

Having taken these elements into account the requested State remains free to grant or to refuse extradition.

75. These elements which describe some of the particularly serious aspects of the offence were drafted along the lines of paragraph 1 of the recommendation contained in Resolution (74) 3 of the Committee of Ministers.<sup>1)</sup> As regards the phrase "collective danger to the life, physical integrity or liberty of persons" used in Article 13.1.a, examples have been given in paragraph 41 of this report.

76. If extradition is refused on the grounds of a reservation made in accordance with Article 13, Articles 6 and 7 apply.

77. Paragraph 3 of Article 13 which lays down the rule of reciprocity in respect of the application of Article 1 by a State having availed itself of a reservation, repeats the provisions contained in Article 26.3 of the European Convention on Extradition.

The rule of reciprocity applies equally to reservations not provided for in Article 13.

78. *Article 14* which is unusual among the final clauses of conventions elaborated within the Council of Europe aims at allowing any contracting State to denounce this Convention in exceptional cases, in particular if in another Contracting State the effective democratic regime within the meaning of the European Convention on Human Rights is overthrown. This denunciation may, at the choice of the State declaring it, take effect immediately, i.e. as from the reception of the notification by the Secretary General of the Council of Europe, or at a later date.

79. *Article 15* which ensures that only Members of the Council of Europe can be Parties to the Convention is the consequence of the closed character of the Convention (cf. paragraph 29 of this report).

80. *Article 16* concerns notifications to member States. It goes without saying that the Secretary General must inform States also of any other acts, notifications and communications within the meaning of Article 77 of the Vienna Convention on the Law of Treaties<sup>2)</sup> relating to the Convention and not expressly provided for by Article 16.

#### Spørgsmål 4:

<sup>1)</sup> See Appendix.

<sup>2)</sup> The Vienna Convention of 23 May 1969 has not yet entered into force.

»ad art. 1. Er de i litra a-f opremsede handlinger *udtømmende* for, hvad en kontraherende stat ikke må anse for politiske forbrydelser, for forbrydelser, der har forbindelse med politiske forbrydelser, eller for forbrydelser, der udspringer af politiske motiver?«

Svar:

Spørgsmålet kan besvares bekræftende. Der henvises til side 11 i den vedlagte explanatory report.

#### Spørgsmål 7:

»Ad artikel 2. I stk. 1 nævnes at »en kontraherende stat« kan bestemme, at andre handlinger end de i art. 1 nævnte *heller ikke* må anses for politiske forbrydelser. Er den kontraherende stat, som omtales, den stat, som begærer udlevering, eller er det den stat, som i givet fald skal udlevere?«

Svar:

Spørgsmålet om, hvorvidt en lovovertrædelse, for hvilken der begæres udlevering, har karakter af en politisk forbrydelse, afgøres efter almindelige udleveringsretlige principper altid af den stat, som udleveringsbegæringen er rettet til. På denne baggrund indebærer artikel 2, at en kontraherende stat kan bestemme, at den i tilfælde, hvor den modtager en udleveringsbegæring fra en anden kontraherende stat, ikke vil anse en forbrydelse af den i bestemmelsen nævnte karakter for en politisk forbrydelse. Den kontraherende stat, som bestemmelsen angår, vil med andre ord altid være den stat, som i givet fald skal udlevere. Om baggrunden for artikel 2 henvises til besvarelsen af spørgsmål 8.

#### Spørgsmål 8:

»Når den danske regerings forbehold kun omfatter art. 1, betyder det så ikke, at ratifikation af konventionen gennem art. 2 principielt forpligter til udlevering i tilfælde, som meget vel *kan* stride mod den gældende udleveringslovgivning, herunder udlevering for politiske forbrydelser (uden for art. 1s område) og udlevering til lande med dødsstraf?«