



Explanatory Report to the European Convention on the Suppression of Terrorism *

I. The European Convention on the Suppression of Terrorism (hereafter referred to as "the Convention"), drawn up within the Council of Europe by a committee of governmental experts under the authority of the European Committee on Crime Problems (ECCP, later renamed CDPC), was opened for signature by the member States of the Council of Europe on 27 January 1977. At the time of drafting the present explanatory report (hereafter referred to as the "report"), it had been ratified by thirty-eight member States of the Council of Europe and signed by five.

II. The Convention was subsequently revised by an Amending Protocol, prepared by a committee of governmental experts – the Multidisciplinary Group on International Action against Terrorism (GMT) – under the authority of the Committee of Ministers.

III. The text of this explanatory report refers to the Convention as revised by the Amending Protocol. Therefore, references in this text to articles or to the Convention concern the Convention as amended and not to the Amending Protocol itself. However, where necessary, the report deals with articles which are specific to the Amending Protocol. Moreover, where the protocol did not amend an existing provision of the Convention, this is indicated by the terms "unchanged".

IV. The present explanatory report was prepared on the basis of the explanatory report to the European Convention on the Suppression of Terrorism and the GMT's discussions. It was submitted to the Committee of Ministers of the Council of Europe, which authorised its publication. It does not constitute an authoritative interpretation of the text of the Convention as it will be revised by its amending Protocol, although it may facilitate the understanding of the Convention's provisions.

Introduction

1. The Council of Europe's response to the terrorist attacks of unprecedented violence committed in the United States of America on 11 September 2001 was both firm and immediate. In its declaration of 12 September 2001, the Committee of Ministers immediately condemned "with the utmost force the terrorist attacks" committed against the American people and expressed its "sympathy and solidarity" with them. At the same time, the Committee of Ministers commenced consideration of specific action which could be taken by the Council of Europe within its field of expertise to counter "such monstrous acts".

(*) Text of the Explanatory Report to the European Convention on the Suppression of Terrorism as it will be revised by the Protocol amending the Convention (ETS No. 190) upon its entry into force.

2. With this in mind, in a decision of 21 September 2001, the Ministers' Deputies "noted with interest a proposal for the establishment of a Multidisciplinary Group on Terrorism (GMT) dealing with criminal, civil and administrative matters" and "invited the Secretary General, (...) to propose (...) draft terms of reference for such a group".
3. During the fourth part of its session in September 2001, the Parliamentary Assembly of the Council of Europe also condemned "in the strongest possible terms these barbaric terrorist acts" and adopted two important texts: Resolution 1258 (2001) and Recommendation 1534 (2001) on democracies facing terrorism. The Assembly underlined, *inter alia*, that "these attacks have shown clearly the real face of terrorism and the need for a new kind of response" and made a number of important suggestions to be considered in order to strengthen the international fight against terrorism.
4. The European Ministers of Justice, at their 24th Conference held in Moscow, on 4 and 5 October 2001, adapted their agenda at the last moment in order to address terrorist issues and stressed that the Council of Europe should take immediate action to combat "all forms of terrorism", with a view to preventing in the future "the loss of life and the injuries suffered by thousands of innocent people". The ministers of justice also agreed on the need for a multidisciplinary approach to the problem of terrorism, involving all relevant legal aspects.
5. Against the background of these strong and unconditional political commitments, the Committee of Ministers, at its 109th Session on 8 November 2001, "agreed to take steps rapidly to increase the effectiveness of the existing international instruments within the Council of Europe on the fight against terrorism by, *inter alia*, setting up a Multidisciplinary Group on International Action against Terrorism (GMT)".
6. The multidisciplinary nature of this Group showed that from the outset there was wide consensus on the fact that a sectorial approach would not be conducive to adequate and prompt results to solve the problems posed by the new forms of terrorism, and that there was a need for a comprehensive approach, comprising criminal, civil, commercial, administrative and other legal issues.
7. The tasks of the GMT were contained in its terms of reference adopted by the Committee of Ministers on 8 November 2001. They included, *inter alia*, reviewing the implementation of, and examining the possibility of updating, existing Council of Europe international instruments relating to the fight against terrorism, in particular the European Convention on the Suppression of Terrorism, in view also of a possible opening of the Convention to non-member States, and the other relevant instruments.
8. The GMT carried out its work taking account of the relevant declarations and decisions of the Committee of Ministers and of the resolutions of both the Parliamentary Assembly and the Conference of European Ministers of Justice on the Fight against Terrorism, as well as of the Council of Europe's standards in the fields of the rule of law and human rights. The GMT also took due account of the activities of other international institutions and of other relevant Council of Europe committees and groups.
9. The work of the GMT was based, on the one hand, on measures already existing or under way at national and international levels to fight terrorism which the GMT followed closely and, on the other hand, on existing Council of Europe activities included in the report on terrorism (SG/Inf(2001)35) presented by the Secretary General to the 109th Session of the Committee of Ministers.
10. Two texts of the Council of Europe adopted after the setting up of the GMT were particularly significant for the work of the GMT, namely: Recommendation 1550 (2002) on combating terrorism and respect for human rights, adopted by the Parliamentary Assembly during the first part of its session in January 2002, and the Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers on 11 July 2002.

11. Mr de Koster (Belgium) was elected Chairman of the GMT. The Secretariat was provided by the Directorate General of Legal Affairs of the Council of Europe.

12. The GMT held six meetings from December 2001 to December 2002. During its first meeting, it decided on its working methods and set up two working parties, the GMT-Rev and the GMT-Rap (subsequently renamed GMT-Rap/Suivi), respectively chaired by Mr Favre (France) – later replaced by Mr Galicki (Poland) – and Mr Papaioannou (Greece), the former responsible for reviewing the operation of and examining the possibility of updating, existing Council of Europe international instruments applicable to the fight against terrorism, in particular the European Convention on the Suppression of Terrorism, the latter for proposing to the Committee of Ministers supplementary action that the Council of Europe could carry out in order to contribute to the efforts of the international community against terrorism.

13. During its following four meetings, held in February, April, June and October 2002, the GMT prepared a draft protocol amending the European Convention on the Suppression of Terrorism, subsequently submitted to the Committee of Ministers which agreed to its content at its 111th ministerial session on 7 November 2002, authorised consultation of the Parliamentary Assembly of the Council of Europe and asked the GMT to prepare the draft explanatory report.

