
ÖZEL BÖLÜM

TERÖRİZM VE AFGANİSTAN

11 Eylül 2001'de ABD' de meydana gelen saldırılar, buna bağlı olarak Afganistan'a yapılan hareket ve müteakip gelişmeler, milletlerarası hukukta göz ardı edilemeyecek yansımalara yol açtı. MHB'nin bu sayısında özel bir bölümde bu konular ile ilgili güncel milletlerarası metinlere yer vermeyi uygun gördük. Terörizm ile ilgili olarak, Türkiye'nin taraf olduğu veya imzaladığı milletlerarası sözleşmelerin statüsünü gösteren tablo ve yakın tarihte kabul edilmiş olan bazı sözleşme metinleri -henüz resmi tercümeleri olmadığından orijinal dillerinde- yer almaktadır. Yakın tarihli olmamakla beraber Türkiye'yi yakından ilgilendiren Avrupa Tedhişçiliğın Önlenmesi Sözleşmesi'nin metni de dahil edilmiştir. Özel Bölüm'de, Birleşmiş Milletler Örgütü'nün Afganistan'daki durumu yakından takip eden kararları ve NATO Konseyi'nin meşru müdafaa kapsamı ile ilgili kararı ve son olarak da Türk hükümetine Afganistan'a asker gönderme izni veren TBMM kararı yer almaktadır.

I. Milletlerarası Sözleşmeler

TERÖRİZMLE İLGİLİ TÜRKİYE'NİN İMZALADIĞI VEYA TARAF OLDUĞU MİLLETLERARASI SÖZLEŞMELER					
Hazırlayan: Enver ARIKOĞLU					
(İstanbul Üniversitesi Hukuk Fakültesi Devletler Umumi Hukuku Anabilim Dalı Araştırma Görevlisi)					
Sözleşmeler *	Sözleşmeye Dair Bilgiler	Türkiye'nin Sözleşmeyi İmza Tarihi	Türkiye'nin Bağlanma Rızasını Gösteren Belgenin Depozitere Ulaştığı Tarih	İlgili İç Hukuk İşlemleri	
Uçaklarda İşlenen Suçlar ve Diğer Bazı Eylemlere İlişkin Sözleşme	Bu sözleşme 14 Eylül 1963 tarihinde Tokyo'da imzalanmış ve 4 Aralık 1969'da yürürlüğe girmiştir. 04/12/2001 tarihi itibarıyla 172 devlet taraftır		17.12.1975	1889 nolu 17 Nisan 1975 tarihli Uygun Bulma Kanunu: R.G. Tarihi: 18/12/1975 Sayı: 15226, Düstur V. Tertip C. 14/2 s. 2733; 7/10283 karar sayılı Bakanlar Kurulu Kararnamesi: 8.12.1975 Tarih, 15436 sayılı R.G.	
Uçakların Kanundışı Yollarla Ele Geçirilmesinin Önlenmesi Hakkında Sözleşme	16 Aralık 1970'te La Haye'de imzalanmış ve 14 Ekim 1971 tarihinde yürürlüğe girmiştir. 04/12/2001 tarihi itibarıyla 174 devlet taraftır.	16.12.1970	17.04.1973	30.11.1972 tarih ve 1634 sayılı Uygun Bulma Kanunu: R.G. 7.12.1972, sayı: 14328; 7/5790 karar sayılı Bakanlar Kurulu Kararnamesi: R.G. 31.3.1973, sayı: 14493 Düstur V. Tertip, Cilt 12/2 s. 1765.	
Sivil Havacılığın Güvenliğine Karşı Kanundışı Eylemlerin Önlenmesine İlişkin Sözleşme	23 Eylül 1971'de Montreal'de imzalanmış, 26 Ocak 1973'de yürürlüğe girmiş ve 04/12/2001 tarihi itibarıyla 175 devlet taraftır.	05.07.1972	23.12.1975	1888 nolu, 17.04.1975 tarihli Uygun Bulma Kanunu: R.G. 4.5.1975 sayı: 15226; 7/10260 karar sayılı Bakanlar Kurulu Kararnamesi: R.G. 29.11.1975, sayı: 15427, Düstur Tertip V C. 15/1 s. 195.	
Diplomasi Ajanları da Dahil Olmak Üzere Uluslararası Korunmaya Sahip Kişilere Karşı İşlenen Suçların Önlenmesi ve Cezalandırılmasına Dair Sözleşme	14 Aralık 1973 tarihinde Birleşmiş Milletler Genel Kurulu'nda kabul edilmiş, 20 Şubat 1977'de yürürlüğe girmiş ve 04/12/2001 tarihi itibarıyla 112 devlet taraf olmuştur.		11.06.1981 (katılma yoluyla)	21.01.1981 tarih ve 2374 sayılı Uygun Bulma Kanunu: R.G. 23/01/1981, sayı: 17229, 8/2560 Karar sayılı Bakanlar Kurulu Kararnamesi: R.G. 1/5/1981 Sayı: 17327 ve 8/3276 karar sayılı Bakanlar Kurulu Kararnamesiyle de Türkiye Cumhuriyeti bakımından 11 Temmuz 1981 Tarihinde yürürlüğe girmesi kararlaştırılmıştır: R.G. 23/07/1981, sayı: 17409.	

