

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RESOLUTION (75) 12

ON THE PRACTICAL APPLICATION OF THE EUROPEAN CONVENTION ON EXTRADITION

*(Adopted by the Committee of Ministers on 21 May 1975
at the 245th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Desirous of facilitating the functioning of the system of extradition provided for in the European Convention on Extradition opened for signature in Paris on 13 December 1957,

I. Recommends to the governments of member states Contracting Parties to the convention, as regards :

Article 1

That, in the case of a minor aged under 18 at the time of the request for extradition and ordinarily resident in the requested state, the competent authorities of the requesting and the requested states shall take into consideration the interests of the minor and, where they think that extradition is likely to impair his social rehabilitation, shall endeavour to reach an agreement on the most appropriate measures ;

Article 7

That the possibility granted to a requested state by Article 7, paragraph 1, of the convention of refusing extradition for an offence committed in whole or in part in its territory or in a place treated as its territory should not be invoked in the case where proceedings and judgement in the territory of the requesting state are warranted in order to arrive at the truth or by the possibility of applying an appropriate sanction or of effecting the social rehabilitation of the person concerned ;

Article 9

That, if new proceedings are instituted by the requesting state against the individual in respect of whom the requested state had terminated proceedings for the offence for which he was extradited, any period passed in remand in custody in the requested state shall be taken into consideration when deciding the penalty involving deprivation of liberty or detention which he has to serve in the requesting state ;

Article 10

That, when determining whether, according to the law of the requested state, the person claimed has become immune by reason of lapse of time from prosecution or punishment, the competent authorities of the said state shall take into consideration any acts of interruption and any events suspending time-limitation occurring in the requesting state in so far as acts or events of the same nature have an identical effect in the requested state ;

Articles 16 and 18

That the time spent in detention by an individual solely for the purpose of extradition in the territory of the requested state or of a state of transit shall be taken into consideration when deciding the penalty involving deprivation of liberty or detention which he has to serve for the offence for which he was extradited ;

Article 20

That, in applying the provisions of Article 20, paragraph 3, of the convention, Contracting Parties shall take into consideration the interest of the victim of the offence in a speedy return of the property seized ;

That, furthermore, the requested state, when handing over property without demanding that it be sent back, shall not enforce any demand for customs duty or any other claim under its customs or fiscal legislation unless the owner of the property who was the victim of the offence is himself liable for the payment ;

Article 22

That the Contracting Parties, whilst providing for a speedy extradition procedure, shall ensure that the person whose extradition has been requested has the right to be heard by a judicial authority and to be assisted by the lawyer of his own choosing and shall submit to a judicial authority the control of his custody for the purpose of extradition as well as the conditions of his extradition ;

II. Instructs the Secretary General of the Council of Europe to transmit this resolution to the governments of those Contracting States which are not member states of the Council of Europe ;

III. Invites the governments of Contracting States to inform the Secretary General of the Council of Europe every four years of steps taken to give effect to the above recommendations.