



Miscellaneous No. 3 (2014)

Third Additional Protocol

to the European Convention on Extradition

Strasbourg, 10 November 2010

[The Protocol has not been ratified by the United Kingdom]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 2014*

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THIRD ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON EXTRADITION

The member States of the Council of Europe, signatory to this Protocol,

Considering that the aim of the Council of Europe is to achieve greater unity between its members;

Desirous of strengthening their individual and collective ability to respond to crime;

Having regard to the provisions of the European Convention on Extradition (ETS No. 24¹) opened for signature in Paris on 13 December 1957 (hereinafter referred to as “the Convention”), as well as the two Additional Protocols thereto (ETS Nos. 86² and 98³), done at Strasbourg on 15 October 1975 and on 17 March 1978, respectively;

Considering it desirable to supplement the Convention in certain respects in order to simplify and accelerate the extradition procedure when the person sought consents to extradition,

Have agreed as follows:

ARTICLE 1

Obligation to Extradite under the Simplified Procedure

Contracting Parties undertake to extradite to each other under the simplified procedure as provided for by this Protocol persons sought in accordance with Article 1 of the Convention, subject to the consent of such persons and the agreement of the requested Party.

ARTICLE 2

Initiation of the Procedure

1. When the person sought is the subject of a request for provisional arrest in accordance with Article 16 of the Convention, the extradition referred to in Article 1 of this Protocol shall not be subject to the submission of a request for extradition and supporting documents in accordance with Article 12 of the Convention. The following information provided by the requesting Party shall be regarded as adequate by the requested Party for the purpose of applying Articles 3 to 5 of this

¹ Treaty Series No. 097 (1991) Cm 1762

² Miscellaneous Series No. 008 (1990) Cm 999

³ Treaty Series No. 049 (1994) Cm 2668

Protocol and for taking its final decision on extradition under the simplified procedure:

- a. the identity of the person sought, including his or her nationality or nationalities when available;
 - b. the authority requesting the arrest;
 - c. the existence of an arrest warrant or other document having the same legal effect or of an enforceable judgment, as well as a confirmation that the person is sought in accordance with Article 1 of the Convention;
 - d. the nature and legal description of the offence, including the maximum penalty or the penalty imposed in the final judgment, including whether any part of the judgment has already been enforced;
 - e. information concerning lapse of time and its interruption;
 - f. a description of the circumstances in which the offence was committed, including the time, place and degree of involvement of the person sought;
 - g. in so far as possible, the consequences of the offence;
 - h. in cases where extradition is requested for the enforcement of a final judgment, whether the judgment was rendered in absentia.
2. Notwithstanding paragraph 1, supplementary information may be requested if the information provided for in the said paragraph is insufficient to allow the requested Party to decide on extradition.
3. In cases where the requested Party has received a request for extradition in accordance with Article 12 of the Convention, this Protocol shall apply *mutatis mutandis*.

ARTICLE 3

Obligation to Inform the Person

Where a person sought for the purpose of extradition is arrested in accordance with Article 16 of the Convention, the competent authority of the requested Party shall inform that person, in accordance with its law and without undue delay, of the request relating to him or her of the possibility of applying the simplified extradition procedure in accordance with this Protocol.

ARTICLE 4

Consent to Extradition

1. The consent of the person sought and, if appropriate, his or her express renunciation of entitlement to the rule of speciality shall be given before the competent judicial authority of the requested Party in accordance with the law of that Party.

2. Each Party shall adopt the measures necessary to ensure that consent and, where appropriate, renunciation, as referred to in paragraph 1, are established in such a way as to show that the person concerned has expressed them voluntarily and in full awareness of the legal consequences. To that end, the person sought shall have the right to legal counsel. If necessary, the requested Party shall ensure that the person sought has the assistance of an interpreter.

3. Consent and, where appropriate, renunciation, as referred to in paragraph 1, shall be recorded in accordance with the law of the requested Party.

4. Subject to paragraph 5, consent and, where appropriate, renunciation, as referred to in paragraph 1, shall not be revoked.

5. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any later time, declare that consent and, where appropriate, renunciation of entitlement to the rule of speciality, may be revoked. The consent may be revoked until the requested Party takes its final decision on extradition under the simplified procedure. In this case, the period between the notification of consent and that of its revocation shall not be taken into consideration in establishing the periods provided for in Article 16, paragraph 4, of the Convention. Renunciation of entitlement to the rule of speciality may be revoked until the surrender of the person concerned. Any revocation of the consent to extradition or the renunciation of entitlement to the rule of speciality shall be recorded in accordance with the law of the requested Party and notified to the requesting Party immediately.

ARTICLE 5

Renunciation of Entitlement to the Rule of Speciality

Each State may declare, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any later time, that the rules laid down in Article 14 of the Convention do not apply where the person extradited by this State, in accordance with Article 4 of this Protocol:

- a. consents to extradition; or
- b. consents to extradition and expressly renounces his or her entitlement to the rule of speciality.

