



Draft European Convention on the Suppression of Terrorism as amended by the 2003 Protocol *

Strasbourg, 27.II.1977

The member States of the Council of Europe, signatory hereto,

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

Aware of the growing concern caused by the increase in acts of terrorism;

Wishing to take effective measures to ensure that the perpetrators of such acts do not escape prosecution and punishment;

Convinced that extradition is a particularly effective measure for achieving this result,

Have agreed as follows:

Article 1 ⁽¹⁾

- 1 For the purposes of extradition between Contracting States, none of the following offences shall be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives:
 - a an offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
 - b an offence within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971;

(*) The European Convention on the Suppression of Terrorism, opened for signature by the member States of the Council of Europe on 27 January 1977, provides that none of the offences defined therein shall be regarded as political for the purposes of extradition. Following the terrorist attacks of 11 September 2001, the Council of Europe undertook a revision of this Convention, in order to enhance its effectiveness. The Multidisciplinary Group on International Action against Terrorism (GMT) was set up and prepared an Amending Protocol thereto. This Protocol was opened for signature by the member States of the Council of Europe on 15 May 2003. It will open the Convention to accession by non member States of the Council of Europe, extend the list of offences to be "depoliticised", introduce specific amendment procedures, restrict the possibilities of reservations and establish follow-up mechanisms.

This page contains the consolidated text of the Convention as it will be amended by its Protocol (ETS No. 190) at the time of its entry into force.

(1) Article as it will be amended according to the provisions of the Protocol of amendment to the Convention (ETS No. 190) as from its entry into force.

- c an offence within the scope of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted at New York on 14 December 1973;
 - d an offence within the scope of the International Convention Against the Taking of Hostages, adopted at New York on 17 December 1979;
 - e an offence within the scope of the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980;
 - f an offence within the scope of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988;
 - g an offence within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988;
 - h an offence within the scope of the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;
 - i an offence within the scope of the International Convention for the Suppression of Terrorist Bombings, adopted at New York on 15 December 1997;
 - j an offence within the scope of the International Convention for the Suppression of the Financing of Terrorism, adopted at New York on 9 December 1999.
- 2 In so far as they are not covered by the conventions listed under paragraph 1, the same shall apply, for the purpose of extradition between Contracting States, not only to the commission of those principal offences as a perpetrator but also to:
- a the attempt to commit any of these principal offences;
 - b the participation as an accomplice in the perpetration of any of these principal offences or in an attempt to commit any of them;
 - c organising the perpetration of, or directing others to commit or attempt to commit, any of these principal offences.

Article 2 ⁽¹⁾

- 1 For the purpose of extradition between Contracting States, a Contracting State may decide not to regard as a political offence or as an offence connected with a political offence or as an offence inspired by political motives a serious offence involving an act of violence, other than one covered by Article 1, against the life, physical integrity or liberty of a person.
- 2 The same shall apply to a serious offence involving an act against property, other than one covered by Article 1, if the act created a collective danger for persons.
- 3 The same shall apply to:
- a the attempt to commit any of the foregoing offences;

(1) Article as it will be amended according to the provisions of the Protocol of amendment to the Convention (ETS No. 190) as from its entry into force.

- b the participation as an accomplice in any of the foregoing offences or in an attempt to commit any such offence;
- c organising the perpetration of, or directing others to commit or attempt to commit, any of the foregoing offences.

Article 3

The provisions of all extradition treaties and arrangements applicable between Contracting States, including the European Convention on Extradition, are modified as between Contracting States to the extent that they are incompatible with this Convention.

Article 4 ⁽¹⁾

- 1 For the purpose of this Convention and to the extent that any offence mentioned in Article 1 or 2 is not listed as an extraditable offence in any extradition convention or treaty existing between Contracting States, it shall be deemed to be included as such therein. Contracting States undertake to consider such offences as extraditable offences in every extradition treaty subsequently concluded between them.
- 2 When a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, the requested Contracting State may, at its discretion, consider this Convention as a legal basis for extradition in relation to any of the offences mentioned in Articles 1 or 2.

