

by the Convention, or to take other measures such as expelling the offender or sending him 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.

29. The obligation which Contracting States undertake by adhering to the convention are closely linked with the special climate of mutual confidence among the Members of the Council of Europe which is based on their collective recognition of the rule of law and the protection of human rights manifested by Article 3 of the Council's Statute and by the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 which all member States have signed.

For that reason it was thought necessary to restrict the circle of contracting Parties to the member States of the Council, in spite of the fact that terrorism is a global problem.

30. 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 party.

### Commentaries on the articles of the Convention

#### *Article 1*

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

It thus modifies the consequences of existing extradition agreements and arrangements as concerns the evaluation of the nature of the 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 for itself 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.

32. The phrases "political offence" and "offence connected with a political offence" were taken from Article 3.1 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.

33. The phrase "offence inspired by political motives" is meant to complement 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.<sup>1)</sup>

34. Article 1 reflects a tendency not to allow the requested State to invoke the political nature of the offence in order to oppose requests for extradition in respect of certain particularly odious crimes. This tendency has already been implemented in international treaties, for instance in Article 3.3 of the European Convention on Extradition for 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.

35. Article 1 lists two categories of crimes: the first, contained in paragraphs *a*, *b* and *c*, comprises offences which are already included in international treaties, the second, contained in paragraphs *d* and *e*, concerns offences which were considered as serious so that it was deemed necessary to assimilate them to the offences of the first category. Paragraph *f* concerns attempt to commit any of the offences listed in Article 1 and the participation therein.

36. While in paragraphs *a* and *b* the offences in question are described by simple reference to the titles of the Hague Convention of 16 December 1970 and the Montreal Convention of 23 September 1971, paragraph *c* enumerates some of the offences which are contained in the New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons,