

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

**COMITTEE OF EXPERTS**  
**ON THE OPERATION OF EUROPEAN CONVENTIONS**  
**ON CO-OPERATION IN CRIMINAL MATTERS**  
**PC-OC**

**SUMMARY REPORT**  
**of the 54<sup>th</sup> meeting of the PC-OC**

**Strasbourg, 28-30 April 2008**  
**AGORA, Room G 01**

**EXECUTIVE SUMMARY**

At its 5th meeting, the PC-OC:

***Simplified Extradition***

- amended the draft Additional Protocol to the European Convention on Extradition, invited delegations to send their comments on the amended text, and instructed the PC-OC Mod to finalise the text in the light of its guidelines and these comments (paragraphs 4-19, Appendix IV);

***Compensation of persons***

- extended the deadline for replies to the questionnaire on this issue and requested all delegations to reply, if they have not already done so, by 1 June 2008;  
- instructed the PC-OC Mod to continue its examination of this issue (paragraphs 20-22);

***Rule of speciality***

- having identified issues of particular concern relating to the rule of speciality, instructed the PC-OC Mod to examine a written proposal for a binding instrument, to be submitted by two of its members (paragraphs 23-26);

***Lapse of time***

- instructed the PC-OC Mod to elaborate draft provisions concerning this issue for a binding instrument on the basis of a concrete draft text, to be submitted by a member of the PC-OC (paragraphs 27-31);

***Follow-up of the 28th Conference of the European Ministers of Justice (25-26 October 2007, Lanzarote) : the relationship between asylum procedures and extradition procedures***

- adopted a questionnaire on this issue and instructed the Secretariat to send it to all delegations (deadline for replies: 1 September 2008; paragraphs 32-33, Appendix V);

***Practical problems and concrete cases concerning the implementation of conventions***

- had an exchange of views concerning a practical problem raised by Belgium relating to the implementation of the European Convention on Mutual Assistance in Criminal Matters (paragraphs 36-38);

***Composition of the PC-OC Mod***

- considering the risk of disruption of its work on simplified extradition, decided not to change the current composition of the PC-OC Mod until its 55th meeting (see paragraph 39);

***Information concerning the implementation of practical measures***

- took note of the information provided by the Secretariat on the current state of implementation of practical measures and instructed the Secretariat to send reminders to those States who have not yet provided the necessary information in this respect (see paragraph 40-41);

- set the dates for its next meetings as 30 September-2 October 2008 for the 6<sup>th</sup> meeting of the PC-OC Mod and 4-7 November 2008 for the 55<sup>th</sup> meeting of the PC-OC.

## 1. OPENING OF THE MEETING

1. The Chair, Ms Barbara Göth-Flemmich (Austria) opened the meeting and thanked all delegations for their contributions to the preparation of the plenary meeting through their replies to the various questionnaires and their written comments on the draft 3<sup>rd</sup> Additional Protocol to the European Convention on Extradition.
2. The Director of Standard Setting of the Directorate General of Human Rights and Legal Affairs (DG-HL), Mr Jan Kleijssen, informed the PC-OC about recent developments within the Council of Europe in the criminal law field. He congratulated the PC-OC for progress it had already achieved regarding the modernisation of the European Convention on Extradition and thanked delegations for their co-operation in view of the implementation of practical measures (see also paragraphs 40-41 below).

## 2. ADOPTION OF THE DRAFT AGENDA

3. The agenda was adopted, as it appears in Appendix II to the report. Appendix I contains the list of participants.

## PREPARATION OF NORMATIVE TEXTS CONCERNING THE EUROPEAN CONVENTION ON EXTRADITION

### 3.1 SIMPLIFIED EXTRADITION

4. The PC-OC examined the issue of simplified extradition on the basis of a draft 3<sup>rd</sup> Additional Protocol to the European Convention on Extradition (PC-OC (2008) 05 rev). This document had been amended by the PC-OC Mod at its enlarged 5<sup>th</sup> meeting and submitted to the plenary.
5. During its discussions, the PC-OC focussed on the following issues in particular:
  - ***The scope of the Protocol:***
6. The PC-OC discussed the question as to whether the scope of the future 3<sup>rd</sup> Additional Protocol to the European Convention on Extradition should be limited to simplified extradition or extended to include other issues relating to the modernisation of the European Convention on Extradition currently being examined by the Committee (rule of speciality, lapse of time, compensation, etc.). The alternative would be to bring these issues together in a separate protocol.
7. Some delegations expressed the view that it would be more expedient to treat simplified extradition separately from other issues. The PC-OC agreed that its priority should be the finalisation of a binding instrument on simplified extradition as soon as possible. Nevertheless, considering that it was not necessary at this stage to exclude the possibility of inserting other issues in this protocol, provided that they are finalised on time, the PC-OC decided to take its final decision on this matter at its next plenary meeting.
  - ***Two variants for the use of simplified extradition procedures (Article 2):***
8. The PC-OC examined two distinct hypotheses for the use of simplified extradition procedures, depending on whether simplified extradition is initiated on the basis of a request for provisional arrest, or a formal extradition request in accordance with the Convention. The PC-OC agreed to cater for the two variants in the same article in the draft Protocol (currently Article 2).
9. Aware of the fact that a number of delegations cannot proceed without a formal extradition request in all cases, the PC-OC agreed that the Protocol should provide for the possibility of making a reservation regarding the first variant (i.e. simplified extradition only on the basis of a request for provisional arrest). The PC-OC decided that the best way for doing this would be to include Article 2, paragraph 1 among the list of provisions which can be subject to a reservation (currently Article 17, paragraph 2 of the draft Protocol). It also agreed that the reasoning behind this drafting decision should be made explicit in the explanatory report.