14. During its last meeting from 11 to 13 December 2002, the GMT finalised the draft protocol and approved the present explanatory report. It submitted both texts to the Committee of Ministers, asking it to adopt the Amending Protocol and open it for signature, and to authorise the publication of the explanatory report.

15. At the 828th meeting of the Ministers' Deputies on 13 February 2003, the Committee of Ministers approved the text which is the subject of this report and decided to open the Amending Protocol for signature by the member States of the Council of Europe.

General considerations

16. The purpose of the Convention is to assist the suppression of terrorism by supplementing and, where necessary, modifying existing extradition and mutual assistance arrangements concluded between member States of the Council of Europe, including the European Convention on Extradition of 13 December 1957 (ETS No. 24) and its Additional Protocols of 15 October 1975 and 17 March 1978 (ETS Nos. 86 and 98), and the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 (ETS No. 30) and its Additional Protocols of 17 March 1978 and 8 November 2001 (ETS Nos. 99 and 182), in that it seeks to overcome the difficulties which may arise in the case of extradition or mutual assistance concerning persons accused or convicted of acts of terrorism.

17. It was felt that the climate of mutual confidence among likeminded States, namely the member States and Observer States of the Council of Europe, their democratic nature and their respect for human rights, in the case of the member States of the Council of Europe, safeguarded by the institutions set up under the European Convention on Human Rights of 4 November 1950, justify introducing the possibility and, in certain cases, imposing an obligation to disregard, for the purposes of extradition, the political nature of the particularly odious crimes mentioned in Articles 1 and 2 of the Convention. The human rights which must be respected are not only the rights of those accused or convicted of acts of terrorism, but also those of the victims, or potential victims, of those acts (see Article 17 of the European Convention on Human Rights).

18. One of the characteristics of these crimes is their increasing internationalisation: their perpetrators are frequently found in a State other than that in which the act was committed. For this reason, extradition is a particularly effective measure for combating terrorism.

19. If the terrorist act is an offence which falls within the scope of application of existing extradition treaties, the requested State will have no difficulty, subject to the relevant provisions of its extradition law, in complying with a request for extradition from the State which has jurisdiction to prosecute.

20. However, terrorist acts might be considered "political offences", and it is a principle laid down in most existing extradition treaties as well as in the European Convention on Extradition (Article 3, paragraph 1) that extradition shall not be granted in respect of a political offence.

21. Moreover, there is no generally accepted definition of the term "political offence". It is for the requested State to interpret it.

22. It follows that there is a serious lacuna in existing international agreements with regard to the possibility of extraditing persons accused or convicted of acts of terrorism, although the most recent United Nations international conventions – namely the International Convention for the Suppression of Terrorist Bombings of 15 December 1997 and the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 – as well as the efforts by the United Nations to draft a comprehensive convention on international terrorism attempt to fill that gap.

23. The European Convention on the Suppression of Terrorism aims at filling this lacuna by eliminating or restricting the possibility for the requested State of invoking the political nature of an offence in order to oppose an extradition request. This aim is achieved by providing that, for extradition purposes, certain specified offences shall never be regarded as "political" (Article 1) and other specified offences may not be regarded as such (Article 2), notwithstanding their political content or motivation.

24. It should be noted that when the GMT undertook the updating of the 1977 European Convention on the Suppression of Terrorism, it agreed from the outset to retain the general nature of the Convention as an instrument of "de-politicisation" for the purposes of extradition. Therefore, none of the provisions of the Convention should be considered as setting forth or implying, directly or indirectly, any obligations upon States Parties to establish as criminal offences acts or actions provided in Article 1, paragraph 2, of the Convention. Similarly, the Convention should not be considered as limiting the application of the grounds for refusal of extradition contained in the European Convention on Extradition, except with respect to its Article 3 concerning political offences. Therefore, the other grounds, such as the requirement of double criminality, continue to apply.

25. The system established by Articles 1 and 2 of the Convention reflects a consensus reconciling the arguments put forward in favour on the one hand of an obligation, and on the other hand of an option not to consider, for the purposes of the application of the Convention, certain offences as political.

26. In favour of an obligation, it was pointed out that this alone would give States new and really effective possibilities for extradition, by eliminating explicitly the plea of "political offence" that was feasible in the climate of mutual confidence that reigned amongst the member and Observer States to the Council of Europe with similar democratic institutions. It would ensure that terrorists were extradited for trial to the State which had jurisdiction to prosecute. An option alone could never provide the guarantee of extradition and, moreover, the criteria for assessing the seriousness of the offence would not be precise.

27. In favour of an option, reference was made to the difficulty of accepting a rigid solution which would amount to obligatory extradition for political offences. Each case should be examined on its merits.

28. The solution adopted consists of an obligation for some offences not to be considered as political, the list of which has been considerably enlarged by the Amending Protocol (Article 1), and an option for others (Article 2).

29. The Convention applies only to particularly odious and serious acts, often affecting persons foreign to the motives behind them. Most of these acts are criminalised by international conventions. Their gravity and their consequences are such that their criminal element outweighs their possible political aspects.

30. This method, which was already applied to genocide, war crimes and other comparable crimes in the Additional Protocol to the European Convention on Extradition of 15 October 1975, as well as to the taking, or attempted taking, of the life of a head of State or a member of his family under Article 3 paragraph 3 of the European Convention on Extradition, accordingly, with regard to terrorism, overcomes not only the obstacles to extradition due to the plea of the political nature of the offence, but also the difficulties inherent in the absence of a uniform interpretation of the term "political offence".

31. Although the Convention's intention is clearly not to take into consideration the political character of the offence for the purposes of extradition, it does recognise that a Contracting State might be impeded, for example, for legal or constitutional reasons, from fully accepting the obligations arising from Article 1. For this reason, Article 16 expressly allows Contracting States to make certain reservations. However, the Amending Protocol has significantly reduced this possibility by circumscribing it with a specific conditions and providing for a follow-up mechanism.