Sözleşmeler *	Sözleşmeye Dair Bilgiler	Türkiye'nin Söleşmeyi İmza Tarihi	Türkiye'nin Bağlanma Rızasını Gösteren Belgenin Depozitere Ulaştığı Tarih	İlgili İç Hukuk İşlemleri
<i>Rehine Alınmasına Karşı Uluslararası Sözleşme</i>	17 Aralık 1979 tarihinde Birleşmiş Milletler Genel Kurulu'nda kabul edilmiş, 3 Haziran 1983'de yürürlüğe girmiş ve 04/12/2001 tarihi itibarıyla 102 devlet taraf olmuştur.	25.08.1983	15.08.1989 (katılma yoluyla ve çekince ile birlikte)	21.04.1988 tarih ve 3442 sayılı Uygun Bulma Kanunu: R.G. 29.04.1988, sayı: 197999; 89/14120 karar sayılı Bakanlar Kurulu kararnamesi: R.G. 06/07/1989 sayı: 20217
<i>Nükleer Maddelerin Fiziksel Korunması Hakkında Sözleşme</i>	3 Mart 1980 tarihinde Viyana'da imzalanmış, 8 Şubat 1987'de yürürlüğe girmiş ve 25/04/2001 tarihi itibarıyla 69 devlet taraf olmuştur.		02.02.1985 (Onay yoluyla ve çekince ile birlikte)	01.11.1984 tarih ve 3070 sayılı Uygun Bulma Kanunu: R.G. 10.10.1984, sayı: 18571, 86/10753 karar sayılı Bakanlar Kurulu Kararnamesi: R.G. 07/08/1986 sayı: 19188
<i>23 Eylül 1971'de Montreal'de Yapılan Sivil Havacılığın Güvenliğine Karşı Kaçın Dışı Eylemlerin Önlenmesine İlişkin Sözleşmeye Munzam, Uluslararası Sivil Havacılığa Hizmet Veren Havacılıkta Hizmet Veren Havacılıkta Olayların Önlenmesine İlişkin Protokol</i>	24 Şubat 1988'de Montreal'de imzalanmış, 6 Ağustos 1989'da yürürlüğe girmiş ve 04/12/2001 tarihi itibarıyla 107 devlet taraf olmuştur.	24.02.1988	07.07.1989	89/13966 Karar sayılı Bakanlar Kurulu Kararnamesi: R.G. tarihi: 17/05/1989, sayı: 20168.
<i>Denizde Seyir Güvenliğine Karşı Yasadışı Eylemlerin önlenmesine Dair Sözleşme</i>	10 Mart 1988'de Roma'da imzalanmış, 1 Mart 1992'de yürürlüğe girmiş ve 30.04.2001 tarihi itibarıyla 52 devlet taraf olmuştur.	10.03.1988	06.03.1998 (Onay yoluyla ve çekinceyle birlikte)	27.09.1990 tarih ve 3662 sayılı Uygun Bulma Kanunu: R.G. 09.10.1990, sayı: 20660, 98/10501 karar sayılı Bakanlar Kurulu Kararnamesi: R.G. 26/01/1998, sayı: 23242.
<i>Kıtasahanlığında Bulunan Sabit Platformların Güvenliğine Karşı Yasadışı Eylemlerin Önlenmesine Dair Protokol</i>	10 Mart 1988'de Roma'da imzalanmış 1 Mart 1992 'de yürürlüğe girmiş ve 30.04.2001 tarihi itibarıyla 48 devlet taraf olmuştur.	10.03.1988	06.03.1998 (Onay yoluyla ve çekinceyle birlikte)	27.09.1990 tarih ve 3662 sayılı Uygun Bulma Kanunu: R.G. 09.10.1990, sayı: 20660, 98/10501 karar sayılı Bakanlar Kurulu Kararnamesi: R.G. 26/01/1998, sayı: 23242.