- ***Time limits for the revocation of consent and of renunciation to the entitlement to the rule of speciality (Article 5, paragraph 5):***

10. The PC-OC took note of the fact that the possibility of revoking either consent or renunciation to the entitlement to the rule of speciality is a very important principle for some States. Therefore, while consent and renunciation is considered irrevocable in principle, Article 5, paragraph 5 of the draft Protocol provides the possibility for States to allow for such revocation by way of a declaration made at the time of ratification.
11. The PC-OC was also aware, however, that an untimely revocation might cause legal and practical difficulties, in particular with respect to the rule of speciality. The majority of delegations were therefore in favour of introducing time limits beyond which consent and renunciation should become irrevocable in all cases.
12. Following a debate concerning which time limits would be acceptable for those countries particularly attached to the principle of revocability, the PC-OC came to the compromise conclusion that two separate deadlines should be envisaged in the final draft. It decided to change Article 5, paragraph 5 of the draft Protocol to the effect that consent to simplified extradition shall become irrevocable at the time of the notification of the extradition decision by the requested State to the requesting State, whereas renunciation to the entitlement to the speciality rule could be revoked until the date of surrender. The explanatory report should make clear that these would be the maximum time limits, which do not preclude shorter deadlines for revocation of either consent or renunciation.
13. Nevertheless, the PC-OC took note of the fact that two delegations considered that this new drafting option could still be problematic in certain situations. It instructed the PC-OC Mod to look further into this issue and identify possible solutions, in particular in the light of written comments sent by delegations on the new wording. An additional problem highlighted by one delegation was the definition of the actual date of surrender. In this context, the PC-OC considered that a modification of the templates for the PC-OC database on national procedures for extradition, with a view to including this information for each State Party, could be envisaged.

- ***Time limits for the notification of consent and of the extradition decision:***

14. The PC-OC took note of the fact that the PC-OC Mod proposed to include only one time limit for the notification of the extradition decision, leaving out a time limit for the notification of consent, by deleting Article 7bis of the draft Protocol. This drafting proposal by the PC-OC Mod implied that, following the notification of provisional arrest under Article 16, paragraph 3, the requesting State should in all cases proceed with the preparation of a request for extradition and the supporting documents required by Article 12 of the Convention, regardless of the consent of the person sought.
15. Many delegations considered that this option would reduce the added value of the Protocol. Given that it is time-consuming and expensive to prepare a formal request and the necessary translations, they considered that it would be more efficient to know in advance that the person consented and that these resources can therefore be saved. In addition, the majority of delegations were in favour of including a short time limit (not longer than 10 days) for the notification of consent. The PC-OC decided therefore to keep Article 7bis with this time limit. It also agreed that the explanatory report should make clear that this time limit only applies in those cases where the requested State is able to proceed on the basis of a request for provisional arrest, in accordance with Article 2, paragraph 1 of the draft protocol.

- ***Time limits for surrender:***

16. The PC-OC discussed the two alternatives suggested by the PC-OC Mod regarding time limits for surrender. While most delegations agreed on the necessity of including a time limit for surrender in the future Protocol, opinions were divided between the various delegations as to the most appropriate solution. The PC-OC therefore discussed and agreed on a third alternative and amended the draft Protocol accordingly.
17. While acknowledging general support for this option, the PC-OC took note of the concerns of some delegations that a deadline of 20 days might be too short. The PC-OC agreed that the explanatory report should at any rate clarify the relationship between the Convention and the Protocol, in particular as regards the flexibility provided in case one of the Parties is not able to surrender or take over the

extradited person within the given time frame. Reference should also be made to the need of using modern means of communication (Article 8 of the draft Protocol) in this context.

- **Reservations:**

18. The PC-OC decided that reservations were a technical issue which should be looked at in more detail by the PC-OC Mod at its next meeting.
19. The PC-OC decided to instruct the Secretariat to send the draft 3rd Protocol as amended by the plenary (see Appendix IV) to all delegations and invite them to send their comments on the amended draft to the Secretariat by 1 September 2008. It instructed the PC-OC Mod to finalise the draft text at its next meeting in the light of the discussions held at the present meeting and of these comments, and to submit the amended Protocol to the approval of the PC-OC at its 55th plenary meeting. The PC-OC also instructed the Secretariat to begin the preparation of the draft explanatory report of the 3rd Additional Protocol.

### **3.2. COMPENSATION OF PERSONS**

20. The PC-OC Mod examined the replies to a questionnaire on the compensation of persons in the framework of extradition procedures (PC-OC (2007) 10 rev). It took note of the fact that the PC-OC Mod, while agreeing on the importance of the issues relating to compensation, considered that the preparation of a normative text dealing with these matters was less urgent than some other issues on the PC-OC's agenda, such as simplified extradition, the rule of speciality or lapse of time.
21. Considering that the situation regarding compensation is very different from one member State to another, and in view of the complexity of the issues involved, the PC-OC decided that a more complete picture was necessary in order to proceed with the work on the modernisation of standards relating to compensation. Therefore, it decided to extend the deadline for replies to the questionnaire to 1 June 2008.
22. The PC-OC instructed the PC-OC Mod to continue examining this issue on the basis of these replies. It also found that it would be useful to commission an expertise on the case-law of the ECHR regarding compensation after the reception of further replies.

### **3.3. RULE OF SPECIALITY**

23. The PC-OC took note of the replies to the questionnaire on the rule of speciality (PC-OC (2008) 01 rev) and the presentation by the Secretariat of an information document summarising the replies (PC-OC (2008) 12). It noted that the PC-OC Mod considered the rule of speciality as a major priority, to be dealt with as quickly as possible.
24. Ms Joana Gomes Ferreira (Portugal) (Portugal) and Mr Branislav Boháčik (Slovakia) presented example cases, where difficulties in relation with the rule of speciality had been encountered, highlighting the complexity of the issues involved. They underlined the fact that extension of extradition to new offences is usually characterised by poorer co-operation compared to the initial request and can cause significant delays, which also have negative consequences for the Human Rights of the defendant. Mr Bohacik gave examples of cases where persons had to be released owing to procedural concerns relating to the speciality rule, and stated that a balance needed to be struck between the rules of the European Convention on Extradition and the interest of justice.
25. On the basis of these presentations and the ensuing discussion, the PC-OC identified the following issues which should be addressed in a future binding instrument:
  - Lack of time limits: Many delegations considered that the absence of a time limit for the requested State to give its consent to the extension of extradition to new offences lead to long delays and create problems for criminal procedures in requesting States. The PC-OC agreed that the introduction of such a time limit would be a clear added value in the context of the modernisation of the European Convention on Extradition;
  - Consent of the person: the PC-OC agreed that, in the light of modern trends in international co-operation, consideration should be given to the possibility of affirming the rule of speciality as the right of the person concerned rather than that of the requested State. In this context, the importance of the consent of the person concerned to the extension of the extradition decision should be emphasised;

- Lack of legal basis for detention: in the interest of justice, it might be useful to foresee the possibility of detention of the extradited person, on the basis of new offences discovered after surrender, under strict conditions. One delegation proposed the introduction of an “emergency custody procedure” in such cases;
- Meaning of “having had the opportunity to leave the territory” (Article 14, paragraph 1.b): the meaning of this provision might need to be rethought in the modern context, for example given the absence of border controls inside the Schengen area;
- Meaning of “final discharge” (Article 14, paragraph 1.b): the discussions of the PC-OC brought to light different interpretations given on this concept by different legal systems;
- Questions relating to re-extradition.