Article 5 ⁽¹⁾

- 1 Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State has substantial grounds for believing that the request for extradition for an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.
- 2 Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the person subject of the extradition request risks being exposed to torture.
- 3 Nothing in this Convention shall be interpreted either as imposing an obligation to extradite if the person subject of the extradition request risks being exposed to the death penalty or, where the law of the requested State does not allow for life imprisonment, to life imprisonment without the possibility of parole, unless under applicable extradition treaties the requested State is under the obligation to extradite if the requesting State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, where imposed, will not be carried out, or that the person concerned will not be subject to life imprisonment without the possibility of parole.

Article 6

- 1 Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over an offence mentioned in Article 1 in the case where the suspected offender is present in its territory and it does not extradite him 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.

(1) Article as it will be amended according to the provisions of the Protocol of amendment to the Convention (ETS No. 190) as from its entry into force.

- 2 This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 7

A Contracting State in whose territory a person suspected to have committed an offence mentioned in Article 1 is found and which has received a request for extradition under the conditions mentioned in Article 6, paragraph 1, shall, if it does not extradite that person, submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State.

Article 8

- 1 Contracting States shall afford one another the widest measure of mutual assistance in criminal matters in connection with proceedings brought in respect of the offences mentioned in Article 1 or 2. The law of the requested State concerning mutual assistance in criminal matters shall apply in all cases. Nevertheless this assistance may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.
- 2 Nothing in this Convention shall be interpreted as imposing an obligation to afford mutual assistance if the requested State has substantial grounds for believing that the request for mutual assistance in respect of an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion or that that person's position may be prejudiced for any of these reasons.
- 3 The provisions of all treaties and arrangements concerning mutual assistance in criminal matters applicable between Contracting States, including the European Convention on Mutual Assistance in Criminal Matters, are modified as between Contracting States to the extent that they are incompatible with this Convention.

Article 9 ⁽¹⁾

The Contracting States may conclude between themselves bilateral or multilateral agreements in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.

Article 10 ⁽²⁾

The European Committee on Crime Problems (CDPC) is responsible for following the application of the Convention. The CDPC:

- a shall be kept informed regarding the application of the Convention;
- b shall make proposals with a view to facilitating or improving the application of the Convention;

(1) Article as it will be added according to the provisions of the Protocol of amendment to the Convention (ETS No. 190) as from its entry into force.
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- c shall make recommendations to the Committee of Ministers concerning the proposals for amendments to the Convention, and shall give its opinion on any proposals for amendments to the Convention submitted by a Contracting State in accordance with Articles 12 and 13;
- d shall, at the request of a Contracting State, express an opinion on any question concerning the application of the Convention;
- e shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of the execution of the Convention;
- f shall make 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;
- g shall submit every year to the Committee of Ministers of the Council of Europe a report on the follow-up given to this article in the application of the Convention.

Article 11 ⁽¹⁾

- 1 Any dispute between Contracting States concerning the interpretation or application of this Convention, which has not been settled either in the framework of Article 10.e or by negotiation, shall, at the request of any Party to the dispute, be referred to arbitration. Each Party shall nominate an arbitrator and the arbitrators shall nominate a referee.
- 2 In the case of disputes involving Parties which are member States of the Council of Europe, where a Party fails to nominate its arbitrator in pursuance of paragraph 1 of this article within three months following the request for arbitration, an arbitrator shall be nominated by the President of the European Court of Human Rights at the request of the other Party.
- 3 In the case of disputes involving any Party which is not a member of the Council of Europe, where a Party fails to nominate its arbitrator in pursuance of paragraph 1 of this article within three months following the request for arbitration, an arbitrator shall be nominated by the President of the International Court of Justice at the request of the other Party.
- 4 In the cases covered by paragraphs 2 and 3 of this article, where the President of the Court concerned is a national of one of the Parties to the dispute, this duty shall be carried out by the Vice-President of the Court, or if the Vice-President is a national of one of the Parties to the dispute, by the most senior judge of the Court who is not a national of one of the Parties to the dispute.
- 5 The procedures referred to in paragraphs 2 or 3 and 4 above apply, *mutatis mutandis*, where the arbitrators fail to agree on the nomination of a referee in accordance with paragraph 1 of this article.
- 6 Where a majority cannot be reached, the referee shall have a casting vote. The tribunal's judgment shall be final.