Sözleşmeler *	Sözleşmeye Dair Bilgiler	Türkiye'nin Sözlüşmeyi İmlemeyi Tarih	Türkiye'nin Bağlanma Rızasını Gösteren Belgenin Depozitere Ulaştığı Tarih	İlgili İç Hukuk İşlemleri
<i>Plastik Patlayıcıların Teshi-si Amacıyla İşaretlenmesi Sözleşmesi</i>	1 Mart 1991'de Montreal'de imzalanmış, 21 Haziran 1998'de yürürlüğe girmiş ve 04/12/2001 tarihi itibarıyla 71 devlet taraf olmuştur.	07.05.1991	14.12.1994 (Çekince ve bildiri ile birlikte)	31.3.1994 tarih ve 3978 nolu Uygun Bulma Kanunu: R.G. 8.3.1994, sayı: 21899; 94/5813 karar sayılı Bakanlar Kurulu Kararnamesi: R.G. 27/09/1994, sayı: 22064.
<i>Terörist Bombalamaların Ortadan Kaldırılması Hakkında Uluslararası Sözleşme</i>	15 Aralık 1997'de Birleşmiş Milletler Genel Kurulu'nda Kabul edilmiş, 12 Ocak 1998'den 31 Aralık 1999'a kadar olmak üzere imzaya açılmış ve 23 Mayıs 2001 tarihinde yürürlüğe girmiştir. 04/12/2001 tarihi itibarıyla 45 devlet taraf olmuştur.	20.05.1999 (Bildiri ve çekince ile birlikte)		11.01.2002 tarih ve 4740 nolu Uygun Bulma Kanunu: R.G. 19.01.2002, sayı: 24645 (sözleşmenin Türkçe metni, çekinceler ve gerekçe için bakınız: http://www.tbmm.gov.tr/sirasayi/donem/yil01/ss793m.htm).
<i>Terörizmin Finansmanının Önlenmesi Hakkında Uluslararası Sözleşme</i>	9 Aralık 1999 Tarihinde Birleşmiş Milletler Genel Kurulu'nda kabul edilmiş olup, 10 Haziran 2000 tarihinden 31 Aralık 2001 tarihine kadar olmak üzere imzaya açılmış ve 04/12/2001 tarihi itibarıyla 122 devlet imzalamış, 15 devlet onay işlemi gerçekleştirilmiştir. Sözleşme henüz yürürlüğe girmemiştir.	27.09.2001		10.01.2002 tarih ve 4738 nolu Uygun Bulma Kanunu: R.G. 17.01.2002, sayı: 24643 (sözleşmenin Türkçe metni, çekinceler ve gerekçe için bakınız: http://www.tbmm.gov.tr/sirasayi/donem21/yil01/ss791m.htm).
<i>Tedhişçiliğin Önlenmesine Dair Avrupa Sözleşmesi</i>	27 Ocak 1977'de Strasbourg'da imzalanmış ve 4 Ağustos 1978'de yürürlüğe girmiştir. 21/11/2001 tarihi itibarıyla 36 devlet taraf olmuştur.	27.01.1977	19.05.1981 (Onay yoluyla)	2327 nolu 27.10.1980 tarihli Uygun Bulma Kanunu: R.G. 28.09.1980 sayı: 17145, 8/2487 karar sayılı Bakanlar Kurulu Kararnamesi: R.G. 26/03/1981, sayı: 17291.

* Sözleşme isimlerinin Türkçe çevirileri ilgili Bakanlar Kurulu Kararnamelerinde kullanıldığı şekildedir ve tarihlerine göre sıralanmıştır fakat "Tedhişçiliğin Önlenmesine Dair Avrupa Sözleşmesi" bölgesel bir sözleşme olduğu için en sona konulmuştur.

INTERNATIONAL CONVENTION FOR THE
SUPPRESSION OF TERRORIST BOMBINGS

(New York : 12 January 1998)

THE STATES PARTIES to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations of 24 October 1995,

Recalling also the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994, in which, inter alia, "the States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States",

Noting that the Declaration also encouraged States "to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter",

Recalling further General Assembly resolution 51/210 of 17 De-

cember 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed thereto,

Noting also that terrorist attacks by means of explosives or other lethal devices have become increasingly widespread,

Noting further that existing multilateral legal provisions do not adequately address these attacks,

Being convinced of the urgent need to enhance international cooperation between States in devising and adopting effective and practical measures for the prevention of such acts of terrorism and for the prosecution and punishment of their perpetrators,

Considering that the occurrence of such acts is a matter of grave concern to the international community as a whole,

Noting that the activities of military forces of States are governed by rules of international law outside the framework of this Convention and that the exclusion of certain actions from the coverage of this Convention does not condone or make lawful otherwise unlawful acts, or preclude prosecution under other laws,

Have agreed as follows:

Article 1

For the purposes of this Convention

1. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.
2. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications.
3. "Explosive or other lethal device" means:
 - a. An explosive or incendiary weapon or device that is designed, or

- has the capability, to cause death, serious bodily injury or substantial material damage; or
- b. A weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material.
4. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security and persons acting in support of those armed forces who are under their formal command, control and responsibility.
 5. "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.
 6. "Public transportation system" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:
 - a. With the intent to cause death or serious bodily injury; or
 - b. With the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.
2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1.

3. Any person also commits an offence if that person:
 - a. Participates as an accomplice in an offence as set forth in paragraph 1 or 2; or
 - b. Organizes or directs others to commit an offence as set forth in paragraph 1 or 2; or
 - c. In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 6, paragraph 1 or article 6, paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles 10 to 15 shall, as appropriate, apply in those cases.