ARTICLE 6

Notifications in Case of Provisional Arrest

1. So that the requesting Party may submit, where applicable, a request for extradition in accordance with Article 12 of the Convention, the requested Party shall notify it, as soon as possible and no later than ten days after the date of provisional arrest, whether or not the person sought has given his or her consent to extradition.
2. In exceptional cases where the requested Party decides not to apply the simplified procedure in spite of the consent of the person sought, it shall notify this to the requesting Party sufficiently in advance so as to allow the latter to submit a request for extradition before the period of forty days established under Article 16 of the Convention expires.

ARTICLE 7

Notification of the Decision

Where the person sought has given his or her consent to extradition, the requested Party shall notify the requesting Party of its decision with regard to the extradition under the simplified procedure within twenty days of the date on which the person consented.

ARTICLE 8

Means of Communication

For the purpose of this Protocol, communications may be forwarded through electronic or any other means affording evidence in writing, under conditions which allow the Parties to ascertain their authenticity, as well as through the International Criminal Police Organisation (Interpol). In any case, the Party concerned shall, upon request and at any time, submit the originals or authenticated copies of documents.

ARTICLE 9

Surrender of the Person to be Extradited

Surrender shall take place as soon as possible, and preferably within ten days from the date of notification of the extradition decision.

ARTICLE 10

Consent Given after Expiry of the Deadline Laid Down in Article 6

Where the person sought has given his or her consent after expiry of the deadline of ten days laid down in Article 6, paragraph 1, of this Protocol, the requested Party shall apply the simplified procedure as provided for in this Protocol if it has not yet received a request for extradition within the meaning of Article 12 of the Convention.

ARTICLE 11

Transit

In the event of transit under the conditions laid down in Article 21 of the Convention, where a person is to be extradited under a simplified procedure to the requesting Party, the following provisions shall apply:

- a. the request for transit shall contain the information required in Article 2, paragraph 1, of this Protocol;
- b. the Party requested to grant transit may request supplementary information if the information provided for in sub-paragraph a is insufficient for the said Party to decide on transit.

ARTICLE 12

Relationship with the Convention and Other International Instruments

1. The words and expressions used in this Protocol shall be interpreted within the meaning of the Convention. As regards the Parties to this Protocol, the provisions of the Convention shall apply, *mutatis mutandis*, to the extent that they are compatible with the provisions of this Protocol.

2. The provisions of this Protocol are without prejudice to the application of Article 28, paragraphs 2 and 3, of the Convention concerning the relations between the Convention and bilateral or multilateral agreements.

ARTICLE 13

Friendly Settlement

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Protocol and shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of its interpretation and application.

ARTICLE 14

Signature and Entry into Force

1. This Protocol shall be open for signature by the member States of the Council of Europe which are a Party to or have signed the Convention. It shall be subject to ratification, acceptance or approval. A signatory may not ratify, accept or approve this Protocol unless it has previously ratified, accepted or approved the Convention, or does so simultaneously. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
2. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the deposit of the third instrument of ratification, acceptance or approval.
3. In respect of any signatory State which subsequently deposits its instrument of ratification, acceptance or approval, this Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit.

ARTICLE 15

Accession

1. Any non-member State which has acceded to the Convention may accede to this Protocol after it has entered into force.
2. Such accession shall be effected by depositing an instrument of accession with the Secretary General of the Council of Europe.
3. In respect of any acceding State, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession.

ARTICLE 16

Territorial Application

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.
2. Any State may, at any later time, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date or receipt of such notification by the Secretary General.

ARTICLE 17

Declarations and Reservations

1. Reservations made by a State to any provision of the Convention or the two Additional Protocols thereto shall also be applicable to this Protocol, unless that State otherwise declares at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession. The same shall apply to any declaration made in respect or by virtue of any provision of the Convention or the two Additional Protocols thereto.
2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of the right not to accept wholly or in part Article 2, paragraph 1, of this Protocol. No other reservation may be made.
3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any later time, make the declarations provided for in Article 4, paragraph 5, and in Article 5 of this Protocol.
4. Any State may wholly or partially withdraw a reservation or declaration it has made in accordance with this Protocol, by means of a declaration addressed to the Secretary General of the Council of Europe, which shall become effective as from the date of its receipt.

5. Any Party which has made a reservation to Article 2, paragraph 1, of this Protocol, in accordance with paragraph 2 of this article may not claim the application of that paragraph by another Party. It may, however, if its reservation is partial or conditional, claim the application of that paragraph in so far as it has itself accepted it.

ARTICLE 18

Denunciation

1. Any Party may, in so far as it is concerned, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General of the Council of Europe.
3. Denunciation of the Convention automatically entails denunciation of this Protocol.

ARTICLE 19

Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and any State which has acceded to this Protocol of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Protocol in accordance with Articles 14 and 15;
- d. any declaration made in accordance with Article 4, paragraph 5, Article 5, Article 16 and Article 17, paragraph 1, and any withdrawal of such a declaration;
- e. any reservation made in accordance with Article 17, paragraph 2, and any withdrawal of such a reservation;

- f. any notification received in pursuance of the provisions of Article 18 and the date on which denunciation takes effect;
- g. any other act, declaration, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this tenth day of November 2010, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to the non-member States which have acceded to the Convention.



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