26. Having identified these issues, the PC-OC decided to proceed with the examination of this item on the basis of a future written proposal for a binding instrument. It welcomed the fact that Mr Branislav Boháčik (Slovakia) and Mr Per Hedvall (Sweden) volunteered to submit such a draft text before the next PC-OC Mod meeting. The PC-OC instructed the PC-OC Mod to examine this text at its next meeting and to submit concrete proposals to the PC-OC plenary in November 2008.

### **3.4. LAPSE OF TIME**

27. The PC-OC discussed this item on the basis of a background information document prepared by the Secretariat (PC-OC (2008) 06) and the discussions that took place at the 5<sup>th</sup> enlarged meeting of the PC-OC Mod.

28. The PC-OC agreed that, in the context of the modernisation of the European Convention on Extradition, lapse of time should be changed from a mandatory ground for refusal into an optional ground for refusal.

29. As regards the determination of the applicable law for the determination of lapse of time, while the majority of delegations having taken the floor favoured the limitation of lapse of time considerations to the law of the requesting State, some States were reluctant to support this option, which they considered too ambitious.

30. Mr Vladimir P. Zimin (Russian Federation) proposed that the more progressive option of limiting lapse of time provisions to the law of the requesting State should be envisaged, with the additional possibility for States Parties to make reservations to this provision which should allow all States Parties to the Convention to ratify the future instrument. These reservations could in essence provide for the possibility of taking account of the law of the requested State (except for interruption) or providing for lapse of time under the law of the requested State in cases where that State has jurisdiction on the relevant offences in accordance with its law.

31. The PC-OC decided to proceed to discuss this issue further on the basis of this proposal and thanked the Russian delegation for accepting to submit this draft text to the Secretariat in writing. It instructed the PC-OC Mod to elaborate draft provisions for a binding instrument on the basis of this text at its next meeting.

### **4. FOLLOW-UP OF THE 28<sup>TH</sup> CONFERENCE OF THE EUROPEAN MINISTERS OF JUSTICE (25-26 OCTOBER 2007, LANZAROTE) : THE RELATIONSHIP BETWEEN ASYLUM PROCEDURES AND EXTRADITION PROCEDURES**

32. The PC-OC examined Resolution No. 1 on access to justice for migrants and asylum seekers adopted by the Ministers of Justice, in particular its paragraph 16c, on the basis of which the Committee of Ministers entrusted the CDPC with the task of examining “the relationship between asylum procedures and extradition procedures”. The CDPC Bureau decided to submit this part of the Resolution to the PC-OC and instructed it to take stock of the situation in different member States and to reflect on possible responses to common challenges.

33. The PC-OC discussed the issue of the relationship between asylum and extradition procedures on the basis of an information document submitted by Mr Branislav Boháčik (Slovakia). It then examined a questionnaire prepared by the Swiss and Slovak delegations and adopted it with amendments, as set out in Appendix V to this report. It instructed the Secretariat to send it to all delegations for replies and requested the latter to send their replies to the Secretariat before 1 September 2008, in order to allow for the examination of these replies by the PC-OC Mod at its next meeting.

**5. OPINION OF THE CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE) ON “WAYS OF IMPROVING INTERNATIONAL CO-OPERATION IN THE CRIMINAL JUSTICE FIELD”**

34. The PC-OC took note of the background information provided by Mr Stéphane Leyenberger, Secretary to the CCPE, on this first opinion of the CCPE. The PC-OC welcomed the acknowledgement by the CCPE of the value of the work of the PC-OC and the fact that many of the problems raised by the CCPE have been or are being addressed by the PC-OC.
35. As regards the recommendation of the CCPE to establish a structured co-operation and exchanges between the Council of Europe on the one hand, and Eurojust and the European Judicial Network on the other hand, the Chair suggested that closer links between the PC-OC and these bodies could be envisaged, including the possibility for these bodies to be represented at the PC-OC meetings and vice versa.

**6. PRACTICAL PROBLEMS AND CONCRETE CASES CONCERNING THE IMPLEMENTATION OF CONVENTIONS**

36. The PC-OC had an exchange of views concerning a practical problem raised by the Belgian delegation in connection with the European Convention on Mutual Assistance in Criminal Matters, concerning the refusal of some States Parties to render mutual legal assistance, on the grounds that the requests concern their nationals. The discussions showed that this is a difficulty shared by many member States.
37. The Russian delegation informed the PC-OC that Russia had in the past refused mutual assistance in certain cases, on the grounds that the suspected or accused person had Russian nationality. The reasons for this were a problem with the translation of the Mutual Assistance Convention and a requirement in national law, according to which an official notice of accusation must be provided to the person concerned by the Russian authorities prior to interrogation. The PC-OC welcomed the information that the Russian Federation was considering changing its code of criminal procedure to allow mutual legal assistance in such cases. It also took note of the following three approaches which could allow for the continuation of co-operation in the meantime:
- requesting the authorities to initiate proceedings against the person;
  - requesting the authorities to effect service of a summons for the person concerned to appear before the judicial authorities of the requesting Party;
  - sending the accusation in order to allow the authorities to acquaint the person with it and to record and transmit the statement of the person to the requesting Party.
38. Belgium and the PC-OC welcomed the positive outcome of these discussions. The PC-OC reiterated the importance of its original task of discussing such practical problems in order to share positive experience and identifying solutions.

**7. COMPOSITION OF THE PC-OC MOD**

39. The PC-OC discussed the composition of its restricted Group of experts on international co-operation (PC-OC Mod). Considering the risk of disruption of its work on simplified extradition, the PC-OC agreed not to change the current composition of the Group until the 55th meeting of the PC-OC, while maintaining the possibility for member States which are not members of the Group to contribute to its work, by participating in its meetings or through written contributions.