Article 4

Each State Party shall adopt such measures as may be necessary:

- a. To establish as criminal offences under its domestic law the offences set forth in article 2 of this Convention;
- b. To make those offences punishable by appropriate penalties which take into account the grave nature of those offences.

Article 5

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under

no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.

Article 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:
 - a. The offence is committed in the territory of that State; or
 - b. The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or
 - c. The offence is committed by a national of that State.
2. A State Party may also establish its jurisdiction over any such offence when:
 - a. The offence is committed against a national of that State; or
 - b. The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or
 - c. The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or
 - d. The offence is committed in an attempt to compel that State to do or abstain from doing any act; or
 - e. The offence is committed on board an aircraft which is operated by the Government of that State.
3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2 under its domestic law. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.
4. Each State Party shall likewise take such measures as may be ne-

cessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2.

5. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 7

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence as set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.
2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.
3. Any person regarding whom the measures referred to in paragraph 2 are being taken shall be entitled to:
 - a. Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;
 - b. Be visited by a representative of that State;
 - c. Be informed of that person's rights under subparagraphs (a) and (b).
4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to

be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 6, subparagraph 1 (c) or 2 (c), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.
6. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 6, paragraphs 1 and 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 of the present article shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 8

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 6 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.
2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

Article 9

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.
2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.
4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 6, paragraphs 1 and 2.
5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between State Parties to the extent that they are incompatible with this Convention.

Article 10

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1

of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 11

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 12

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 13

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of testimony, identification or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:
 - a. The person freely gives his or her informed consent; and
 - b. The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of this article:
 - a. The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;
 - b. The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;
 - c. The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;
 - d. The person transferred shall receive credit for service of the sentence being served in the State from which he was transferred for time spent in the custody of the State to which he was transferred.
3. Unless the State Party from which a person is to be transferred in accordance with this article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 14

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international law of human rights.

Article 15

States Parties shall cooperate in the prevention of the offences set

forth in article 2, particularly:

- a. By taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the perpetration of offences as set forth in article 2;
- b. By exchanging accurate and verified information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences as set forth in article 2;
- c. Where appropriate, through research and development regarding methods of detection of explosives and other harmful substances that can cause death or bodily injury, consultations on the development of standards for marking explosives in order to identify their origin in post-blast investigations, exchange of information on preventive measures, cooperation and transfer of technology, equipment and related materials.

Article 16

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 17

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 18

Nothing in this Convention entitles a State Party to undertake in

the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 19

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.
2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

Article 20

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.
2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.
3. Any State which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 21

1. This Convention shall be open for signature by all States from 12

January 1998 until 31 December 1999 at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.
3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 22

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.
2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 23

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.
2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 24

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

INTERNATIONAL CONVENTION FOR THE SUPPRESSION
OF THE FINANCING OF TERRORISM

Preamble

The States Parties to this Convention,

Bearing in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations, contained in General Assembly resolution 50/6 of 24 October 1995,

Recalling also all the relevant General Assembly resolutions on the matter, including resolution 49/60 of 9 December 1994 and its annex on the Declaration on Measures to Eliminate International Terrorism, in which the States Members of the United Nations solemnly reaffirmed their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States,

Noting that the Declaration on Measures to Eliminate International Terrorism also encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Recalling General Assembly resolution 51/210 of 17 December

1996, paragraph 3, subparagraph (f), in which the Assembly called upon all States to take steps to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals or which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing and racketeering, including the exploitation of persons for purposes of funding terrorist activities, and in particular to consider, where appropriate, adopting regulatory measures to prevent and counteract movements of funds suspected to be intended for terrorist purposes without impeding in any way the freedom of legitimate capital movements and to intensify the exchange of information concerning international movements of such funds,

Recalling also General Assembly resolution 52/165 of 15 December 1997, in which the Assembly called upon States to consider, in particular, the implementation of the measures set out in paragraphs 3 (a) to (f) of its resolution 51/210 of 17 December 1996,

Recalling further General Assembly resolution 53/108 of 8 December 1998, in which the Assembly decided that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should elaborate a draft international convention for the suppression of terrorist financing to supplement related existing international instruments,

Considering that the financing of terrorism is a matter of grave concern to the international community as a whole,

Noting that the number and seriousness of acts of international terrorism depend on the financing that terrorists may obtain,

Noting also that existing multilateral legal instruments do not expressly address such financing,

Being convinced of the urgent need to enhance international cooperation among States in devising and adopting effective measures for the prevention of the financing of terrorism, as well as for its suppression through the prosecution and punishment of its perpetrators,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. "Funds" means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.

2. "State or governmental facility" means any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

3. "Proceeds" means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

2. (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the annex may declare that, in the application of this Conven-

tion to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph 1, subparagraph (a). The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depositary of this fact;

(b) When a State Party ceases to be a party to a treaty listed in the annex, it may make a declaration as provided for in this article, with respect to that treaty.