32. It should be noted that there is no obligation to extradite if the requested State has substantial grounds for believing that the request for extradition has been inspired by the considerations mentioned in Article 5, or that the position of the person whose extradition is requested may be prejudiced by these considerations. Paragraphs 2 and 3 have been added to Article 5, as requested in Parliamentary Assembly Recommendation 1550 (2002), to make clear that there is equally no obligation to extradite where to do so would be inconsistent with other grounds for refusal based on human rights. As stated above, the revised Article 5 is not intended to be exhaustive as to the grounds on which extradition may be refused.

33. In the case of an offence mentioned in Article 1, a State refusing extradition would have to submit the case to its competent authorities for the purpose of prosecution, after having taken the measures necessary to establish its jurisdiction in these circumstances (Articles 6 and 7).

34. These provisions reflect the principle of *aut dedere aut judicare*. It is to be noted, however, that the Convention does not grant Contracting States a general choice either to extradite or to prosecute. The obligation to submit the case to the competent authorities for the purpose of prosecution is subsidiary, in that it is conditional on a prior refusal to extradite in a given case, which is possible only under the conditions laid down by the Convention or by other relevant treaty or legal provisions.

35. In fact, the Convention is not an extradition treaty as such. Whilst the character of an offence may be modified by virtue of Articles 1 and 2, the legal basis for extradition remains the extradition treaty or other relevant law. It follows that a State which has been asked to extradite a terrorist may, notwithstanding the provisions of the Convention, still not do so if the other conditions for extradition are not fulfilled; for example, the offender may be a national of the requested State, or there may be time limitation. Nevertheless, Article 4, paragraph 2, of the Convention authorises a Contracting State which makes extradition conditional on the existence of a treaty to consider, at its discretion, this Convention as a legal basis for extradition.

36. On the other hand, the Convention is not exhaustive, in the sense that it does not prevent States, if their law so allows, extraditing in cases other than those provided for by the Convention, or to take other measures such as expelling the offender or sending him or her back, if in a specific case the State concerned is not in possession of an extradition request made in accordance with the Convention, or if it considers that a measure other than extradition is warranted under another international agreement or particular arrangement.

37. The obligations which Contracting States undertake by adhering to the Convention are closely linked with the special climate of mutual confidence among likeminded States, which is based on their collective recognition of the rule of law and the protection of human rights. For that reason, in spite of the fact that terrorism is a global problem, it was thought necessary to restrict the circle of Contracting Parties to the member States and Observers of the Council of Europe, although the Committee of Ministers may invite other States to become Parties to the Convention.

38. It goes without saying that the Convention does not affect the traditional rights of political refugees and of persons enjoying political asylum in accordance with other international undertakings to which the member States are Parties.

Commentaries on the articles of the Convention

Article 1

39. Article 1 lists the offences which, for the purposes of extradition, shall not be regarded as political, as connected with a political offence, or inspired by political motives.

40. It thus modifies the consequences of existing extradition agreements and arrangements with regard to the evaluation of the nature of these offences. It eliminates the possibility for the requested State of invoking the political nature of the offence in order to oppose an extradition request. It does not, however, create an obligation to extradite, as the Convention is not an extradition treaty as such. The legal basis for extradition remains the extradition treaty, arrangement or law concerned. Nevertheless, under Article 4, paragraph 2 of the Convention, a Contracting State may use the Convention as a legal basis for extradition at its discretion.

41. The terms "political offence" and "offence connected with a political offence" were taken from Article 3 paragraph 1 of the European Convention on Extradition, which is modified to the effect that Contracting Parties to the European Convention on the Suppression of Terrorism may no longer consider as "political" any of the offences enumerated in Article 1.

42. The term "offence inspired by political motives" is intended to supplement the list of cases in which the political nature of an offence cannot be invoked. Reference to the political motives of an act of terrorism is made in Resolution (74) 3 on international terrorism, adopted by the Committee of Ministers of the Council of Europe on 24 January 1974.

43. Article 1 reflects the will not to allow the requested State to invoke the political nature of an offence in order to oppose requests for extradition in respect of certain particularly odious crimes. This will is already reflected in international treaties, for instance, in Article 3 paragraph 3 of the European Convention on Extradition relating to the taking, or attempted taking, of the life of a head of State or of a member of his family, in Article 1 of the Additional Protocol to the European Convention on Extradition for certain crimes against humanity and for violations of the laws and customs of war, as well as in Article VII of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.

44. When the GMT examined the possibility of updating this article, it bore in mind Parliamentary Assembly Recommendation 1550 (2002) which requested that the GMT consider using the definition of terrorism adopted by the European Union in the European Council Common Position of 7 December 2001 on the application of specific measures to combat terrorism (2001/931/CFSP) ⁽¹⁾. The GMT decided not to do so, given that the European Union definition had been agreed upon “for the purpose of the Common Position” and because it did not wish to change in any manner the nature of the Convention as an instrument of de-politicisation for the purposes of extradition.

45. Article 1 lists two categories of crimes. The first, contained in paragraph 1, comprises offences already included in international treaties, the second, contained in paragraph 2, concerns accessory offences connected with the offences covered in paragraph 1: these offences were considered so serious that it was necessary to include them in the first category.

46. In paragraph 1, the offences in question are described by simple reference to the titles of the relevant international instruments. The reference to the Hague Convention for the Suppression of Unlawful Seizure of Aircraft of 16 December 1970 and the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 23 September 1971, the only ones mentioned in the original Convention, has been completed in the Amending Protocol by a reference to other international conventions, most of which were adopted subsequently, namely: the New York Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents of 14 December 1973, the New York International Convention Against the Taking of Hostages of 17 December 1979, the Vienna Convention on the Physical Protection of Nuclear Material of 3 March 1980, the Montreal Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation of 24 February 1988, the Rome Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of 10 March 1988, the Rome Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf of 10 March 1988, the New York International Convention for the Suppression of Terrorist Bombings of 15 December 1997 and the New York International Convention for the Suppression of the Financing of Terrorism of 9 December 1999.

47. Offences connected with the principal offences listed in paragraph 1 including the attempt, the participation as an accomplice in their commission or attempt, and the organisation of others, or directing others to commit or attempt to commit them, are covered by paragraph 2. Provisions of a similar nature are to be found in several international instruments including, most recently, the International Convention for the Suppression of Terrorist Bombings of 15 December 1997 (Article 2, paragraph 3) and the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 (Article 2, paragraph 5).

48. "Attempt" means only a punishable attempt, as under some laws not all attempts to commit an offence constitute punishable offences.