**8. INFORMATION CONCERNING THE IMPLEMENTATION OF PRACTICAL MEASURES**

40. The PC-OC took note of the information provided by the Secretariat on the state of play concerning the implementation of practical measures (list of points of contact, national procedures regarding extradition and mutual assistance in criminal matters). It welcomed, in particular, the launching of the database on national procedures relating to extradition and mutual legal assistance, as well as the nomination of single points of contact by member States. The Committee observed that information from a number of countries was missing and instructed the Secretariat to send reminders to those States who have not yet provided the necessary information in relation with the network of single points of contact and the national procedures relating to extradition.

41. The PC-OC agreed on the importance of updating this information at regular intervals and of reviewing periodically the ways in which the existing information can be enriched. It therefore decided to include this issue on the agenda of its next meeting. It also took note of the information that the Secretariat is seeking to acquire contact information with regard to third countries having ratified the relevant Council of Europe Conventions.

**9. ANY OTHER BUSINESS**

42. The PC-OC took note of information on the 3rd meeting of the Cybercrime Convention Committee (T-CY, 3-4 April 2008) provided by the Secretariat and Mr Branislav Boháčik (Slovakia), representative of the CDPC to the T-CY. In particular, Mr Boháčik drew the attention of the PC-OC to the fact that the T-CY had discussed the issue of electronic evidence and suggested that the PC-OC also look into this issue.

43. The PC-OC took note of the fact that the T-CY had expressed its gratitude to PC-OC delegations which have replied to the questionnaire on mutual legal assistance in computer-related cases its questionnaire and its readiness to examine further replies in the future. The PC-OC therefore instructed the Secretariat to remind delegations who have not yet replied to this questionnaire, to do so before the next T-CY meeting in the spring of 2009.

44. The PC-OC was informed by the Secretariat of an initiative by the Treaty Office of the Council of Europe to make available translations into non-official languages of Council of Europe's Conventions on the Treaty Office website. It invited delegations to send to the Secretariat, where available, official translations of the relevant conventions into their national languages.

**10. DATES OF THE NEXT MEETINGS**

45. The PC-OC decided to hold its next meetings on the following dates:

- 6th enlarged meeting of the restricted Group of Experts: 30 September – 2 October 2008;
- 55th meeting of the PC-OC: 4-7 November 2008.

**APPENDIX I****LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS****MEMBER STATES / ETATS MEMBRES****ALBANIA / ALBANIE**

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**APPENDIX II****Agenda**

1. **Opening of the meeting**
2. **Adoption of the draft agenda**  
Working documents  
Draft agenda [PC-OC \(2008\) OJ 1](#)  
Draft annotated agenda [PC-OC \(2008\) 11](#)
3. **Preparation of normative texts concerning the European Convention on Extradition**  
Working documents  
Report of the 56th CDPC Plenary meeting [CDPC \(2007\) 24](#)  
Summary report of the 53rd meeting of the PC-OC [PC-OC \(2007\) 14](#)  
Summary Report of the CDPC Bureau meeting 16-18 January 2008 [CDPC-BU \(2008\) 07](#)  
Summary Report of the 5<sup>th</sup> enlarged meeting of the PC-OC Mod [PC-OC Mod \(2008\) 03](#)
  - 3.1. **Simplified extradition**  
Working documents  
Revised preliminary draft text relating to simplified extradition [PC-OC \(2007\) 11 Rev](#)  
Comments :Preliminary draft text relating to simplified extradition [PC-OC \(2008\) 02](#)  
(Revised)  
Draft 3<sup>rd</sup> Additional Protocol to the European Convention on [PC-OC \(2008\) 05 rev](#)  
Extradition  
Background information on the document PC-OC (2008) 05 rev [PC-OC \(2008\) 09](#)  
Comments on the Draft 3<sup>rd</sup> Additional Protocol [PC-OC \(2008\) 10](#)
  - 3.2. **Compensation of persons**  
Working documents  
Questionnaire on compensation issues [PC-OC \(2007\) 10 Rev](#)  
Replies to the questionnaire on compensation issues [PC-OC \(2008\) 03 Rev](#)  
Summary of replies ...
  - 3.3. **Rule of speciality**  
Working documents  
Questionnaire on the rule of speciality [PC-OC \(2008\) 01 Rev](#)  
Replies to the questionnaire on the rule of speciality [PC-OC \(2008\) 04 Rev](#)  
Summary of replies [PC-OC \(2008\) 12](#)  
Concrete examples of difficulties relating to the rule of speciality ...
  - 3.4. **Lapse of time**  
Working documents  
Background information prepared by the Secretariat [PC-OC \(2008\) 06](#)
4. **Follow-up of the 28<sup>th</sup> Conference of the European Ministers of Justice (25-26 October 2007, Lanzarote): The relationship between asylum procedures and extradition procedures**  
Working documents  
Resolution No. 1 on access to justice for migrants and asylum [Resolution No. 1](#)  
seekers  
Draft Questionnaire on the relationship between asylum procedures PC-OC(2008)13  
and extradition procedures
5. **Opinion of the Consultative Council of European Prosecutors (CCPE) on “Ways of improving international co-operation in the criminal justice field”**  
Working document  
Opinion No. 1 (2007) [CCPE \(2007\) 25](#)

6. **Practical problems and concrete cases concerning the implementation of conventions**  
Working document  
Practical problems submitted by members of the PC-OC ...
7. **Composition of the PC-OC Mod**
8. **Information concerning the implementation of practical measures (database on national procedures and network of single points of contact)**  
Working document  
List of single points of contact PC-OC / Inf 75 (restricted)
9. **Any other business**
10. **Dates of the next meeting**



### **APPENDIX III**

#### **List of decisions adopted at the 54th meeting of the PC-OC 28-30 April 2008**

The PC-OC decided to:

#### **1. Preparation of normative texts concerning the European Convention on Extradition**

##### ***a) Simplified extradition***

- examine the draft 3<sup>rd</sup> Additional Protocol to the European Convention on Extradition (PC-OC (2008) 05 Rev), concentrating on the following key issues:
  - o the scope of the 3<sup>rd</sup> Additional Protocol (limitation or not to simplified extradition);
  - o the two variants for the use of simplified extradition procedures (Article 2) and the possibility of making a reservation under Article 2, paragraph 1;
  - o time limits for the revocation of consent and of renunciation to the entitlement to the rule of speciality (Article 5, paragraph 5);
  - o time limits for the notification of consent and of the decision of the requested State on granting simplified extradition (Articles 7 and 7bis),
  - o deadlines for surrender (Article 9);
  - o reservations to be envisaged to the provisions of the Protocol;
- give guidance to the PC-OC Mod concerning these issues;
- instruct the Secretariat to send the draft 3<sup>rd</sup> Protocol as amended by the plenary to all delegations and invite them to send their comments on the amended draft to the Secretariat by 1 September 2008;
- instruct the PC-OC Mod to finalise the draft text at its next meeting in the light of the discussions held at the present meeting and of these comments, and to submit the amended Protocol to the approval of the PC-OC at its 55<sup>th</sup> plenary meeting;
- instruct the Secretariat to begin the preparation of the draft explanatory report of the 3<sup>rd</sup> Additional Protocol;

##### ***b) Compensation of persons***

- extend the deadline for replies to the questionnaire PC-OC (2007) 10 rev until 1 June 2008;
- request all delegations who have not done so to send their replies to the Secretariat by this new date;
- instruct the PC-OC Mod to pursue the examination of this item;

##### ***c) Rule of speciality***

- take note of the replies to the questionnaire PC-OC (2008) 01 rev, the summary of replies prepared by the Secretariat (PC-OC (2008) 12) and practical problems brought to its attention by some of its members;
- having identified issues of particular concern relating to the rule of speciality, proceed with the examination of this item on the basis of a future written proposal for a binding instrument;
- thank Mr Branislav Boháčik (Slovakia) and Mr Per Hedvall (Sweden) for volunteering to submit such a draft text before the next PC-OC Mod meeting;
- instruct the PC-OC Mod to examine this text at its next meeting and to make concrete proposals to the plenary;

##### ***d) Lapse of time***

- having examined the issue of lapse of time on the basis of a background information document prepared by the Secretariat (PC-OC (2008) 06) and of the discussions which took place at the 5<sup>th</sup> PC-OC Mod meeting, proceed with the examination of this point on the basis of a concrete draft text;
- welcome a proposal by Mr Vladimir P. Zimin (Russian Federation) for such a draft text and invite him to submit this draft text to the Secretariat in writing;
- instruct the PC-OC Mod to elaborate draft provisions for a binding instrument on the basis of this text;

## **2. Practical problems and concrete cases concerning the implementation of conventions**

- have an exchange of views concerning a practical problem raised by Belgium relating to the implementation of the European Convention on Mutual Assistance in Criminal Matters;
- welcome information provided by the Russian delegation pointing at developments which could lead to the resolution of this problem in the future and three approaches which could allow for the continuation of co-operation in the meantime;

## **3. Follow-up of the 28<sup>th</sup> Conference of the European Ministers of Justice (25-26 October 2007, Lanzarote): the relationship between asylum procedures and extradition procedures**

- examine a draft questionnaire on the relationship between asylum procedures and extradition procedures prepared by the Swiss and Slovak delegations (PC-OC (2008) 13) and adopt it with amendments;
- instruct the Secretariat to send this questionnaire to all delegations for replies;
- request all delegations to send their replies to the Secretariat before 1 September 2008, in order to allow for the examination of these replies by the PC-OC Mod at its next meeting;

## **4. Opinion of the Consultative Council of European Prosecutors (CCPE) on “Ways of improving international co-operation in the criminal justice field”**

- take note of the Opinion of the Consultative Council of European Prosecutors;

## **5. Composition of the PC-OC Mod**

- considering the risk of disruption of its work on simplified extradition, agree not to change the current composition of the Group until the 55<sup>th</sup> meeting of the PC-OC, while maintaining the possibility for member States which are not members of the Group to contribute to its work, by participating in its meetings or through written contributions;

## **6. Information concerning the implementation of practical measures**

- take note of the information provided by the Secretariat on the current state of implementation of practical measures (list of single points of contact and database on national procedures regarding extradition and mutual legal assistance);
- call on the members of the PC-OC to complete information concerning their country, if they have not already done so, and instruct the Secretariat to send reminders to that effect;

## **7. Other issues**

- take note of information on the 3<sup>rd</sup> meeting of the Cybercrime Convention Committee (T-CY, 3-4 April 2008) provided by the Secretariat and Mr Branislav Boháčik (Slovakia), representative of the CDPC to the T-CY;
- take note of an initiative by the Treaty Office of the Council of Europe to make available translations into non-official languages of Council of Europe’s Conventions and invite delegations to send to the Secretariat, where available, official translations into their national languages of the relevant conventions;

## **8. Dates of the next meetings**

- agree on the following dates for the next meetings of the PC-OC:
  - o 6<sup>th</sup> enlarged meeting of the restricted Group of Experts (PC-OC Mod): 30 September – 2 October 2008;
  - o 55<sup>th</sup> meeting of the PC-OC: 4-7 November 2008.

## Appendix IV

### **Draft 3<sup>rd</sup> Additional Protocol to the European Convention on Extradition**

#### **as amended at the 54<sup>th</sup> meeting of the PC-OC 28-30 April 2008**

The member States of the Council of Europe, signatory to this Protocol,

Considering that the aim of the Council of Europe is to achieve greater unity between its members;

Desirous of strengthening their individual and collective ability to respond to crime;

Having regard to the provisions of the European Convention on Extradition opened for signature in Paris on 13 December 1957 (hereinafter referred to as "the Convention"), as well as the two Additional Protocols thereto, done at Strasbourg on 15 October 1975 and on 17 March 1978;

Considering it desirable to supplement the Convention in certain respects in order to simplify and accelerate the extradition procedure when the person sought consents to extradition,

Have agreed as follows

#### **Article 1 - Obligation to extradite under simplified procedures<sup>1</sup>**

States Parties undertake to extradite to each other under simplified procedures as provided for by this Protocol persons sought for the purpose of extradition, subject to the consent of such persons and the agreement of the requested Party.

