

including Diplomatic Agents, of 14 December 1973 instead of referring to the Convention by name. This was done because the New York Convention had not entered into force when the European Convention was drafted, and several Council of Europe member States have not ratified it. Another reason for enumerating the acts to which paragraph *c* is to apply rather than merely referring to the title of the New York Convention is the wider scope of application of that Convention: it covers attacks on premises, accommodation and means of transport of internationally protected persons which Article 1.c does not. The phrase "serious offence" is meant to limit the application of the provision to particularly odious forms of violence. This idea is furthermore emphasised by the use of the term "attack" taken from the New York Convention.

37. Paragraph *d* uses the phrase "an offence involving . . ." to cover the case of a State whose laws do not include the specific offences of kidnapping or taking of a hostage. In the English text the phrase "unlawful detention" has been qualified by adding the word "serious" so as to ensure conformity with the French expression *séquestration arbitraire* which always implies a serious offence.

38. Paragraph *e* covers offences involving the use of bombs and other instruments capable of killing indiscriminately. It applies only if the use endangered persons, i. e. created a risk for persons, even without actually injuring them.

39. The attempt to commit any of the offences listed in paragraphs *a* to *e*, as well as the participation as an accomplice in their commission or attempt, are covered by virtue of paragraph *f*. Provisions of a similar nature are to be found in the Hague Convention on Seizure of Aircraft, the Montreal Convention on Safety of Civil Aircraft and the New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons.

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

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

Article 2

40. Paragraph 1 of Article 2 opens the possibility for Contracting Parties not to consider "political" certain serious offences which, without falling within the scope of the obligatory 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.

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.

41. By virtue of paragraph 2, inspired by Resolution (74) 3 of the Committee of Ministers,¹⁾ an act against property is covered only if it created a "collective" danger for persons, e. g. as the result of an explosion of a nuclear installation or of a dam.

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

- the requested State may not regard the offence as "political" within the meaning of Article 2 and extradite the person concerned;
- it may not regard the offence as "political" within the meaning of Article 2, but nevertheless refuse extradition for a reason other than political;
- it may regard the offence as "political", but refuse extradition.

43. It is obvious that a State may always decide on the extradition request independently of Article 2, i. e. without expressing an opinion on whether the conditions of this Article are fulfilled.

Article 3

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

45. The word "arrangements" is intended to include extradition procedures which are not enshrined in a formal treaty, such as tho-

¹⁾ See Appendix.