



## 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: **LEGAL CO-OPERATION IN CRIMINAL MATTERS - II**

**Criminal Law Convention on Corruption** ([ETS No. 173](#)), open for signature, in Strasbourg, on 27 January 1999.

Entry into force: 1 July 2002.

The Criminal Law Convention on Corruption is an ambitious instrument aiming at the co-ordinated criminalisation of a large number of corrupt practices. It also provides for complementary criminal law measures and for improved international co-operation in the prosecution of corruption offences. The Convention is open to the accession of non-member States. Its implementation will be monitored by the "Group of States against Corruption - GRECO", which started functioning on 1st May 1999. As soon as they ratify it, States which do not already belong to GRECO will automatically become members.

The Convention is wide-ranging in scope, and complements existing legal instruments. It covers the following forms of corrupt behaviour normally considered as specific types of corruption

- active and passive bribery of domestic and foreign public officials;
- active and passive bribery of national and foreign parliamentarians and of members of international parliamentary assemblies;
- active and passive bribery in the private sector;
- active and passive bribery of international civil servants;
- active and passive bribery of domestic, foreign and international judges and officials of international courts;
- active and passive trading in influence;
- money-laundering of proceeds from corruption offences;
- accounting offences (invoices, accounting documents, etc.) connected with corruption offences.

States are required to provide for effective and dissuasive sanctions and measures, including deprivation of liberty that can lead to extradition. Legal entities will also be liable for offences committed to benefit them, and will be subject to effective criminal or non-criminal sanctions, including monetary sanctions.

The Convention also incorporates provisions concerning aiding and abetting, immunity, criteria for determining the jurisdiction of States, liability of legal persons, the setting up of specialised anti-corruption bodies, protection of persons collaborating with investigating or prosecuting authorities, gathering of evidence and confiscation of proceeds. It provides for enhanced international co-operation (mutual assistance, extradition and the provision of information) in the investigation and prosecution of corruption offences.

**Civil Law Convention on Corruption** ([ETS No. 174](#)), open for signature, in Strasbourg, on 4 November 1999.

Entry into force: 1 November 2003.

It is the first attempt to define common international rules in the field of civil law and corruption. It requires Contracting Parties to provide in their domestic law "for effective remedies for persons who have suffered damage as a result of acts of corruption, to enable them to defend their rights and interests, including the possibility of obtaining compensation for damage" (art.1).

The Convention is divided into three chapters, they cover: measures to be taken at national level, international co-operation and monitoring of implementation) and final clauses. In ratifying the Convention, the States undertake to incorporate its principles and rules into their domestic law, taking into account their own particular circumstances.

The Convention deals with :

- compensation for damage;
- liability (including State liability for acts of corruption committed by public officials);
- contributory negligence: reduction or disallowance of compensation, depending on the circumstances;
- validity of contracts;
- protection of employees who report corruption;
- clarity and accuracy of accounts and audits;
- acquisition of evidence;
- court orders to preserve the assets necessary for the execution of the final judgment and for the maintenance of the status quo pending resolution of the points at issue;
- international co-operation.

The Group of States against Corruption (GRECO) will monitor commitments entered into under the Convention by the States Party.

\* \* \*

**Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters** ([ETS No. 182](#)), open for signature, in Strasbourg, on 8 November 2001.

Entry into force: 1 February 2004.

The Protocol is intended to improve States' ability to react to cross-border crime in the light of political and social developments in Europe and technological developments throughout the world. It will therefore serve to improve and supplement the 1959 Convention and the 1978 Additional Protocol to it, in particular by broadening the range of situations in which mutual assistance may be requested and making the provision of assistance easier, quicker and more flexible. It also takes account of the need to protect individual rights in the processing of personal data.

\* \* \*

**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.

\* \* \*

**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.

\* \* \*

**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.

\* \* \*

**Additional Protocol to the Criminal Law Convention on Corruption** ([ETS No. 191](#)), open for signature, in Strasbourg, on 15 May 2003.

Entry into force: 1 February 2005.

This Protocol extends the scope of the Convention (ETS No. 173) to arbitrators in commercial, civil and other matters, as well as to jurors, thus complementing the Convention's provisions aimed at protecting judicial authorities from corruption. Parties to the Convention will have to adopt the necessary measures to establish, as criminal offences, the active and passive bribery of domestic and foreign arbitrators and jurors.

\* \* \*

**Council of Europe Convention on the Prevention of Terrorism** ([CETS No. 196](#)), open for signature, in Warsaw, on 16 May 2005.

Entry into force: 1 June 2007.

The Council of Europe has adopted this Convention to increase the effectiveness of existing international texts on the fight against terrorism. It aims to strengthen member States' efforts to prevent terrorism in two different ways:

- by establishing as criminal offences certain acts that may lead to the commission of terrorist offences, namely: public provocation, recruitment and training
- by reinforcing co-operation on prevention both internally (national prevention policies), and internationally (modification of existing extradition and mutual assistance arrangements and additional means).

The Convention contains a provision on the protection and compensation of victims of terrorism. A consultation process is planned to ensure effective implementation and follow up.

\* \* \*

**Council of Europe Convention on Action against Trafficking in Human Beings** ([CETS No. 197](#)), open for signature, in Warsaw, on 16 May 2005.