#### **Article 2 - Request for extradition and information to be provided**

1. When the person sought is the subject of a request for provisional arrest in accordance with Article 16 of the Convention, the extradition referred to in Article 1 shall not be subject to the submission of a request for extradition or the documents required by Article 12 of the Convention.<sup>2</sup> The following information provided by the requesting Party shall be regarded as adequate by the requested Party for the purpose of applying Articles 4 to 6 of this Protocol and for taking its final decision on extradition under simplified procedures:

(a) the identity of the person sought, including her/his nationality or nationalities<sup>3</sup> when available;

(b) the authority requesting the arrest;

(c) the existence of an arrest warrant or other document having the same legal effect or of an enforceable judgment;

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<sup>1</sup> The PC-OC Mod decided that this Article should concern the principle of applying simplified extradition procedures in general, without distinguishing between the two main hypotheses for their use (presence or absence of a request for provisional arrest).

<sup>2</sup> The majority of delegations stated that they would accept to proceed on the basis of a request for provisional arrest only, without an official request for extradition. The PC-OC Mod agreed that those States who cannot do so should have the possibility of making a reservation to this paragraph. At its 54<sup>th</sup> plenary meeting, the PC-OC decided to include this paragraph among the list of provisions which can be subject to a reservation (see Article 17, paragraph 2).

<sup>3</sup> Following the proposal from two delegations, the PC-OC Mod agreed to include a reference to the person's nationality in the Protocol, as opposed to mentioning it only in the explanatory report.

(d) the nature and legal description of the offence, including the maximum penalty or the penalty imposed in the final judgment, including whether any part of the judgment has already been enforced;

(e) information concerning lapse of time and its interruption;

(f) a description of the circumstances in which the offence was committed, including the time, place and degree of involvement of the person sought;

(g) in so far as possible, the consequences of the offence;

(h) In cases where enforcement of a final judgment is requested, whether the judgment was rendered *in absentia*.

2. Notwithstanding paragraph 1, further information may be requested if the information provided for in the said paragraph is insufficient to allow the requested Party to give agreement to the extradition.

3. In case the requested State has received a request for extradition in accordance with Article 12 of the Convention, [it may avail itself, *mutatis mutandis*, of the simplified procedure as provided for in this Protocol] / [the present Protocol applies *mutatis mutandis*]<sup>4</sup>.

#### **Article 4 - Obligation to inform the person<sup>5</sup>**

Where a person sought for the purpose of extradition is arrested<sup>6</sup> on the territory of another State Party, the competent authority of the requested Party shall inform that person, in accordance with its law and without undue delay, of the request relating to her/him and of the possibility of applying simplified extradition procedures [based on her/his consent]<sup>7</sup> in accordance with this Protocol.

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<sup>4</sup> Two delegations expressed support for the first option, whereas three delegations preferred the second option.

<sup>5</sup> The PC-OC Mod decided that the explanatory report should contain an explanation of the differences between this article and the following article. It agreed that the purpose of this Article was to inform the person of the reasons of her/his arrest and the possibility of consenting. One delegation stated that this information did not necessarily imply the intervention of a judicial authority, and could be provided by the police at the moment of arrest.

<sup>6</sup> Some delegations were of the view that the term “arrested” could be too restrictive, and that measures restricting the liberty of the person other than detention should also be covered by this Article. Other delegations were of the view that “arrest” should be understood in this wider sense and did not necessarily mean detention. The explanatory report should make this point more explicit.

<sup>7</sup> The PC-OC Mod decided to leave the inclusion of the wording in the square brackets to the discretion of the plenary.

### Article 5 (ex-Article 6) - Consent to simplified extradition

1. The consent of the person sought and, if appropriate, her/his express renunciation of entitlement to the rule of speciality, shall be given before the competent judicial authority<sup>8</sup> of the requested Party in accordance with the law of that Party.
2. Each State Party shall adopt the measures necessary to ensure that consent and, where appropriate, renunciation, as referred to in paragraph 1, are established in such a way as to show that the person concerned has expressed them voluntarily and in full awareness of the legal consequences. To that end, the person sought shall have the right to legal counsel. If necessary, the requested Party shall ensure that the person sought has the assistance of an interpreter.
3. Consent and, where appropriate, renunciation, as referred to in paragraph 1, shall be recorded in accordance with the law of the requested Party.
4. Subject to paragraph 5, consent and, where appropriate, renunciation, as referred to in paragraph 1, may not be revoked.<sup>9</sup>
5. Any State Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that consent and, where appropriate, renunciation of entitlement to the rule of speciality, may be revoked. The consent may be revoked until the requested Party takes its final decision on extradition under simplified procedures<sup>10</sup>. In this case, the period between the notification of consent and that of its revocation shall not be taken into consideration in establishing the periods provided for in Article 16 (4) of the Convention. [Renunciation of entitlement to the rule of speciality may be revoked until the surrender of the person concerned.]<sup>11</sup>

<sup>8</sup> The PC-OC Mod agreed that “competent judicial authority” included the Office of the Public Prosecutor, in accordance with Article 1 of the Convention and its explanatory report.

<sup>9</sup> The PC-OC Mod agreed that consent should be irrevocable in principle, subject to the possibility of making a reservation in accordance with the following paragraph.

<sup>10</sup> In view of the practical difficulties that an untimely revocation of consent would imply for the extradition procedure, the majority of delegations were in favour of introducing a time limit until which consent may be revoked. Another proposal for a deadline for revocation was the date of the first hearing in the requesting State. Two delegations expressed reservations regarding such a limitation and stated that it might be necessary to differentiate between consent to simplified extradition and renunciation to the speciality rule, if such a time limit is introduced. One delegation pointed out that there could be a contradiction between the rules applicable under national law and this time limit. Due to the divergent views, the PC-OC Mod decided to leave it to the plenary to decide on this issue.

In case no time limit for revocation is introduced and it is left to the discretion of States Parties to indicate how they conceive the possibility of revocation by way of a declaration, the PC-OC Mod agreed that at least the explanatory report should contain clear guidance on the legal and practical difficulties which could arise in connection with revocation and the kind of declaration that would be acceptable in this context.

<sup>11</sup> At its 54<sup>th</sup> meeting, the PC-OC decided to provide for separate time limits for the revocation of consent on the one hand and the revocation of renunciation of entitlement to the rule of speciality on the other (see Summary Report of the 54<sup>th</sup> meeting of the PC-OC, paragraphs 10-13)

### **Article 6 (ex-Article 5) - Renunciation of entitlement to the rule of speciality<sup>12</sup>**

Each State Party may declare, upon deposit of its instrument of ratification, acceptance, approval or accession, or at any other time, that the rules laid down in Article 14 of the Convention do not apply where the person, in accordance with Article 6 of the present Protocol:

- (a) consents to simplified extradition; or
- (b) consents to simplified extradition and expressly renounces her/his entitlement to the rule of speciality.