49. The English expression "accomplice" covers both “*co-auteur*” and “*complice*” in the French text.

(1) In the European Union context, this definition was subsequently agreed upon for the purpose of the approximation of the legislation of the European Union member states in the Framework Decision of the Council of 13 June 2002 (2002/475/JAI, JO L 164 of 22.6.2002, p. 3).

Article 2

50. Paragraph 1 (unchanged) of Article 2 introduces the possibility for Contracting Parties not to consider "political" certain serious offences which, without falling within the scope of the mandatory rule in Article 1, involve an act of violence against the life, physical integrity or liberty of a person. This possibility derogates from the traditional principle according to which the refusal to extradite is obligatory in political matters.

51. The term "act of violence" used to describe the offences which may be regarded as non-political was drafted along the lines of Article 4 of the Hague Convention for the Suppression of Unlawful Seizure of Aircraft.

52. Under paragraph 2 (unchanged), inspired by Resolution (74) 3 of the Committee of Ministers, an act against property is covered only if it represents a "collective" danger for persons, such as the explosion of a nuclear installation or of a dam.

53. Paragraph 3 has been extended by the Amending Protocol in the same manner as paragraph 2 of Article 1 (see paragraph 47 above).

54. The flexible wording of Article 2 allows three possibilities of acting on a request for extradition:

- the requested State may not regard the offence as political within the meaning of Article 2 and grant the extradition of the person concerned;
- it may not regard the offence as political within the meaning of Article 2, but nevertheless refuse extradition on grounds other than political;
- it may regard the offence as political, but refuse extradition.

55. It is obvious that the State's decision to grant or refuse extradition is taken independently of Article 2, that is, it is not required to express an opinion on whether the conditions of this article are fulfilled.

Article 3 (unchanged)

56. Article 3 concerns the Convention's effects on existing extradition treaties and arrangements.

57. The term "arrangements" is intended to cover extradition procedures which are not enshrined in a formal treaty, such as those existing between Ireland and the United Kingdom. For that reason, the term "*accords*" in the French text is not to be understood as designating a formal international instrument.

58. One of the consequences of Article 3 is the modification of Article 3, paragraph 1, of the European Convention on Extradition. For States which are Parties to both the European Convention on the Suppression of Terrorism and the European Convention on Extradition, Article 3 paragraph 1 of the Convention is modified, in so far as it is incompatible with the new obligations arising from the former as amended by the Protocol. The same applies to similar provisions contained in bilateral treaties and arrangements which are applicable between States Parties to this Convention.

Article 4

59. Paragraph 1 of Article 4 provides for the automatic inclusion, as an extraditable offence, of any of the offences referred to in Articles 1 and 2 into any existing extradition treaty concluded between Contracting States.

60. Furthermore, paragraph 2, added by the Amending Protocol, introduces the possibility for a Contracting State which makes extradition conditional on the existence of a treaty, and receives a request for extradition from another Contracting State with which it has no extradition treaty, to consider the Convention as a legal basis for extradition in relation to any of the offences mentioned in Articles 1 or 2. Such a decision is at the discretion of the requested State. This formula is taken from existing international instruments, including the most recent ones: the International Convention for the Suppression of Terrorist Bombings of 15 December 1977 (Article 9, paragraph 2) and the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 (Article 11, paragraph 2).

61. Article 4 does not preclude the refusal to extradite on grounds other than the political character of the offence. A requested Contracting State may refuse extradition on other grounds, such as the requirement of double criminality, not specifically provided for by this Convention but contained in its domestic legislation or in applicable international treaties.

62. Moreover, this article does not impose any obligation upon Contracting States to include as extraditable offences in subsequent bilateral extradition treaties that they may conclude, offences which are not provided as such in the national law of the State concerned.

Article 5

63. Article 5 is intended to emphasise the aim of the Convention, which is to assist in the suppression of acts of terrorism where they constitute an attack on the fundamental rights to life and liberty of persons. The Convention is to be interpreted as a means of strengthening the protection of human rights. In conformity with this basic idea, Article 5 ensures that the Convention complies with the requirements of the protection of human rights and fundamental freedoms as they are enshrined in the European Convention on Human Rights.

64. In this connection, it should be recalled that the Convention does not seek to determine the grounds on which extradition may be refused, other than by reference to the exception regarding political offences. Article 5 is intended to make this clear by reference to certain existing grounds on which extradition may be refused. The article is not, however, intended to be exhaustive as to the possible grounds for refusal.

65. One of the purposes of Article 5 is to safeguard the traditional right of asylum. Although the prosecution, punishment or discrimination of a person on account of his or her race, religion, nationality or political opinion is unlikely to occur in the member States of the Council of Europe which, at the time of the adoption of this Protocol, have all, with the exception of one State, ratified the European Convention on Human Rights, it was considered appropriate to insert this traditional provision (paragraph 1) in this Convention also, particularly in view of the opening of the Convention to non-member States (see Article 14 below). It is already contained in Article 3 paragraph 2 of the European Convention on Extradition.

66. If a requested State has substantial grounds for believing that the real purpose of an extradition request, made for one of the offences mentioned in Article 1 or 2, is to enable the requesting State to prosecute or punish the person concerned for the political opinions he or she holds, the requested State may refuse to grant extradition.

67. The same applies where the requested State has substantial grounds for believing that the person's position may be prejudiced for political reasons, or for any of the other reasons mentioned in Article 5. This would be the case, for instance, if the person to be extradited would, in the requesting State, be deprived of the rights of defence as they are guaranteed by the European Convention on Human Rights.

68. Two additional paragraphs have been added to this article, bearing in mind, in particular, Parliamentary Assembly Recommendation 1550 (2002) on Combating terrorism and respect for human rights (paragraph 7.i) and the Guidelines on human rights and the fight against terrorism (Guidelines IV, X, XIII and XV) adopted by the Committee of Ministers on 11 July

2002. These paragraphs explicitly recognise the right of a Contracting State to refuse extradition where the subject of the extradition request risks being exposed to torture (paragraph 2) or, in certain circumstance, where the person sought risks being exposed to the death penalty or to life imprisonment without the possibility of parole (paragraph 3). As stated above, these grounds for refusal already exist independently of the Convention. For instance, the possibility of refusing extradition where there is a risk of the death penalty being carried out is provided in Article 11 of the European Convention on Extradition. The GMT nevertheless considered it necessary to state them explicitly, in order to stress the necessity to reconcile an efficient fight against terrorism with respect for fundamental rights, particularly in view of the opening of the Convention to non-member States.