3. For an act to constitute an offence set forth in paragraph 1, it shall not be necessary that the funds were actually used to carry out an offence referred to in paragraph 1, subparagraphs (a) or (b).

4. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

5. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 4 of this article;

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 4 of this article;

(c) Contributes to the commission of one or more offences as set forth in paragraphs 1 or 4 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or

(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State and no other State has a basis under article 7, paragraph 1, or article 7, paragraph 2, to exer-

cise jurisdiction, except that the provisions of articles 12 to 18 shall, as appropriate, apply in those cases.

Article 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of the offences.

Article 5

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 6

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

Article 7

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State;

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed;

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), in the territory of or against a national of that State;

(b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including diplomatic or consular premises of that State;

(c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or abstain from doing any act;

(d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State;

(e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. Without prejudice to the norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 8

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of funds used or allocated for the purpose of committing the offences set forth in article 2 and the proceeds derived from such offences.

3. Each State Party concerned may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of the funds derived from the forfeitures referred to in this article.

4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.

5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

Article 9

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 7, paragraph 1, subparagraph (b), or paragraph 2, subparagraph (b), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 7, paragraph 1 or 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 shall promptly inform the

said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 10

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 7 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

Article 11

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 7, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.

2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.

3. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

4. Each State Party may give consideration to establishing mechanisms to share with other States Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 5.

5. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance or information exchange that may exist between them. In the absence of such treaties or arrangements, Sta-

tes Parties shall afford one another assistance in accordance with their domestic law.

Article 13

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. Accordingly, States Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

Article 14

None of the offences set forth in article 2 shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 15

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 16

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences set forth in article 2 may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of the present article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State to which he or she was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 17

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

Article 18

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 by taking all practicable measures, *inter alia*, by adapting their domestic legislation, if necessary, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of offences set forth in article 2;

(b) Measures requiring financial institutions and other professions involved in financial transactions to utilize the most efficient measures available for the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened, and to pay special attention to unusual or suspicious transactions and report transactions suspected of stemming from a criminal activity. For this purpose, States Parties shall consider:

- (i) Adopting regulations prohibiting the opening of accounts the holders or beneficiaries of which are unidentified or unidentifiable, and measures to ensure that such institutions verify the identity of the real owners of such transactions;
- (ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;
- (iii) Adopting regulations imposing on financial institutions the obligation to report promptly to the competent authorities all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose, without fear of assuming criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith;

- (iv) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international.

2. States Parties shall further cooperate in the prevention of offences set forth in article 2 by considering:

- (a) Measures for the supervision, including, for example, the licensing, of all money-transmission agencies;

- (b) Feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.

3. States Parties shall further cooperate in the prevention of the offences set forth in article 2 by exchanging accurate and verified information in accordance with their domestic law and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences set forth in article 2, in particular by:

- (a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

- (b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

- (i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;

- (ii) The movement of funds relating to the commission of such offences.

4. States Parties may exchange information through the International Criminal Police Organization (Interpol).

Article 19

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of

the United Nations, who shall transmit the information to the other States Parties.

Article 20

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 21

Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes of the Charter of the United Nations, international humanitarian law and other relevant conventions.

Article 22

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 23

1. The annex may be amended by the addition of relevant treaties that:

(a) Are open to the participation of all States;

(b) Have entered into force;

(c) Have been ratified, accepted, approved or acceded to by at least twenty-two States Parties to the present Convention.

2. After the entry into force of this Convention, any State Party may propose such an amendment. Any proposal for an amendment shall be communicated to the depositary in written form. The depositary shall notify proposals that meet the requirements of paragraph 1 to all States Parties and seek their views on whether the proposed amendment should be adopted.

3. The proposed amendment shall be deemed adopted unless one

third of the States Parties object to it by a written notification not later than 180 days after its circulation.

4. The adopted amendment to the annex shall enter into force 30 days after the deposit of the twenty-second instrument of ratification, acceptance or approval of such amendment for all those States Parties having deposited such an instrument. For each State Party ratifying, accepting or approving the amendment after the deposit of the twenty-second instrument, the amendment shall enter into force on the thirtieth day after deposit by such State Party of its instrument of ratification, acceptance or approval.

Article 24

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 25

1. This Convention shall be open for signature by all States from 10 January 2000 to 31 December 2001 at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 26

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 27

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 28

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on 10 January 2000.