### **Article 7 – Notification<sup>13</sup>**

Where the person sought has given her/his consent, the requested Party shall notify the requesting Party of its [final]<sup>14</sup> decision with regard to the extradition under the simplified procedures within [20/30] days of the date on which the person consented.

### **Article 7bis – Notification in case of provisional arrest<sup>15</sup>**

1. So that the requesting Party may submit, where applicable, a request for extradition in accordance with Article 12 of the Convention, the requested Party shall notify it, no later than 10 days after provisional arrest, whether or not the person has given her/his consent.
2. In exceptional cases where the requested Party decides not to apply simplified procedures in spite of the consent of the person sought, it shall inform the requesting Party sufficiently in advance so as to allow the latter to submit a request for extradition before the period of 40 days established under Article 16 of the Convention expires.

### **Article 8 – Channels and means of communication<sup>16</sup>**

For the purpose of the present Protocol, communications may be forwarded through any electronic or other means of communication, as well as through the International Criminal Police Organisation (Interpol), provided that the requesting Party is prepared, upon request, to produce at any time a written record and the original. However, any State may by a declaration addressed at any time to the Secretary General of the Council of Europe, establish the conditions under which it shall be willing to accept and execute requests received by electronic or other means of telecommunication.

<sup>12</sup> One delegation was of the view that the current wording of this Article could create difficulties in the requesting State and might cause the release of the person. This delegation will submit a note for the attention of the plenary.

<sup>13</sup> The PC-OC Mod decided not to include a deadline on the notification of the consent of the person sought and to foresee a deadline for the notification of the final decision on simplified extradition that would apply regardless of the presence or absence of a request for provisional arrest.

<sup>14</sup> The word “final” was put in square brackets by the PC-OC at its 54<sup>th</sup> meeting at the request of one delegation.

<sup>15</sup> The PC-OC Mod suggested deleting these provisions, but decided to leave it to the plenary to take the final decision. The deletion of this Article would imply that, following the notification of provisional arrest under Article 16, paragraph 3, the requesting State should in all cases proceed with the preparation of a request for extradition and the supporting documents required by Article 12 of the Convention, regardless of whether the person sought has consented.

At its 54<sup>th</sup> meeting, the PC-OC decided to keep these provisions, with a 10-day time limit for the notification of consent. It also agreed that the explanatory report should make clear that this time limit only applies in those cases where the requested State is able to proceed on the basis of a request for provisional arrest, in accordance with Article 2, paragraph 1 of the draft Protocol (see Summary Report of the 54<sup>th</sup> meeting of the PC-OC, paragraphs 14-15).

<sup>16</sup> The PC-OC Mod agreed that the question of the definition of competent authorities goes beyond the scope of this Protocol and should be addressed in the framework of the modernisation of the Convention in general. The present wording is based on Article 4, paragraph 9 of the 2<sup>nd</sup> Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, with the addition of the Interpol channel.

**Article 9 - Deadline for surrender<sup>1718</sup>**

1. Surrender shall take place in accordance with Article 18, paragraphs 3 to 5 of the Convention. If the requested Party agrees to simplified extradition, the period between the notification of the extradition decision referred to under Article 7 of this Protocol and the date of surrender referred to under Article 18, paragraph 3 of the Convention shall not exceed 20 days under normal circumstances.

2. Paragraph 1 does not preclude the possibility for States Parties to extend the period required for surrender in accordance with Article 18, paragraph 5 of the Convention in exceptional cases, or for the requested Party to avail itself of Article 19 of the Convention regarding postponed or conditional surrender.

**[Article 10 - Consent given after expiry of the deadline laid down in Article 7<sup>19</sup>**

1. Where a person sought has given her/his consent after expiry of the deadline of 10 days laid down in Article 7, paragraph 1, the requested Party:

(a) shall implement the simplified procedure as provided for in this Protocol if a request for extradition within the meaning of Article 12 of the Convention has not yet been received by it,

(b) may use this simplified procedure if a request for extradition within the meaning of Article 12 of the Convention has reached it in the meantime.

2. Upon deposit of its instrument of ratification, acceptance, approval or accession, each State accepting to apply paragraph 1, sub-paragraph b shall declare under what conditions it intends to do so.]

<sup>17</sup> While most delegations agreed that a time limit for surrender would represent a clear added value for this Protocol, a wide variety of opinions was expressed regarding the precise time limit. The proposals ranged from 10-15 days, up to 90 days. 20 days was considered by the majority of delegations to be a compromise solution. Most delegations agreed that in the vast majority of cases 20 days following the notification of the extradition decision would be sufficient for surrender.

It was stressed during the meeting that, notwithstanding the time limit for the surrender, Article 18 of the Convention would continue to apply in practice. This implies that, in exceptionally difficult cases where 20 days would not be sufficient for surrendering or taking over the person to be extradited, in accordance with paragraph 5 of Article 18 of the Convention, the Parties can arrange a new date of surrender.

<sup>18</sup> At its 54<sup>th</sup> meeting, the PC-OC decided to redraft this provision. It also agreed that the explanatory report should clarify the relationship between the Convention and the Protocol, in particular as regards the flexibility provided in case one of the Parties is not able to surrender or take over the extradited person within the given time frame. Reference should also be made to the need of using modern means of communication (Article 8 of the draft Protocol) in this context (see Summary Report of the 54<sup>th</sup> meeting of the PC-OC, paragraphs 16-17).

<sup>19</sup> In the light of the changes made by the PC-OC Mod with regard to the exclusion of a time limit for the notification of consent, the Group decided that this Article was no longer relevant.

**Article 11 - Transit<sup>20</sup>**

In the event of transit under the conditions laid down in Article 21 of the Convention, where extradition under the simplified procedure is concerned, the following provisions shall apply:

(a) an application containing the information required in Article 2, paragraph 1 may be made to the Party requested to grant transit by any method which leaves a written record. The Party requested to grant transit may make its decision known using the same method;

(b) the information referred to in Article 2, paragraph 1 shall be sufficient to enable the competent authority of the Party requested to grant transit to ascertain whether extradition is under the simplified extradition procedure and to take the constraint measures needed for execution of the transit vis-à-vis the extradited person.

