

tual 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 an offence of a political character (third sentence), the description of the political character of the offence being the same as in Article 1 (cf. paragraphs 32 and 33 of this report).

64. Paragraph 2 repeats for mutual assistance the rule of Article 5. The scope and meaning of this provision being the same, the comments on Article 5 apply *mutatis mutandis* (cf. paragraphs 48 to 51 of this report).

65. 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 (cf. paragraphs 45 and 46 of this report).

66. The principal consequence of paragraph 3 is the modification of Article 2.a of the European Convention on Mutual Assistance in Criminal Matters insofar 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 Article 1 and 2.

Article 9

67. This Article which makes the European Committee on Crime Problems of the Council of Europe the guardian over the application of the Convention follows 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, in Article 65 of the European Convention on the International Validity of Criminal Judgments, in Article 44 of the European Convention on the Transfer of Proceedings in Criminal Matters, and in Article 7 of the Additional Protocol to the European Convention on Extradition.

68. The reporting requirement which Article 9 lays down is intended to keep the European Committee on Crime Problems infor-

med about possible 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.

Article 10

69. Article 10 concerns the settlement, by means of arbitration, of those disputes over the interpretation or application of the Convention which have not been already settled through the intervention of the European Committee on Crime Problems according to Article 9.2.

70. The provisions of Article 10 which are self-explanatory provide for the setting up of an arbitration tribunal on the lines of Article 47.2 of the European Convention for the Protection of Animals during International Transport of 13 December 1968 where this system of arbitration was for the first time introduced.

Articles 11 to 16

71. 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 Deputies. Most of these Articles do not call for specific comments, but the following points require some explanation.

72. Article 13, 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; e.g. 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.

73. The offence or offences in respect of which the reservation is to apply should be stated in the declaration.

74. If a State avails itself of this possibility of making a reservation it can, in respect of the offences mentioned in Article 1, refuse extradition. Before deciding on the request for extradition it must, however, when evaluating the nature of the offence, take into due consideration a number of elements relative to the character and effects of the offence in question which are enumerated by way of example in Article 13.1 paragraphs a to c.