Annex

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.
4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
5. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980.
6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.
7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.
9. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

TEDHİŞÇİLİĞİN ÖNLENMESİNE DAİR AVRUPA SÖZLEŞMESİ

Bu sözleşmeyi imzalayan Avrupa Konseyi Üyesi Devletler,

Avrupa Konseyi amacının, üyeleri arasında daha sıkı bir birliği gerçekleştirmek olduğunu nazarı dikkate alarak;

Artan tedhişçilik suçlarının sebep olduğu büyüyen endişeyi müdrük olarak;

Bu kabil suç faillerinin, kovuşturma ve cezadan kurtulmamaları için etkin önlemlerin alınmasını temenni ederek;

Bu sonuca varabilmek için suçluların iadesinin özellikle etkili bir çare olduğuna inanarak,

Aşağıdaki hususlarda anlaşmışlardır:

Madde 1

Akid Devletler arasında suçluların iadesi maksadıyla, aşağıda belirtilen suçların hiçbiri siyasî suç, siyasî suça murtabit suç veya siyasî nedenle işlenmiş suç niteliğinde telâkki edilmeyecektir:

a- 16 Aralık 1970 tarihinde La Haye'de imzalanan uçakların kanun dışı yollarla ele geçirilmesinin önlenmesine ilişkin Sözleşmenin kapsamına giren suçlar;

b- 23 Eylül 1971 tarihinde Montréal'de imzalanan sivil havacılığın güvenliğine karşı kanun dışı eylemlerin önlenmesine ilişkin Sözleşmenin kapsamına giren suçlar;

c- Diplomatik Ajanlar dahil olmak üzere Uluslararası bir himaye-ye tabi olan şahısların hayat, fizikî bütünlüğü veya hürriyetine bir saldırıyı kapsayan vahim suçlar;

* Kararname: RG 26/03/1981 - 17291

d- Adam kaldırma, rehin alma veya gayrikanunî hürriyeti tahdit eden suçlar;

e- Şahısların hayatı için tehlike teşkil ettiği ölçüde bomba, el bombası, roket, otomatik ateşli silâh veya bombalı mektup veya koli kullanmak suretiyle işlenen suçlar;

f- Yukarıda sayılan suçlardan birini işlemeye teşebbüs veya böyle bir suçu işleyen veya işlemeye teşebbüs eden bir şahsın fiiline suç ortağı olarak iştirake ilişkin suçlar.

Madde 2

1. Üye devletler arasında iadenin amaçları bakımından, bir Akid Devlet, bir şahsın hayatı, fiziki bütünlüğü veya hürriyeti aleyhine işlenip, 1 nci madde kapsamına giren herhangi bir suçtan başta bir şiddet eylemini içeren vahim bir suçu, siyasi suça murtabit suç veya siyasi nedenle işlenmiş suç saymamağa karar verebilir.

2. 1 inci maddede zikredilenlerin dışında şahıslar için toplu bir tehlike teşkil ettiği takdirde mülkiyet aleyhine bir fiili içeren vahim bir suça da aynı kaide uygulanacaktır.

3. Yukarıda sayılan suçlardan birini işlemeye teşebbüs veya böyle bir suçu işleyen veya işlemeye teşebbüs eden bir şahsın fiiline suç ortağı sıfatıyla katılma halinde de aynı kaide uygulanacaktır.

Madde 3

Suçluların iadesine dair Avrupa sözleşmesi dahil Akit Devletler arasında uygulanan suçluların iadesi konusundaki bütün Antlaşma ve Sözleşme hükümleri Akid Devletler arasında bu Sözleşme hükümleri ile bağdaşmadıkları ölçüde değiştirilmiştir.

Madde 4

Akid Devletler arasında yürürlükte bulunan suçluların iadesine dair Antlaşma ve Sözleşmelerde 1 ve 2 nci maddelerde belirtilen herhangi bir suç iade listesinde sayılmadığı takdirde bu Sözleşmenin uygulanmasında dahil edilmiş sayılacaktır.

Madde 5

Talep edilen Devletler, 1 ve 2 nci maddelerde öngörülen suçlar

için vârit iade talebinin bir şahsı ırk, din, milliyet, siyasi kanaatleri dolayısıyla kovuşturma veya cezalandırma gayesi ile yapıldığına veya bu şahsın durumunun bu sebeplerden biri ile ağırlaşabileceğine dair ciddi sebepler mevcut olduğuna kanaat hasıl ettiği takdirde bu Sözleşmenin hiçbir hükmü suçluların iadesi konusunda yükümlülük tahmil edecek şekilde yorumlanmayacaktır.

Madde 6

1. Her Akid Devlet, şüphe edilen sanığın kendi ülkesinde bulunması ve kaza yetkisi talep edilen devletin hukukuna eşit şekilde yürürlükte olan yargı hakkı kaidesine dayanan bir Akid Devletten aldığı iade talebini müteakip, sanığı iade etmemesi halinde, 1 nci maddede zikredilen suç hakkında kendi kaza yetkisini tesis etmek için gerekli tedbirleri alacaktır.

2. Bu Sözleşme Milli Hukuk'a uygun şekilde uygulanan herhangi bir ceza yargı yetkisini bertaraf etmez.

Madde 7

Ülkesinde 1 nci maddede zikredilen bir suçu işlediğinden şüphe edilen şahsın bulunduğu her akit devlet; 6 ncı maddenin 1 inci paragrafından zikredilen şartlar dahilinde iade talebi aldığı anda, bu şahsı iade etmediği takdirde, her ne suretle olursa olsun istisnasız ve lüzumundan fazla gecikmeden olayı kovuşturma maksadıyla kendi yetkili merciilerine intikal ettirecektir. Bu yetkili merciler, o Devletin kanunları gereğince vahim nitelikte herhangi bir suç olayındaki gibi karar vereceklerdir.

