, where he was notified of an arrest warrant. The Commission took the view that the co-operation between the Sudanese and French authorities was not such as to raise problems in the light of Art. 5 of the ECHR, all the more so or the fact that combating terrorism frequently required co-operation among states;

- Application No. 30607/96, Luis Roldan v. Spain[22], concerning the 'delivery' to the Spanish authorities by the Laotian authorities of the former chief of the Guardia Civil, who had absconded, having been charged with corruption. Although the fact that the documents were false was not disputed, the Commission considered that the applicant had been handed over to the Spanish authorities in pursuance of an international arrest warrant, so that his arrest in Laos and transfer to Spain were in conformity with Art. 5.1.f.

14. Decisions by the European Court of Human Rights concerning the regularity of procedures for arrest

On the other hand, the Court took the view that there had been a violation of Art. 5.1.f when the state expelled an individual, making use of the expulsion procedure in order to circumvent a regulative ruling on extradition delivered by a national court and thereby conducting a 'disguised extradition', as established by the domestic courts themselves (Bozano case[23]).

[21] Decision of 24 June 1996, not published

[22] Decision of 16 October 1996, not published

[23] Ibidem