(1) Article as it will be amended according to the provisions of the Protocol of amendment to the Convention (ETS No. 190) as from its entry into force.

Article 12 ⁽¹⁾

- 1 Amendments to this Convention may be proposed by any Contracting State, or by the Committee of Ministers. Proposals for amendment shall be communicated by the Secretary General of the Council of Europe to the Contracting States.
- 2 After having consulted the non-member Contracting States and, if necessary, the CDPC, the Committee of Ministers may adopt the amendment in accordance with the majority provided for in Article 20.d of the Statute of the Council of Europe. The Secretary General of the Council of Europe shall submit any amendments adopted to the Contracting States for acceptance.
- 3 Any amendment adopted in accordance with the above paragraph shall enter into force on the thirtieth day following notification by all the Parties to the Secretary General of their acceptance thereof.

Article 13 ⁽¹⁾

- 1 In order to update the list of treaties in Article 1, paragraph 1, amendments may be proposed by any Contracting State or by the Committee of Ministers. These proposals for amendment shall only concern treaties concluded within the United Nations Organisation dealing specifically with international terrorism and having entered into force. They shall be communicated by the Secretary General of the Council of Europe to the Contracting States.
- 2 After having consulted the non-member Contracting States and, if necessary the CDPC, the Committee of Ministers may adopt a proposed amendment by the majority provided for in Article 20.d of the Statute of the Council of Europe. The amendment shall enter into force following the expiry of a period of one year after the date on which it has been forwarded to the Contracting States. During this period, any Contracting State may notify the Secretary General of any objection to the entry into force of the amendment in its respect.
- 3 If one-third of the Contracting States notifies the Secretary General of an objection to the entry into force of the amendment, the amendment shall not enter into force.
- 4 If less than one-third of the Contracting States notifies an objection, the amendment shall enter into force for those Contracting States which have not notified an objection.
- 5 Once an amendment has entered into force in accordance with paragraph 2 of this article and a Contracting State has notified an objection to it, this amendment shall come into force in respect of the Contracting State concerned on the first day of the month following the date on which it has notified the Secretary General of the Council of Europe of its acceptance.

Article 14 ⁽²⁾

- 1 This Convention shall be open to signature by the member States of and Observer States to the Council of Europe. It shall be subject to ratification, acceptance, approval or accession. Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary General of the Council of Europe.
- 2 The Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or approval.

(1) Article as it will be added according to the provisions of the Protocol of amendment to the Convention (ETS No. 190) as from its entry into force.

(2) Article as it will be amended according to the provisions of the Protocol of amendment to the Convention (ETS No. 190) as from its entry into force.

- 3 The Committee of Ministers of the Council of Europe, after consulting the CDPC, may invite any State not a member of the Council of Europe, other than those referred to under paragraph 1 of this article, to accede to the Convention. The decision shall be taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.
- 4 In respect of a signatory State ratifying, accepting, approving or acceding subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

Article 15 ⁽¹⁾

- 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 Convention shall apply.
- 2 Any State may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.
- 3 Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect immediately or at such later date as may be specified in the notification.

Article 16 ⁽¹⁾

- 1 Any State Party to the Convention on 15 May 2003 may, at the time of signature or when depositing its instrument of ratification, acceptance or approval of the Protocol amending the Convention, declare that it reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence, an offence connected with a political offence or an offence inspired by political motives. The Contracting State undertakes to apply this reservation on a case-by-case basis, through a duly reasoned decision and taking into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including:
 - a that it created a collective danger to the life, physical integrity or liberty of persons; or
 - b that it affected persons foreign to the motives behind it; or
 - c that cruel or vicious means have been used in the commission of the offence.
- 2 When applying paragraph 1 of this article, a Contracting State shall indicate the offences to which its reservation applies.
- 3 Any Contracting State may wholly or partly withdraw a reservation it has made in accordance with paragraph 1 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.

(1) Article as it will be amended according to the provisions of the Protocol of amendment to the Convention (ETS No. 190) as from its entry into force.