**Article 12 - Relationship with the Convention and other international instruments**

1. The words and expressions used in this Protocol shall be interpreted within the meaning of the Convention. The provisions of the Convention<sup>21</sup> shall apply, *mutatis mutandis*, to the extent that they are compatible with the provisions of this Protocol.

2. The provisions of this Protocol are without prejudice to the application of Article 28, paragraphs 2 and 3 of the Convention concerning the relations between the Convention and bilateral agreements<sup>22</sup>.

**Article 13 – Friendly settlement<sup>23</sup>**

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Protocol and shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of its application.

**Article 14 - Signature and entry into force**

1. This Protocol shall be open for signature by the member States of the Council of Europe which are a Party to or have signed the Convention. It shall be subject to ratification, acceptance or approval. A signatory may not ratify, accept or approve this Protocol unless it has previously or simultaneously ratified, accepted or approved the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the deposit of the third instrument of ratification, acceptance or approval.

3. In respect of any signatory State which subsequently deposits its instrument of ratification, acceptance or approval, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit.

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<sup>20</sup> The PC-OC Mod agreed that the new means of communication pursuant to Article 8 of the Protocol should apply in case of transit. In principle, the Party granting transit should respect the agreement between the requested and requesting Parties. As for the information required, even those delegations which would not proceed only on the basis of a request for provisional arrest and the information contained under Article 2, paragraph 1 for the purposes of simplified extradition, agreed that this information would be sufficient for the purposes of granting transit.

<sup>21</sup> The explanatory report shall make it clear that this covers the Convention as amended by the 1<sup>st</sup> and 2<sup>nd</sup> additional protocols between the Parties concerned.

<sup>22</sup> Declarations of States Parties to the Convention under these provisions (e.g. concerning the European Arrest Warrant) would automatically apply to the 3<sup>rd</sup> additional Protocol. The Secretariat will clarify with the Treaty Office if paragraph 1 of the Convention would be problematic as regards the status of bilateral agreements concluded before the 3<sup>rd</sup> Protocol.

<sup>23</sup> This is a standard provision included in all conventions concerning criminal matters. One delegation stated that it had a reservation vis-à-vis this article.



### **Article 15 - Accession**

1 Any non-member State, which has acceded to the Convention, may accede to this Protocol after it has entered into force.

2 Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession.

3 In respect of any acceding State, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession.

### **Article 16 – Territorial application**

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.

2. Any State may, at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date or receipt of such notification by the Secretary General.

### **Article 17 - Reservations<sup>24</sup>**

1. Reservations made by a Party to any provision of the Convention or its Additional Protocols shall be applicable also to this Protocol, unless that Party otherwise declares at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession. The same shall apply to any declaration made in respect or by virtue of any provision of the Convention or its Protocols.

2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of the right not to accept wholly or in part any one or more of Articles 2, paragraph 1, [...]. No other reservation may be made.

3. Any State may wholly or partially withdraw a reservation it has made in accordance with the foregoing paragraphs, by means of a declaration addressed to the Secretary General of the Council of Europe, which shall become effective as from the date of its receipt.

4. Any Party which has made a reservation in respect of any of the articles of this Protocol mentioned in paragraph 2 above, may not claim the application of that article by another Party. It may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

### **Article 18 - Denunciation**

1. Any Party may, in so far as it is concerned, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

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<sup>24</sup> The PC-OC Mod discussed different alternatives for reservations. The possible reservations could be:

- mentioned only under Article 17, paragraph 2; or
- specified explicitly in the text next to the relevant provisions; or
- specified explicitly in the text and summarised under Article 17.

The Secretariat will clarify with the Treaty Office which option would be more preferable. One delegation suggested introducing an obligatory review clause for reservations (e.g. confirmation of reservations every 5 years). This was considered problematic by another delegation.

3. Denunciation of the Convention entails automatically denunciation of this Protocol.

**Article 19 - Notifications**

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and any State which has acceded to this Protocol of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Protocol in accordance with Articles 14 and 15;
- d any declaration made in accordance with Article 16;
- e any reservation made in accordance with Article 17 and any withdrawal of such a reservation;
- f any notification received in pursuance of the provisions of Article 18 and the date on which denunciation takes effect;
- g any other act, declaration, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this ...th day of ..., in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to the non-member States which have acceded to the Convention.

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**Appendix V**

**Questionnaire**  
**on the relationship between asylum procedures and extradition procedures**

1. Does your national law contain provisions on the regulation of the relationship between extradition and asylum procedures (please provide details of the regulation)?
2. Under your national law, can a person sought for extradition be extradited to his country of origin when that person has applied for asylum/is the subject of asylum procedures in your country?
3. If so:
  - 3.1. What procedure has priority when a person having applied for asylum in your country is the subject of extradition proceedings?
  - 3.2. Is it possible to execute a request for provisional arrest of a person who is the subject of asylum procedures?
  - 3.3. Under what circumstances can the extradition of a person who has applied for asylum be allowed?
  - 3.4. Does the granting of an extradition request have an impact on pending asylum procedures?
  - 3.5. Is it possible to make extradition subject to conditions, by requiring human rights procedural guarantees from the requesting State, to be monitored by the requested State?
4. Does the granting of an extradition request lead to the revocation of asylum?
5. Does the fact that asylum was granted in your country entail a general prohibition to extradite a person, or is such prohibition limited to the State where the person fears persecution?
6. If the person sought has been granted asylum in your country and extradition has been refused, does the legislation of your country:
  - 6.1 allow for the transfer of criminal proceedings?
  - 6.2 include an obligation for initiating criminal proceedings in accordance with the principle of *aut dedere aut judicare* ?
  - 6.3 allow for the enforcement of a sentence or detention order issued by the requesting Party?
  - 6.4 consider requests concerning such persons as relating to political offences precluding any of the above solutions?
7. What effect does the granting of asylum or international protection by a third State have on extradition procedures in your country?
8. What is the impact of existing solutions dealing with repeated requests for asylum following the refusal of the first request on the possibility of extraditing a person?
9. How does your country ensure co-ordination and exchange of information between the authorities responsible for asylum procedures and extradition procedures?
10. Have you encountered any other problems in this area?
11. Do you think that new Council of Europe standards are desirable on the relationship between asylum procedures and extradition procedures? Please state briefly reasons for your reply.