



MJU-25 (2003) 2
Addendum

25th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE

Sofia (9-10 October 2003)

- **INTERNATIONAL CO-OPERATION IN THE
FIGHT AGAINST INTERNATIONAL
TERRORISM AND IMPLEMENTATION OF
THE RELEVANT INSTRUMENTS OF THE
COUNCIL OF EUROPE**

- **THE RESPONSE OF THE JUSTICE SYSTEM
- CIVIL AND CRIMINAL - TO TERRORISM**

*Report presented by the Secretary General
of the Council of Europe*

(Appendices III and XIII)

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Appendix III

State of signatures and ratifications of the Protocol amending the European Convention on the Suppression of Terrorism (ETS n°: 190)

Treaty open for signature by the member States signatories to Treaty ETS 90

Status as of 30/09/03

Opening for signature :

Place : Strasbourg

Date : 15/05/03

Entry into force :

Conditions : Ratification by Parties to
treaty ETS 90

Date :

Member States of the Council of Europe:

States	Date of signature	Date of ratification	Date of entry into force	Notes	R.	D.	A.	T.	C.	O.
Albania				13						
Andorra	15/05/03									
Armenia	15/05/03									
Austria	15/05/03			13						
Azerbaijan										
Belgium	15/05/03			13						
Bosnia and Herzegovina										
Bulgaria	15/05/03			13						
Croatia	17/09/03			13						
Cyprus	15/05/03			13						
Czech Republic				13						
Denmark	15/05/03			13						
Estonia	15/05/03			13						
Finland	15/05/03			13						
France	15/05/03			13						
Georgia	15/05/03			13						
Germany	15/05/03			13						
Greece	15/05/03			13	X					
Hungary	15/05/03			13						
Iceland	15/05/03			13						
Ireland	15/05/03			13						
Italy	15/05/03			13						

Appendix XIII

Conclusions by the committee of experts on special investigation techniques in relation to acts of terrorism (PC-TI)

Adopted at its 3rd meeting Strasbourg, 22-24 September 2003

Following the study by Council of Europe member States and observers of the use of special investigation techniques in relation to acts of terrorism, based on the answers to a questionnaire drawn up for that purpose,

Having regard to the various Council of Europe texts and instruments referred to in the PC-TI terms of reference of relevance to the prosecution and punishment of terrorist acts, in accordance with European criminal justice standards and respect for human rights,

Having regard to the contributions of the representatives of the CDDH, the CDCJ and the observer states:

The PC-TI has adopted the following conclusions:

1. The special investigation techniques used for law enforcement purposes are numerous, varied and constantly evolving. It is therefore only possible to define them in terms of common characteristics: their secret nature and the fact that their application could infringe fundamental rights and freedoms.
2. Taking account of its terms of reference, the Committee considers that the use of these techniques, whose main variants are known and applied in all the member states, is and must remain confined to criminal investigations and that the most intrusive ones must be reserved for the most serious offences, in particular the various forms of organised crime, including terrorism¹.
3. Given the intrusive and secret nature of special investigation techniques and the need to reconcile effectiveness in combating the most serious forms of crime, such as terrorism, with respect for human rights, the PC-TI stresses the possibility for member States to further develop common principles governing their use.
4. In this context, and taking due account of the guidelines on human rights and the fight against terrorism, the Committee considers that it is of particular importance that the use of special investigation techniques take account of the conditions and restrictions attached to interference with private life (Article 8, ECHR), the fundamental principles governing criminal procedure, such as the

¹ Examination of the replies to the questionnaire does not suggest that special investigation methods and techniques should be specifically confined to the fight against terrorism but rather that they should be seen in the more general context of combating certain serious forms of crime. Even though the Court has considered that "terrorist crime falls into a special category", its intention was not to endorse the setting aside of the fundamental principles enshrined in the European Convention on Human Rights (paragraph 37 of the report).

duty of fairness when collecting evidence (Article 6, ECHR), and the requirement for an effective means of appeal against interference resulting from the use of special investigation techniques (Article 13, ECHR).

5. The international community's increasing involvement in fighting serious forms of crime, such as terrorism, has led to a significant growth in international co-operation in criminal matters and has already resulted in the incorporation of certain special investigation techniques in relevant Council of Europe and European Union instruments concerned with international judicial co-operation.

6. The PC-TI therefore considers that in order to make the international fight against terrorism and other forms of serious crime more effective.

A. It would be feasible to draw up a recommendation on the use of special investigation techniques, so as to invite member States to:

- Further develop common principles governing the use of special investigation techniques reconciling the effectiveness of the fight against serious crime such as terrorism with the respect of human rights and fundamental principles of penal justice, such as the effectiveness of the control. These common principles could address two different aspects: the development of domestic legislation and the practical implementation of special investigation techniques.

- Identify best practice with respect to the role of the judicial and law enforcement authorities involved in the use of special investigation techniques and its control.

- Improve international co-operation in relation with the use of special investigation techniques by optimising the use of the possibilities offered by existing international instruments such as the European Convention on mutual legal assistance in penal matters and its protocols.

- Determine ways to improve the use of joint investigation teams and cross-border operations in relation with special investigation techniques.

- Determine the modalities of an appropriate training for the persons involved in the use of special investigation techniques and in their control and find ways to promote such training.

B. Further consideration could also be given to improving the existing framework of conventions relevant to the use of special investigation techniques in the context of international co-operation. However, the Committee considered that such exercise should be based on an evaluation concerning the implementation of and experience with the existing instruments of relevance in this field.

C. Moreover, the Committee considered that it would equally be possible to develop, in the framework of the Council of Europe, a network of contacts

between law enforcement agencies and judicial authorities in member States as well as with relevant international bodies such as Interpol, Europol and Eurojust.

