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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

RESTREINT UE



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 6 March 2008

7349/08

RESTREINT UE

**COPEN 50
CATS 17**

"I/A" ITEM NOTE

from : General Secretariat
to : COREPER/Council

No prev. doc. : 7061/08 COPEN 40 CATS 14 RESTREINT

Subject : DRAFT COMMON POSITION on the normative proposal for a simplified extradition procedure in the Council of Europe

1. A draft EU Common Position on the European Convention on extradition in view of the examination of the normative proposal for a simplified extradition procedure in the Council of Europe has been discussed at meetings of the Working Party on Cooperation in Criminal Matters in January and in February 2008 and at meetings of JHA Counsellors.
2. The text of the draft Common Position was agreed at the meeting of the Article 36 Committee on 6 March 2008, subject to a parliamentary scrutiny reservation on the text by Ireland. The text has undergone linguistic scrutiny.

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3. COREPER/Council is requested to agree, subject to the lifting of the above parliamentary scrutiny reservation, the draft Common Position as contained in the Annex.

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**DRAFT COUNCIL COMMON POSITION 2008/ /JHA
of ...2008 on a
proposal for a simplified extradition procedure in the Council of Europe.**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 15 and 34(2)(a) thereof,

Whereas:

- (1) the European Union recognises the importance of extradition in order to achieve high standards of judicial cooperation in criminal matters with regard both to proceedings and execution of sentences,
- (2) the European Union has adopted a Convention on simplified extradition procedure between the Member States of the European Union, drawn up by the Council on 10 March 1995, which is based on the consent of the requested person,
- (3) in June 2002, the Council adopted a Framework Decision on the European Arrest Warrant and the surrender procedures between Member States which, while establishing mechanisms of surrender of a person based on the mutual recognition of judicial decisions issued in one Member State, replaces in relations between Member States all previous instruments concerning extradition, and includes a provision for a system of surrender based on the consent of the person.
- (4) all Member States are parties to the European Convention on extradition of 13 December 1957.

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(5) taking into account that in a large number of extradition proceedings, the person claimed consents to his surrender, it is desirable, in such cases, to reduce to a minimum the time necessary for completion of extradition proceedings and the period of detention for extradition purposes, in the interest of the person concerned and also with a view to protecting the rights of victims in the requesting State,

(6) it is desirable that the mechanisms established by the existing international instruments on extradition be revised in order to enhance their efficiency necessary to face the challenges posed by the criminality developed in the modern world,

(7) the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC) will examine a number of questions relating to simplified extradition at future meetings, the first one to be held on 28-30 April 2008;

HAS DEFINED THIS COMMON POSITION

Article 1

1. In the negotiations at the Council of Europe, the Member States of the European Union shall support the drawing up of an instrument aiming at the establishment of an effective and simplified mechanism of extradition. This instrument shall have a binding character and be a Protocol to the 1957 Extradition Convention.

Article 2

In the negotiations the Member States shall uphold the following positions:

1. the Member States shall consider the solutions which are oriented on the Convention on simplified extradition procedure between the Member States of the European Union, of 10 March 1995.

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2. the simplified extradition procedure shall be applicable to cases where the person concerned has expressed his or her consent to that procedure. Member States shall ensure that there is an obligation for the consent to be given before a competent judicial authority in the requested State and that it is voluntary, conscious and in full awareness of the legal consequences. In addition, it should be stated that the person is guaranteed essential procedural rights, especially access to legal counsel and the assistance of an interpreter.
3. the main objective of the envisaged instrument shall be the acceleration of the procedure to the benefit of the person concerned. In this respect the information which is provided when the extradition is considered should be sufficient to enable the requested State to assess the situation in every case, but without making the process cumbersome. Member States shall support solutions by which the instrument limits the number of required documents while also providing for sufficient flexibility to accommodate the various solutions established in the national systems of the Member States.
4. the application of the simplified extradition procedure shall imply a shortening of the time within which the decision to extradite is made. Member States shall in this respect ensure that an indication is given as to the time limits within which the surrender decision must be made and the actual surrender carried out. These time limits should be such as to mark a significant improvement in comparison to the existing mechanisms. Therefore, Member States shall support a solution where the envisaged instrument sets specific time limits within which the simplified extradition procedure is to be completed. These time limits shall be calculated from the date of the consent given by the person.
5. the possibility of renunciation to the specialty rule should be envisaged where the person consents to the extradition and by this or in a separate statement expressly renounces his entitlement to the specialty rule. Such statements shall be given by the person before the competent judicial authority in the requested State on a voluntary basis and in full awareness of the legal consequences of these statements. The renunciation to the speciality rule shall be in principle irrevocable.

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Article 3

The Council may adopt further Common Positions on this matter, if appropriate.

Done at Brussels, March 2008.

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