



Council of the
European Union

Brussels, 31 January 2018
(OR. en)

12112/02
DCL 1

COPEN 48

DECLASSIFICATION

of document:	ST12112/02 RESTREINT UE/EU RESTRICTED
dated:	19 September 2002
new status:	Public
Subject:	Article 13 of the 1977 European Convention on the Suppression of Terrorism (ECT)

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

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

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OUTCOME OF PROCEEDINGS

of : Working Party on Cooperation in Criminal Matters (experts terrorism)
on : 17 September 2002
Subject : Article 13 of the 1977 European Convention on the Suppression of Terrorism
(ECT)

A meeting of experts on the negotiations in the Council of Europe on matters relating to the suppression of terrorism took place on 17 September 2002 in the margin of the meeting of the Working Party on Cooperation in Criminal Matters.

As indicated in telex 4038, and in agreement with the Article 36 Committee at its meeting in Elsinore on 25 July, the aim of the meeting was to co-ordinate the positions of the EU delegations in view of the forthcoming meeting of the Council of Europe Multidisciplinary Group on International Action against Terrorism (GMT), concerning the possible deletion of Article 13 of the 1977 European Convention on the Suppression of Terrorism (ECT).

The Presidency recalled that the suppression of Article 13 would mean that it would no longer be possible to refuse extradition for reasons that the offence is of political nature, for the countries who today have made a reservation pursuant to Article 13.

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The following delegations were against the suppression of Article 13 :

- the Belgian delegation, as this would be against its legislation/fundamental or constitutional principles ;
- the French and the Netherlands delegations, for similar reasons;
- the Portuguese delegation, as Portugal does not extradite to States where the offence can be punished by death penalty or life imprisonment. The Portuguese delegation could in principle agree to the deletion of Article 13 if a solution to its problem was found under Article 5.
- the Greek and the Italian delegations could agree to the deletion of Article 13 under certain conditions (respect by the requesting State of certain basic principles).

Most of the other delegations favoured the deletion of Article 13, including the Spanish delegation who had tabled at the last GMT meeting in June a compromise proposal (GMT-REV (2002) 8 rev.

The Belgian delegation clarified its opinion that the use of Article 13 does not lead to impunity, and proposed to add a new paragraph 4 to Article 13, worded as follows:

"Whenever a State Party does not extradite a person, on the basis of paragraph 1, after receiving a request for extradition from another State Party, it shall submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State.

The requested State shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the requesting State and the [European Committee on Crime Problems of the] Council of Europe".

This proposal received some support from the FR, GR and IT delegations. The Swedish delegation observed that the first paragraph of this proposal did not bring anything new as compared to Article 6 of the Convention.

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Several other delegations favoured a proposal made by the UK delegation, that proposed to limit the possibility for Contracting States to make a declaration under Article 13 where 1) the deletion of Article 13 raises constitutional problems, and 2) for a certain period. Concerning the second limitation, there were divergences as to impose a time limit or to allow the Contracting States to renew their declaration concerning the use of Article 13.

The Presidency invited the delegations to further reflect on the proposals and indicated that there would probably be a further co-ordination meeting in Strasbourg in the margin of the next GMT.

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