69. In paragraph 2, only the risk of torture is mentioned. However, as stated above, this article is not intended to be exhaustive with regard to the circumstances in which extradition may be refused.

70. It is obvious that a State applying this article should provide the requesting State with reasons for its refusal to grant the extradition request. It is by virtue of the same principle that Article 18 paragraph 2 of the European Convention on Extradition provides that "reasons shall be given for any complete or partial rejection" and that Article 19 of the European Convention on Mutual Assistance in Criminal Matters states that "reasons shall be given for any refusal of mutual assistance".

71. If extradition is refused on human rights grounds, Article 7 of the Convention applies: the requested State must submit the case to its competent authorities for the purpose of prosecution.

Article 6 (unchanged)

72. Paragraph 1 of Article 6 concerns the obligation on Contracting States to establish jurisdiction in respect of the offences mentioned in Article 1.

73. This jurisdiction is exercised only where the suspected offender is present in the territory of the requested State, and that State does not extradite after receiving a request for extradition from a Contracting State "whose jurisdiction is based on a rule of jurisdiction existing equally in the law of the requested State".

74. In order to comply with the second requirement there must be a correspondence between the rules of jurisdiction applied by the requesting State and by the requested State.

75. The principal effect of this limitation appears in relation to the differences in the principles of jurisdiction between those States whose domestic courts have, under their criminal law, jurisdiction over offences committed by nationals wherever they are committed and those where the competence of the domestic courts is based on the principle of territoriality (i.e. where the offence is committed within its own territory, including offences committed on ships, aircraft and offshore installations, treated as part of the territory). Thus, when a State wishing to exercise its jurisdiction to try a national for an offence committed outside its territory makes a request for extradition which is refused, the obligation under Article 6 arises only if the law of the requested State also provides for the trial by its courts of its own nationals for offences committed outside its territory.

76. Article 6 is not to be interpreted as requiring the complete correspondence of the rules of jurisdiction of the States concerned. It requires this correspondence only insofar as it relates to the circumstances and nature of the offence for which extradition is requested. Where, for example, the requested State has jurisdiction over certain offences committed abroad by its own nationals, the obligation under Article 6 arises if it refuses extradition to a State wishing to exercise a similar jurisdiction in respect of any of those offences.

77. Paragraph 2 makes clear that the Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

78. In the case of a refusal to extradite in respect of an offence referred to in Article 2, the Convention contains neither an obligation nor an impediment for the requested State to take, in the light of the rules laid down in Articles 6 and 7, the measures necessary for the prosecution of the offender.

Article 7 (unchanged)

79. Article 7 establishes an obligation for the requested State to submit the case to its competent authorities for the purpose of prosecution if it refuses extradition (*aut dedere aut judicare*).

80. This obligation is subject to conditions similar to those laid down in paragraph 1 of Article 6: the suspected offender must have been found in the territory of the requested State, which must have received a request for extradition from a Contracting State whose jurisdiction is based on a rule of jurisdiction existing equally in its own law.

81. Subject to Article 16, paragraph 7, the case must be submitted to the prosecuting authority without exception and without undue delay. Prosecution itself follows the rules of law and procedure in force in the requested State for offences of comparable seriousness.

82. The principle of *aut dedere aut judicare* is restated in the context of Article 16, where it is subject to the possibility of the requesting and the requested State agreeing to proceed otherwise.

Article 8 (unchanged)

83. Article 8 deals with mutual assistance within the meaning of the European Convention on Mutual Assistance in Criminal Matters in criminal proceedings concerning the offences mentioned in Articles 1 and 2. The article lays down an obligation to grant assistance in relation to any offence contained in either Article 1 or Article 2.

84. In accordance with paragraph 1, Contracting States undertake to afford each other the widest measure of mutual assistance (first sentence); the wording of this provision was taken from Article 1 paragraph 1 of the European Convention on Mutual Assistance in Criminal Matters. Mutual assistance granted in compliance with Article 8 is governed by the relevant law of the requested State (second sentence), but may not be refused on the sole ground that the request concerns a political offence (third sentence). The definition of the political character of an offence is that given in Article 1 (see paragraphs 41 and 42 of this report).

85. Paragraph 2 repeats the rule set out in Article 5, paragraph 1, here in relation to mutual assistance. As the scope and meaning of this provision are the same, the comments on Article 5, paragraph 1, apply *mutatis mutandis* (see paragraphs 63 to 67 and 70 and 71 of this report).

86. Paragraph 3 concerns the Convention's effects on existing treaties and arrangements in the field of mutual assistance. It repeats the rules laid down in Article 3 for extradition treaties and arrangements (see paragraphs 57 and 58 of this report).

87. The principal consequence of paragraph 3 is the modification of Article 2.a of the European Convention on Mutual Assistance in Criminal Matters, in so far as it permits refusal of assistance "if the request concerns an offence which the requested Party considers a political offence" or "an offence connected with a political offence". Consequently, this provision and similar provisions in bilateral treaties on mutual assistance between Contracting

Parties to this Convention can no longer be invoked in order to refuse assistance with regard to an offence mentioned in Articles 1 and 2.

88. Article 8 does not preclude grounds for refusal of mutual assistance other than the political character of the offence.

Article 9

89. A new Article 9 has been introduced in the Convention, stating that the Contracting States may conclude between themselves agreements to supplement the provisions of this Convention or to facilitate the application of the principles contained therein. This provision does not impose an obligation on States Parties, but restates the possibility for them to further the attainment of the objectives of the Convention.

Article 10

90. This article confers on the European Committee on Crime Problems (CDPC) a general competence to follow up the application of the Convention and reflects the precedents established in other European Conventions in the penal field as, for instance, in Article 28 of the European Convention on the Punishment of Road Traffic Offences, Article 65 of the European Convention on the International Validity of Criminal Judgments, Article 44 of the European Convention on the Transfer of Proceedings in Criminal Matters, and Article 7 of the Additional Protocol to the European Convention on Extradition.