Madde 8

1. Akid Devletler; 1 veya 2 nci maddelerde zikredilen suçlara taallük eden kovuşturmalarla ilgili ceza meselelerinde yekdiğerine en geniş adlî yardımı sağlayacaklardır. Talep edilen Devletin ceza meselelerinde karşılıklı adlî yardıma taallük eden kanun bütün hallerde uygulanacaktır. Bununla beraber, bu yardım, siyasi bir suç veya siyasi suça murtabit suç veya siyasi nedenlerle işlenmiş bir suçla ilgili olduğundan bahisle sadece bu sebeple reddedilmiyecektir.

2. Talep edilen Devlet; 1 ve 2 nci maddelerde zikredilen bir suçtan dolayı adlî yardım talebinin, kişinin, ırk, din, millet veya siyasi

kanaatleri dolayısıyla kovuşturma veya cezalandırma gayesiyle yapıldığına veya bu şahsın durumunun bu sebeplerden biri ile ağırlaşabileceğine dair ciddi sebepler mevcut olduğuna kanaat hasıl ettiği takdirde, bu Sözleşmenin hiçbir hükmü adli yardımın yerine getirilmesi için yükümlülük tahmil edecek şekilde yorumlanmayacaktır.

3. Ceza İşlerinde karşılıklı Adli Yardım Avrupa Sözleşmesi dahil, Akid Devletler arasında uygulanan ceza işlerinde karşılıklı adli yardım konusundaki bütün antlaşma veya sözleşme hükümleri, Akid Devletler arasında bu Sözleşme hükümleri ile bağdaşmadıkları ölçüde değiştirilmiştir.

Madde 9

1. Avrupa Konseyi Suç Sorunları Komitesi, bu Sözleşmenin uygulanmasını takip edecektir.

2. Avrupa Konseyi Suç Sorunları Komitesi, bu sözleşme'nin uygulanmasından doğabilecek herhangi bir itilafın dostluk çerçevesinde çözümlenmesini kolaylaştırmak için gerekli her şeyi yapacaktır.

Madde 10

1- Bu Sözleşmenin yorumlanması veya uygulanması hususunda Akid Devletler arasında ortaya çıkacak herhangi bir itilâf 9 ncu maddenin 2 nci paragrafına göre çözümlenemediği takdirde taraflardan birinin istemi üzerine anlaşmazlık hâkeme havale edilecektir. Taraflardan herbiri bir hâkem ve bu iki hâkem de üçüncü bir hâkemi tayin edeceklerdir. Tahkim talebinden itibaren üç ay içinde taraflardan birisi bir hâkem atamadığı takdirde bu hâkem diğer tarafın istemi üzerine Avrupa İnsan Hakları Divanının Başkanı tarafından atanacaktır. Avrupa İnsan Hakları Divanının Başkanı taraflardan birinin tebaası olduğu takdirde hâkemin atanması, Divanın Başkan vekiline, adı geçen de aynı durumda bulunuyorsa taraflardan birinin tebaası olmıyan daha kıdemli Divan üyesinine ait olacaktır. Üçüncü hâkemin atanması hususunda iki hâkem anlaşamadıkları takdirde de aynı yöntem uygulanacaktır.

2- Hâkem Mahkemesi kendi muhakeme usulünü vazedecektir. Karar çoğunluk oyu ile alınacak ve kesin olacaktır.

Madde 11

1- Bu Sözleşme Avrupa Konseyi Üye Devletlerin imzasına açık tutulacaktır. Sözleşme tasdik, kabul veya tasvibe tâbi tutulacaktır. Tasdik, kabul veya tasvip belgeleri Avrup Konseyi Genel Sekreteri nezdinde tevdi olunacaktır.

2- Sözleşme, üçüncü tasdik, kabul veya tasvip belgesinin tevdi tarihinden üç ay sonra yürürlüğe girecektir.

3- Sonradan tasdik, kabul veya tasvip eden mümzi Devletle ilgili olarak, Sözleşme tasdik, kabul veya tasvip belgesinin tevdi tarihinden 3 ay sonra yürürlüğe girecektir.

Madde 12

1- Herhangi bir Devlet, imza sırasında veya tasdik, kabul veya tasvip belgesini tevdi ederken, Sözleşmenin uygulanacağı Ülke veya ülkeleri saptayacaktır.

2- Herhangi bir Devlet, tasdik, kabul veya tasvip belgesini tevdi ederken veya daha sonraki bir tarihte Avrupa Konseyi Genel Sekreterine yapacağı beyan ile, bu Sözleşmenin uygulanmasını, ilişkilerinden sorumlu olduğu veyahut namlarına hareket etmeğe mezun bulunduğu ülke veya ülkelere de teşmil edebilecektir.