Entry into force: 1 February 2008.

The Convention is a comprehensive treaty mainly focused on the protection of victims of trafficking and the safeguard of their rights. It also aims at preventing trafficking as well as prosecuting traffickers.

The Convention applies to all forms of trafficking; whether national or transnational, whether or not related to organised crime and whoever the victim, women, men or children and whatever the form of exploitation, sexual exploitation, forced labour or services, etc.

The Convention provides for the setting up of an independent monitoring mechanism ("GRETA") guaranteeing Parties' compliance with its provisions.

\* \* \*

**Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism** ([CETS No. 198](#)), open for signature, in Warsaw, on 16 May 2005.

Entry into force: 1 May 2008.

The Council of Europe decided to update and widen its 1990 Convention to take into account the fact that not only could terrorism be financed through money laundering from criminal activity, but also through legitimate activities.

This new Convention is the first international treaty covering both the prevention and the control of money laundering and the financing of terrorism. The text addresses the fact that quick access to financial information or information on assets held by criminal organisations, including terrorist groups, is the key to successful preventive and repressive measures, and, ultimately, is the best way to stop them.

The Convention includes a mechanism to ensure the proper implementation by Parties of its provisions.

\* \* \*

**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.

\* \* \*

**Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health** ([CETS No. 211](#)), open for signature, in Moscow on 28 October 2011

Entry into force: 1 January 2016.

The "Medicrime Convention" is the first international criminal law instrument to oblige States Parties to criminalise:

- the manufacturing of counterfeit medical products;
- supplying, offering to supply and trafficking in counterfeit medical products;
- the falsification of documents;
- the unauthorised manufacturing or supplying of medicinal products and the placing on the market of medical devices which do not comply with conformity requirements.

The Convention provides a framework for national and international co-operation across the different sectors of the public administration, measures for coordination at national level, preventive measures for use by public and private sectors and protection of victims and witnesses. Furthermore, it foresees the establishment of a monitoring body to oversee the implementation of the Convention by the States Parties.

\* \* \*

**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 speciality, transit, re-extradition to a third State and channels and means of communication.

\* \* \*

**Council of Europe Convention on the Manipulation of Sports Competitions** ([CETS No. 215](#)), open for signature, in Magglingen, on 18 September 2014.

Entry into force: 1 September 2019.

The purpose of this Convention is to prevent, detect, punish and discipline the manipulation of sports competitions, as well as enhance the exchange of information and national and international cooperation between the public authorities concerned, and with sports organisations and sports betting operators. The Convention calls on governments to adopt measures, including legislation, notably:

- Prevent conflicts of interest in sports betting operators and sports organisations;
- Encourage the sports betting regulatory authorities to fight against fraud, if necessary by limiting the supply of sports bets or suspending the taking of bets ;
- Fight against illegal sports betting, allowing to close or restrict access to the operators concerned and block financial flows between them and consumers.

Sports organisations and competition organisers are also required to adopt and implement stricter rules to combat corruption, sanctions and proportionate disciplinary and dissuasive measures in the event of offences, as well as good governance principles. The Convention also provides safeguards for informants and witnesses.

\* \* \*

**Council of Europe Convention against Trafficking in Human Organs** ([CETS No. 216](#)), open for signature, in St Jacques-de-Compostelle, on 25 March 2015.

Entry into force: 1 March 2018.

The Convention calls on governments to establish as a criminal offence the illegal removal of human organs from living or deceased donors:

- where the removal is performed without the free, informed and specific consent of the living or deceased donor, or, in the case of the deceased donor, without the removal being authorised under its domestic law;
- where, in exchange for the removal of organs, the living donor, or a third party, receives a financial gain or comparable advantage;
- where in exchange for the removal of organs from a deceased donor, a third party receives a financial gain or comparable advantage.

The Convention also provides protection measures and compensation for victims as well as prevention measures to ensure transparency and equitable access to transplantation services.

\* \* \*

**Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism** ([CETS No. 217](#)), open for signature, in Riga, on 22 October 2015.

Entry into force: 1 July 2017.

The Protocol to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) makes a number of acts, including taking part in an association or group for the purpose of terrorism, receiving terrorist training, travelling abroad for the purposes of terrorism and financing or organising travel for this purpose, a criminal offence. The Protocol also provides for a network of 24-hour-a-day national contact points facilitating the rapid exchange of information.

\* \* \*

**Second Additional Protocol to the Convention on Cybercrime on enhanced co-operation and disclosure of electronic evidence** ([CETS No. 224](#)), open to signature, in Strasbourg, on 12 May 2022.

Entry into force: The Protocol will enter into force following five ratifications.

Considering the proliferation of cybercrime and the increasing complexity of obtaining electronic evidence that may be stored in foreign, multiple, shifting or unknown jurisdictions, the powers of law enforcement are limited by territorial boundaries. As a result, only a very small share of cybercrime that is reported to criminal justice authorities is leading to court decisions.

As a response, the Protocol provides a legal basis for disclosure of domain name registration information and for direct co-operation with service providers for subscriber information, effective means to obtain subscriber information and traffic data, immediate co-operation in emergencies, mutual assistance tools, as well as personal data protection safeguards.