

## SUMMARIES OF THE COUNCIL OF EUROPE TREATIES

The summaries available hereunder are designed to meet a practical need, that of supplying the public at large with concise descriptions of the Council of Europe treaties. The summaries are necessarily short and can therefore only give a first introduction to the main features of each treaty.

Subject-matter: **EXTRADITION**

**European Convention on Extradition ([ETS No. 24](#))**, open for signature, in Paris, on 13 December 1957.

Entry into force: 18 April 1960.

The European Convention on Extradition provides for the extradition between Parties of persons wanted for criminal proceedings or for the carrying out of a sentence. The Convention does not apply to political or military offences and any Party may refuse to extradite its own citizens to a foreign country.

With regard to fiscal offences (taxes, duties, customs) extradition may only be granted if the Parties have decided so in respect of any such offence or category of offences. Extradition may also be refused if the person claimed risks the death penalty under the law of the requesting State

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**Additional Protocol to the European Convention on Extradition ([ETS No. 86](#))**, open for signature, in Strasbourg, on 15 October 1975.

Entry into force: 20 August 1979

The European Convention on Extradition (ETS No. 24) bars extradition in respect of all political offences. While it does not define the notion of political offence, it excludes from the scope of such offences the taking of the life of a head of State. The Protocol further limits the scope of such offences by excluding also war crimes and crimes against humanity.

Moreover, the Protocol supplements the provisions of the Convention that deal with the principle *ne bis in idem*, namely its Article 9, by enlarging the number of instances in which the extradition of a person is barred where that person has already been tried for the offence in respect of which the extradition claim was made.

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**European Convention on the Suppression of Terrorism ([ETS No. 90](#))**, open for signature, in Strasbourg, on 27 January 1977.

Entry into force: 4 August 1978.

The Convention is designed to facilitate the extradition of persons having committed acts of terrorism. To this end, it lists the offences that Parties undertake not to consider as political offences, or as offences connected with political offences, or as offences inspired by political motives, namely acts of particular gravity, hijacking of aircraft, kidnapping and taking of hostages, the use of bombs, grenades, rockets, letter or parcel bombs, if their use endangers persons. Moreover, the Convention empowers Parties not to consider as a political offence any act of violence against the life, physical integrity or liberty of a person.

It is expressly provided that nothing in the Convention shall be interpreted as imposing an obligation upon a Party to extradite a person who might then be prosecuted or punished solely on the grounds of race, religion, nationality or political opinion.

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**Second Additional Protocol to the European Convention on Extradition** ([ETS No. 98](#)), open for signature, in Strasbourg, on 17 March 1978.

Entry into force: 5 June 1983.

The Second Protocol is designed to facilitate the application of the Convention on several points and aims, in particular, to include fiscal offences among the category of offences for which a person may be extradited under the Convention. This Protocol also contains additional provisions on judgments *in absentia* and amnesty.

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**Convention on Cybercrime** ([ETS No. 185](#)), open for signature, in Budapest, on 23 November 2001.

Entry into force: 1 July 2004.

The Convention is the first international treaty on crimes committed via the Internet and other computer networks, dealing particularly with infringements of copyright, computer-related fraud, child pornography and violations of network security. It also contains a series of powers and procedures such as the search of computer networks and interception.

Its main objective, set out in the preamble, is to pursue a common criminal policy aimed at the protection of society against cybercrime, especially by adopting appropriate legislation and fostering international co-operation.

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**Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems** ([ETS No. 189](#)), open for signature, in Strasbourg, on 28 January 2003.

Entry into force: 1 March 2006.

This Protocol entails an extension of the Cybercrime Convention's scope, including its substantive, procedural and international cooperation provisions, so as to cover also offences of racist or xenophobic propaganda. Thus, apart from harmonising the substantive law elements of such behaviour, the Protocol aims at improving the ability of the Parties to make use of the means and avenues of international cooperation set out in the Convention (ETS No. 185) in this area.

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**Protocol amending the European Convention on the Suppression of Terrorism** ([ETS No. 190](#)), open for signature, in Strasbourg, on 15 May 2003.

Entry into force: The Protocol will enter into force after its ratification by all Parties to the Convention.

The main features of the Amending Protocol are the following:

- the list of offences to be "depoliticised" has been extended considerably to cover all the offences described in the relevant UN anti-terrorist Conventions and Protocols.
- the introduction of a simplified amendment procedure, which will allow new offences to be added to the list in the future.
- the Convention has been opened to accession by the Observers to the Council of Europe. The Committee of Ministers may decide on a case-by-case basis to invite other States to join the Convention as well.

While the Convention as such does not deal directly with general issues of extradition, the classical discrimination clause has been expanded to include a clause authorising the refusal to extradite to a country where there is a risk of applying a death sentence, or a risk of being subject to torture or life imprisonment without parole.

Finally, the Protocol provides for a follow-up mechanism ("COSTER") in charge of implementing the new procedure in relation to reservations as well as other tasks related to the follow-up of the Convention. This

mechanism will operate in addition to the classic and more general competence of the European Committee on Crime Problems (CDPC) in relation to Conventions in the criminal field.

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**Third Additional Protocol to the European Convention on Extradition** ([CETS No. 209](#)), open for signature, in Strasbourg, on 10 November 2010.

Entry into force: 1 May 2012.

The Protocol supplements the Convention in order to simplify and accelerate the extradition procedure when the person sought consents to extradition.

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**Fourth Additional Protocol to the European Convention on Extradition** ([CETS No. 212](#)), open for signature, in Vienna, on 20 September 2012.

Entry into force: 1 June 2014.

The Fourth Protocol amends and supplements a number of provisions of the Convention in order to adapt it to modern needs. These provisions concern, in particular, the issues of lapse of time, requests and supporting documents, rule of specialty, transit, re-extradition to a third State and channels and means of communication.