3- Yukarıdaki paragrafa uygun olarak yapılan her beyan, bu beyanda zikredilen ülke hakkında olmak üzere, Avrupa Konseyi Genel Sekreterine yapılacak bir bildiri ile geri alınabilecektir. Bu geri alma hemen veya bildiride gösterilebilecek daha sonraki bir tarihte geçerli olacaktır.

Madde 13

1- Herhangi bir Devlet, imza sırasında veya tasdik, kabul veya tasvip belgesini tevdi ederken, aşağıda yazılı hususlar dahil suçun kendine has vahim yönlerini suçun değerlendirilişinde gözönüne almayı taahhüt etmek kaydıyla, siyasî suç, siyasî suça murtabit suç veya siyasî nedenle işlenmiş suç mahiyetinde telâkki edeceği 1 nci maddede zikredilen herhangi bir suça ilişkin iade talebini reddetme hakkını mahfuz tuttuğunu beyan edebilir:

a- Suçun; şahısların hayatı, fiziki bütünlüğü veya özgürlükleri için toplu bir tehlike yaratması; veya

b- Suçun; işlendiğı saikle ilişkisi bulunmayan şahısları etkilemesi; veya

c- Suçun; işlenmesinde zalimâne veya hırçın usüllerin kullanılmış olması.

2- Herhangi bir Devlet, Avrupa Konseyi Genel Sekreterine yapacağı ve kabul tarihinde hüküm ifade edecek olan bir tebligat ile bundan evvelki paragrafa tevfikan dermeyan ettiği kaydı ihtiraziyi tamamen veya kısmen geri alabilecektir.

3- Bu maddenin, 1 nci paragrafına tevkifan kaydı ihtirazi dermeyan eden bir Devlet 1 nci maddenin başka bir Devlet tarafından tatbik edilmesini isteyemez; bununla beraber kaydı ihtirazinin kısmî veya şartlı olduğu ahvalde sözü edilen maddenin kendisinin kabul ettiği ölçüde tatbik edilmesini isteyebilir.

Madde 14

Her Akid Devlet, Avrupa Konseyi Genel Sekreterine yapacağı yazılı bir tebligat ile bu Sözleşmeyi feshedebilecektir. Keyfiyet aynı anda veya tebligatta belirtilecek daha sonraki bir tarihte hüküm ifade edecektir.

Madde 15

Avrupa Konseyinden çekilen veya üyeliğı kalkan her Akid Devlet bakımından bu sözleşme hüküm ifade etmez.

Madde 16

Avrupa Konseyi Genel Sekreteri, Konsey Üyesi Devletlere aşağıdaki hususları bildirecektir:

a- Her imzayı;

b- Her tasdik, kabul veya tasvip belgesinin tevdiini;

c- Bu Sözleşmenin, 11 nci maddeye tevfikan her yürürlüğe giriş tarihini;

d- 12 nci maddeye tevfikan kabul edilen her bildiri veya tebligatı;

e- 13 ncü maddenin 1 nci paragrafına tevfikan dermeyan edilecek her kaydi ihtiraziyi;

f- 13 ncü maddenin 2 nci paragrafında tevfikan kaydı ihtirazinin geri alınmasını;

g- 14 ncü maddeye tevfikan alınmış bulunan her tebligatı ve fesih keyfiyetinin yürürlüğe giriş tarihini;

h- 15 nci maddeye tevfikan sözleşmenin hüküm ifade etmemesi halini.

Bu hükümleri tasdik zımmında bu hususta tam yetkili kılınan ve aşağıda imzaları bulunan temsilciler bu Sözleşmeyi imzalamışlardır.

Bu sözleşme tarihinde Strazburg'da Fransızca ve İngilizce her iki metin de geçerli olmak ve Avrupa Konseyi arşivlerine tevdi edilmek üzere düzenlenmiştir.

Avrupa Konseyi Genel Sekreteri bunun usulüne uygun bir kopyasını mümzi hükümetlerin her birine gönderecektir.

Avusturya Cumhuriyeti Hükümeti adına

Kıbrıs Cumhuriyeti Hükümeti adına

Fransa Cumhuriyeti Hükümeti adına

Yunanistan Cumhuriyeti Hükümeti adına

İrlanda Cumhuriyeti Hükümeti adına

İsveç Kraliyeti Hükümeti adına

Türkiye Cumhuriyeti Hükümeti adına

Belçika Kraliyet Hükümeti adına

Danimarka Kraliyeti Hükümeti adına

Almanya Federal Cumhuriyeti adına

İzlanda Cumhuriyeti Hükümeti adına

Portekiz Cumhuriyeti Hükümeti adına

İsviçre Konfederasyonu Hükümeti adına

Büyük Britanya Birleşik Krallığı ve Kuzey İrlanda Hükümeti adına