91. The reporting requirement under Article 10 is intended to allow the CDPC to keep informed about any difficulties in interpreting and applying the Convention, so that it may contribute to facilitating friendly settlements and proposing amendments to the Convention which might prove necessary.

92. The two tasks that the Convention originally assigned to the CDPC – “be kept informed regarding the application of this Convention” and “do what ever is needful to facilitate the friendly settlement of any difficulty which may arise out of its execution” – have been developed by providing a series of additional tasks that the committee may carry out in relation to the Convention, namely: making proposals with a view to facilitating or improving the application of the Convention; making recommendations to the Committee of Ministers concerning the proposals for amendments to the Convention, and giving its opinion on any proposals for amendments to the Convention submitted by a Contracting State in accordance with Articles 12 and 13; expressing, at the request of a Contracting State, an opinion on any question concerning the application of the Convention; making recommendations to the Committee of Ministers concerning non-member States of the Council of Europe to be invited to accede to the Convention in accordance with Article 14, paragraph 3, and submitting to the Committee of Ministers of the Council of Europe an annual report on the follow-up given to this article in the application of the Convention.

93. Notwithstanding these additional tasks as set out above, the CDPC continues to perform a general follow-up function regarding the Convention and without prejudice to a more specific follow-up competence assigned to the committee provided for in Article 17 – the Conference of States Parties against Terrorism (COSTER, see below) in respect of certain provisions of the Convention. The CDPC and the COSTER are both called upon to contribute to the efficiency of the Convention, each in their own way and from their own position, the CDPC as a governmental committee of experts responsible, under the authority of the Committee of Ministers, for implementing and following up international co-operation in the criminal field, and the COSTER as a conventional committee set up specifically for the purposes of this Convention. Obviously, where appropriate, the CDPC and the COSTER are required to co-operate with each other.

Article 11

94. Article 11 concerns the settlement, by means of arbitration, of those disputes over the interpretation or application of the Convention which have not already been settled through the intervention of the CDPC according to Article 10.e or through negotiation.

95. The provisions of Article 11 provide for the setting up of an arbitration tribunal. Each Party shall nominate an arbitrator and the arbitrators shall nominate a referee (paragraph 1). Where a Party fails to nominate its arbitrator within three months following the request for arbitration, or where the arbitrators fail to nominate a referee, the arbitrator or referee shall, at the request of the other Party, be nominated respectively by the President of the International Court of Justice or by the President of the European Court of Human Rights, depending on whether or not the dispute involves member State of the Council of Europe (paragraphs 2 and 3). Provision is made for cases where the president of the international court concerned is a national of one of the parties to the dispute (paragraph 4). The possible role of the president of these two international courts does not have any impact whatsoever on the applicable law.

96. Traditionally, Council of Europe conventions which are open exclusively to member States of the Council of Europe, as was this Convention originally, assigned a role to the President of the European Court of Human Rights (see, for instance, Article 47 paragraph 2 of the European Convention for the Protection of Animals during International Transport of 13 December 1968, in which the system was first introduced). This was because all the member States of the Council of Europe were Parties to the European Convention on Human Rights and therefore subject to the jurisdiction of the European Court of Human Rights. However, the fact that the Convention is now open to non-member States (see Article 14 below) required that arbitration procedures provide for the settlement of disputes involving non-member States by an international court outside the structure of the Council of Europe.

97. Although it is explicitly established that the arbitration tribunal shall lay down its own procedure, the Convention provides some of the rules, namely: that the tribunal's decisions shall be taken by majority vote and that the referee shall have a casting vote where a majority cannot be reached.

98. The casting vote of the referee is explained by the fact that a dispute may involve more than two Contracting States. The tribunal's decision shall be final.

Articles 12 and 13

99. These new articles have been introduced in the Convention in order to regulate subsequent amendments thereto. The GMT tried to solve the problem of possible future amendments to the Convention by providing two procedures: a simplified amendment procedure that will allow new conventions to be added to the list in Article 1, paragraph 1 (Article 13) and a general amendment procedure for amendments concerning any other provisions of the Convention (Article 12).

Article 12

100. This provision concerns amendments to the Convention other than those relating to Article 1, paragraph 1. It aims to simplify the amendment procedure by replacing the negotiation of an additional protocol with an accelerated procedure.

101. It provides that amendments may be proposed by any Contracting State or by the Committee of Ministers in accordance with standard Council of Europe treaty-making procedures.

102. The Committee of Ministers may then adopt the proposed amendments in accordance with the majority provided for in Article 20.d of the Statute of the Council of Europe, that is: a two-thirds majority of the representatives casting a vote and of a majority of the representatives entitled to sit on the Committee, and the amendments are then submitted to the Contracting States for acceptance (paragraph 2).

103. Paragraph 2 provides for two forms of consultation that the Committee of Ministers should carry out before proceeding to the formal adoption of any amendment. The first consists of a mandatory consultation of non-member States Parties to the Convention. This consultation is mandatory and justified because non-member Contracting States do not sit in the Committee of Ministers and therefore some form of participation in the adoption procedure was necessary. A second, optional consultation is held with the CDPC if the Committee of Ministers considers such consultation to be necessary. The CDPC then gives an opinion in pursuance of Article 10.c.

104. Once accepted by all the Contracting Parties, the amendment enters into force on the thirtieth day following notification of acceptance by the last Contracting Party (paragraph 3).

105. In accordance with standard Council of Europe practice and in keeping with the role of the Secretary General of the Council of Europe as depositary of European Conventions, the Secretary General receives the proposed amendments (paragraph 1), communicates them to the Contracting Parties for acceptance (paragraph 2), receives notification of acceptance by the Parties and notifies them of the entry into force of the amendments (paragraph 3).

Article 13

106. Article 13 introduces a new simplified amendment procedure for updating the list of treaties in Article 1, paragraph 1. This procedure represents a development in European conventions. This innovation is nevertheless inspired by existing anti-terrorist conventions, such as the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 (Article 23).

107. Article 13, paragraph 1 provides a number of substantive conditions that have to be met in order to have recourse to this procedure. Firstly, the amendment can only concern the list of treaties in Article 1, paragraph 1. Secondly, such amendments can only concern treaties concluded within the United Nations Organisation, dealing specifically with international terrorism and having entered into force.

108. In line with Article 12, amendments may be proposed by any Contracting Party or by the Committee of Ministers and are communicated by the Secretary General of the Council of Europe to the Contracting States (paragraph 1).