- 4 A Contracting State which has made a reservation in accordance with paragraph 1 of this article may not claim the application of Article 1 by any other State; it may, however, if its reservation is partial or conditional, claim the application of that article in so far as it has itself accepted it.
- 5 The reservations referred to in paragraph 1 of this article shall be valid for a period of three years from the day of the entry into force of this Convention in respect of the State concerned. However, such reservations may be renewed for periods of the same duration.
- 6 Twelve months before the date of expiry of the reservation, the Secretariat General of the Council of Europe shall give notice of that expiry to the Contracting State concerned. No later than three months before expiry, the Contracting State shall notify the Secretary General of the Council of Europe that it is upholding, amending or withdrawing its reservation. Where a Contracting State notifies the Secretary General of the Council of Europe that it is upholding its reservation, it shall provide an explanation of the grounds justifying its continuance. In the absence of notification by the Contracting State concerned, the Secretary General of the Council of Europe shall inform that Contracting State that its reservation is considered to have been extended automatically for a period of six months. Failure by the Contracting State concerned to notify its intention to uphold or modify its reservation before the expiry of that period shall cause the reservation to lapse.
- 7 Where a Contracting State does not extradite a person, in application of a reservation made in accordance with paragraph 1 of this article, after receiving a request for extradition from another Contracting State, it shall submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution, unless the requesting State and the requested State otherwise agree. The competent authorities, for the purpose of prosecution in the requested State, shall take their decision in the same manner as in the case of any offence of a grave nature under the law of that State. The requested State shall communicate, without undue delay, 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 follow-up committee.
- 8 The decision to refuse the extradition request, on the basis of paragraph 1 of this article, shall be forwarded promptly to the requesting State. If within a reasonable time no judicial decision on the merits has been taken in the requested State according to paragraph 7, the requesting State may communicate this fact to the Secretary General of the Council of Europe, who shall submit the matter to the Conference provided for in Article 17. This Conference shall consider the matter and issue an opinion on the conformity of the refusal with the Convention and shall submit it to the Committee of Ministers for the purpose of issuing a declaration thereon. When performing its functions under this paragraph, the Committee of Ministers shall meet in its composition restricted to the Contracting States.

Article 17 ⁽¹⁾

- 1 Without prejudice to the application of Article 10, there shall be a Conference of States Parties against Terrorism (hereinafter referred to as the “COSTER”) responsible for ensuring:
 - a the effective use and operation of this Convention including the identification of any problems therein, in close contact with the CDPC;
 - b the examination of reservations made in accordance with Article 16 and in particular the procedure provided in Article 16, paragraph 8;

(1) Article as it will be added according to the provisions of the Protocol of amendment to the Convention (ETS No. 190) as from its entry into force.

- c the exchange of information on significant legal and policy developments pertaining to the fight against terrorism;
 - d the examination, at the request of the Committee of Ministers, of measures adopted within the Council of Europe in the field of the fight against terrorism and, where appropriate, the elaboration of proposals for additional measures necessary to improve international co-operation in the area of the fight against terrorism and, where co-operation in criminal matters is concerned, in consultation with the CDPC;
 - e the preparation of opinions in the area of the fight against terrorism and the execution of the terms of reference given by the Committee of Ministers.
- 2 The COSTER shall be composed of one expert appointed by each of the Contracting States. It will meet once a year on a regular basis, and on an extraordinary basis at the request of the Secretary General of the Council of Europe or of at least one-third of the Contracting States.
- 3 The COSTER will adopt its own Rules of Procedure. The expenses for the participation of Contracting States which are member States of the Council of Europe shall be borne by the Council of Europe. The Secretariat of the Council of Europe will assist the COSTER in carrying out its functions pursuant to this article.
- 4 The CDPC shall be kept periodically informed about the work of the COSTER.

Article 18

Any Contracting State may denounce this Convention by means of a written notification addressed to the Secretary General of the Council of Europe. Any such denunciation shall take effect immediately or at such later date as may be specified in the notification.

Article 19⁽¹⁾

The Secretary General of the Council of Europe shall notify the Contracting States of:

- a any signature;
- b any deposit of an instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Convention in accordance with Article 14 thereof;
- d any declaration or notification received in pursuance of the provisions of Article 15;
- e any notification received in pursuance of Article 18 and the date on which denunciation takes effect.

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

Done at Strasbourg, this 27th day of February 1977, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory States.

(1) Article as it will be amended according to the provisions of the Protocol of amendment to the Convention (ETS No. 190) as from its entry into force.