109. The forms of consultation and adoption by the Committee of Ministers of a proposed amendment provided in the general amendment procedure of Article 12 are provided in Article 13 also, for the simplified procedure (paragraph 2).

110. However, contrary to the general procedure under Article 12, in the simplified procedure an amendment, once adopted by the Committee of Ministers, enters into force after the expiry of a period of one year from the date on which it has been communicated to the Contracting States by the Secretary General (paragraph 2), provided that one third or more Contracting States do not object to it and notify the Secretary General accordingly. Any objection from a Contracting State shall be without prejudice to the other Parties' tacit acceptance. Where one third or more Contracting States object to the entry into force of the amendment, the proposed amendment does not enter into force (paragraph 3).

111. The acceptance by all the Contracting Parties is therefore not required for the entry into force of the amendment, which enters into force for all those Contracting States which have not objected to it (paragraph 4). For those States which have objected, the amendment comes into force on the first day of the month following the date on which they have notified the Secretary General of the Council of Europe of their subsequent acceptance (paragraph 5).

Articles 14 to 19

112. These articles are, for the most part, based on the model final clauses of agreements and conventions which were approved by the Committee of Ministers of the Council of Europe at the 113th meeting of the Deputies. Nevertheless, some of the provisions contained therein require some explanation.

Article 14

113. Article 14 has been amended in order to allow for non-member States of the Council of Europe to be parties to the Convention. It should be recalled that the original Convention did not provide for such participation, since it was restricted to member States of the Council of Europe.

114. When the GMT was set up by the Committee of Ministers, its terms of reference provided that the GMT should “review the operation of and examine the possibility of updating, existing Council of Europe international instruments applicable to the fight against terrorism, in particular the European Convention on the Suppression of Terrorism, in view also of a possible opening of the Convention to non-member States, and the other relevant instruments”.

115. Article 14 now provides for the participation of member and non-member States of the Council of Europe. However, there are some differences regarding the participation of non-member States.

116. While paragraph 1 provides automatically for the participation of member States and non-member States of the Council of Europe which are Observers to the Organisation, paragraph 3 provides for the possibility for other non-member States to become Parties to the Convention upon an invitation by the Committee of Ministers of the Council of Europe, after mandatory consultation of the CDPC. The Committee of Ministers’ decision has to be taken by the majority provided for in Article 20.d of the Statute of the Council of Europe – a two-thirds majority of the representatives casting a vote and of a majority of the representatives entitled to sit on the Committee – and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.

117. The procedure for non-member States to become parties to the Convention is different due to the special status of Observer States to the Council of Europe, status which presupposes a decision by the Committee of Ministers.

118. Finally, it should be recalled that the opening of the Convention to Observer States occurs, as from the entry into force of the Amending Protocol, in accordance with Article 18 of the Amending Protocol which provides that 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 on which all Parties to the Convention have expressed their consent to be bound by the Protocol, in accordance with the provisions of Article 17” which in turn provides that the “Protocol shall be open for signature by member States of the Council of Europe signatories to the Convention, which may express their consent to be bound by: a. signature without reservation as to ratification, acceptance or approval; or b. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval”.

119. In respect of States which were not Parties to the original Convention and become Parties to the amended Convention, the Convention comes into force three months after the date of the deposit of its instrument of ratification, acceptance, approval or accession (paragraph 4).

Article 15

120. This article has been left unchanged by the Amending Protocol, except with respect to the reference to accession, which takes into account the fact that once the Amending Protocol has entered into force, States which were not Parties to the original Convention will have to accede to it.

121. The wording of Article 15, paragraph 1, is based on the model final clauses approved by the Deputies at their 315th meeting. During discussions within the GMT, the proposal was put forward to modify this territorial clause by replacing the words "shall apply" by "shall or shall not apply". Ultimately, the GMT decided to retain the original formula of the final clause in order to conform with the long-standing practice of the Council of Europe aiming at ensuring the uniform application of European Treaties upon the territory of each State Party (the scope of the standard territorial clause being limited to overseas territories and territories with a special status).

122. It was stated that the wording of Article 15, paragraph 1, would not, however, constitute an obstacle for States Parties claiming not to have the control over their entire national territory to make unilateral statements declaring that they would not be able to ensure the application of the treaty in a certain territory. Any such declarations would not be considered as territorial declarations, but statements of factual character, prompted by exceptional circumstances making full compliance with a treaty temporarily impossible.

Article 16

123. Article 16 contains the reservation regime of the Convention, which was one of the key issues the GMT sought to address. It appeared essential to allow Contracting Parties to preserve some of their fundamental legal concepts, while ensuring the progressive implementation of this instrument and complying with paragraph 3.g of United Nations Security Council Resolution 1373 (2001) of 28 September 2001, which "calls upon all States (...) to ensure, in conformity with international law, (...) that claims of political motivation are not recognised as grounds for refusing requests for the extradition of alleged terrorists". As a result, the original regime provided in Article 13 of the original Convention has been reviewed and made subject to a number of conditions and a follow-up procedure.

124. Article 16, paragraph 1, allows Contracting States to make reservations in respect of the application of Article 1. The Convention thus recognises that a Contracting State might be impeded, for instance for legal or constitutional reasons, from fully accepting the obligations arising from Article 1, whereby certain offences cannot be regarded as political for the purposes of extradition. However, this possibility has been made subject to a number of conditions. First of all, the possibility of formulating a reservation is limited to those member States Parties to the Convention on the date of entry into force of the Amending Protocol, in accordance with its Article 18 (see paragraph 118 of this report). The reservations that such States may have made by virtue of Article 13 of the original Convention lapse on the date of entry into force of the Amending Protocol, and these States have the possibility of entering their reservation at the time of signature or when depositing their instrument of ratification, acceptance or approval of the Amending Protocol.

125. If a State avails itself of this possibility of making a reservation it can subsequently refuse extradition in respect of the offences mentioned in Article 1. However, it is under the obligation to apply the reservation on a case-by-case basis, to give reasons for its decision and take into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence. Before making its decision on the request for extradition, it

must give due consideration in its evaluation of the nature of the offence, to a number of elements related to the character and effects of the offence in question which are enumerated by way of example in Article 16, paragraph 1 sub-paragraphs a to c. These elements, which describe some particularly serious aspects of the offence, were drafted along the lines of paragraph 1 of Committee of Ministers Resolution (74) 3. As regards the phrase "collective danger to the life, physical integrity or liberty of persons" used in Article 16 paragraph 1.a, examples have been given in paragraph 52 of this report.

126. Having taken these elements into account, the requested State remains free to grant or to refuse extradition, subject to the conditions referred to in the other paragraphs of that article.

127. The notion of "duly reasoned decision" should be taken to mean an adequate, clear and detailed written statement explaining the factual and legal reasons for refusing the extradition request.

128. Paragraph 2 provides explicitly that the offence or offences in respect of which the reservation is to apply should be stated in the declaration.

129. Paragraphs 3 and 4 have been left unchanged. They provide, respectively, for the withdrawal of reservations made in pursuance of paragraph 1 and with partial or conditional reservations. Paragraph 4 in particular lays down the rule of reciprocity in respect of the application of Article 1 by a State having availed itself of a reservation. This provision repeats the provisions contained in Article 26 paragraph 3 of the European Convention on Extradition. The rule of reciprocity applies equally to reservations not provided for in Article 16.

130. In contrast with the original reservation regime, which provided for the indefinite validity of reservations made in pursuance of paragraph 1, paragraph 5 provides that reservations have a limited validity of three years from the date of entry into force of the Amending Protocol. After this deadline they will lapse, unless they are expressly renewed. Paragraph 6 provides a procedure for the automatic lapsing of non-renewed reservations. Where a Contracting State upholds its reservation, it shall provide an explanation of the grounds justifying its continuance. Paragraphs 5 and 6 reflect provisions of the Criminal Law Convention on Corruption of 27 January 1999 (ETS No. 173, Article 38, paragraphs 1 and 2). They have been added with a view to ensuring that reservations are regularly reviewed by Contracting States which have entered them.

131. If extradition is refused on the grounds of a reservation made in accordance with Article 16, Articles 6 and 7 apply. This is explicitly stated in paragraph 7, which reflects and reinforces the principle of *aut dedere aut judicare* by a duty to forward the decision promptly to the requesting State as provided in paragraph 8.

132. In paragraph 7, an obligation for the requested State to submit the case to the competent authorities for the purpose of prosecution arises as a result of the refusal of the extradition request made by the requesting State. Nevertheless, the requesting and the requested State may agree that the case will not be submitted to the competent authorities of the requested State for prosecution. For instance, where the requesting or the requested State consider that there is not sufficient evidence to bring a case in the requested State, it might be more appropriate to pursue their investigations until the case is ready for prosecution. Thus, the strict application of the maxima *aut dedere aut judicare* is balanced with a degree of flexibility which reflects the necessity for full co-operation between the requesting and the requested State for the successful prosecution of such cases.

133. Where the requested State submits the case to its competent authorities for the purpose of prosecution, the latter are required to consider and decide the case in the same manner as any offence of a serious nature under the law of that State. The requested State is required to communicate the final outcome of the proceedings to the requesting State and to the

Secretary General of the Council of Europe, who shall forward it to the COSTER for information.

134. Where a requesting State considers that a requested reserving State has disregarded the conditions of paragraphs 1, 2 and/or 7 because, for instance, no judicial decision on the merits has been taken within a reasonable time in the requested State in accordance with paragraph 7, it has the possibility of bringing the matter before the COSTER. The COSTER is competent to consider the matter and issue an opinion on the conformity of the refusal with the Convention. This opinion is submitted to the Committee of Ministers for the purpose of issuing a declaration thereon. When performing its functions under paragraph 7, the Committee of Ministers shall meet in its composition restricted to the Contracting States to the Convention.

135. The notion of “without undue delay” used in paragraph 7 and “within a reasonable time” in paragraph 8 shall be understood as synonyms. They are flexible concepts which, in the words of the European Court of Human Rights must be assessed in each case according to the particular circumstances and having regard to the criteria established by the case-law of the Court, namely: the complexity of the case, the conduct of the subject of the extradition request and of the competent authorities (see, among many other judgments: *Pélissier and Sassi v. France* of 25 March 1999, [GC], No. 25444/94, ECHR 1999-II, and *Philis v. Greece* (No. 2) of 27 June 1997, *Reports of Judgments and Decisions* 1997-IV, p. 1083, § 35 and *Zannouti v. France* of 31 July 2001).

Article 17

136. This article provides for the setting up of a conventional committee, the COSTER (an acronym derived from the title Conference of States Parties against Terrorism) responsible for a number of conventional follow-up tasks. This committee is modelled on that of the Convention on Cybercrime of 23 November 2001 (ETS No. 185, Article 46) and provides for the participation of all Contracting States.

137. The setting up of this specific follow-up committee is without prejudice to the functions of the CDPC in pursuance of Article 10, with whom the COSTER is called upon to co-operate closely in discharging its duties. The role of the COSTER is particularly significant in relation to the reservations made under Article 16. In this context, the COSTER is responsible for carrying out the procedure provided in Article 16, paragraph 8. Beyond its purely conventional functions, the COSTER has a broader role in the Council of Europe’s anti-terrorist legal activities. The COSTER is thus called upon to act as a forum for exchanges of information on legal and policy developments and, at the request of the Committee of Ministers, for examining additional legal measures with regard to terrorism adopted within the Council of Europe, making proposals for other necessary measures, in particular with a view to improving international co-operation in this area, for preparing opinions, and for the execution of any terms of reference given by the Committee of Ministers.

Article 18 (unchanged)

138. This provision, which is unusual among the final clauses of conventions elaborated within the Council of Europe, aims to allow any Contracting State to denounce this Convention in exceptional cases, particularly if in another Contracting State the effective democratic regime within the meaning of the European Convention on Human Rights is overthrown. This denunciation may, at the discretion of the State declaring it, take effect immediately, that is, as from the reception of the notification by the Secretary General of the Council of Europe, or at a later date.

Article 19

139. This provision, which is a standard final clause in Council of Europe treaties, concerns notifications to Contracting States. It goes without saying that the Secretary General must inform States also of any other acts, notifications and communications within the meaning of Article 77 of the Vienna Convention on the Law of Treaties relating to the Convention and not expressly provided for by Article 19, such as those provided for in Articles 12 to 18.