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**NOTE**

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from: Incoming French Presidency

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Subject: Draft Convention on simplified extradition procedures between the Member States  
of the Union

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**SEMDOC**

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**CONVENTION ON SIMPLIFIED EXTRADITION PROCEDURES  
BETWEEN THE MEMBER STATES OF THE EUROPEAN UNION**

**Article 1 – General provisions**

1. The provisions of this Convention shall amend or supplement the European Convention on Extradition of 13 September 1957, the Convention of 19 June 1990 applying the Schengen Agreement and, in relations between the contracting Member States of the Benelux Economic Union, the first chapter of the Benelux Treaty of 17 June 1962 on Extradition and on Mutual Assistance in Criminal Matters, as amended by the Protocol of 11 May 1974, to facilitate the application of the said Conventions.
2. Paragraph 1 shall not affect the application of more favourable provisions in the bilateral and multilateral agreements in force between certain Member States.

**CHAPTER I**

**Article 2 – Surrender obligation**

Member States undertake to surrender to each other under simplified procedures persons wanted for the purpose of extradition, upon consent of the person concerned and the requested State in accordance with the provisions of this chapter.

**Article 3 – Conditions for surrender**

1. Any person who is the subject of a request for provisional arrest in accordance with Article 16 of the European Convention on Extradition shall be surrendered in accordance with the arrangements laid down in Articles 4 to 10.

2. Such surrender shall not be subject to submission of a request for extradition or the documents required in accordance with Article 12 of the European Convention on Extradition.

#### **Article 4 – Data provided**

1. The following data from the requesting State shall be regarded as adequate for the information of the arrested person for the purpose of applying Articles 6 and 7 and for the competent authority within the meaning of Article 5(2):
  - (a) the identity of the person sought;
  - (b) the authority requesting the arrest;
  - (c) the existence of an arrest warrant or other document having the same legal effect or a final judgment;
  - (d) the nature and legal description of the offence;
  - (e) a description of the circumstances in which the offence was committed, including the time, place and degree of involvement of the person concerned;
  - (f) insofar as possible, the consequences of the offence.
2. Notwithstanding the provisions of paragraph 1, further data may be requested if, in particular cases, the above data are insufficient to allow the competent authority to authorize the surrender.

#### **Article 5 – Consent**

1. The consent of the arrested person shall be given in accordance with the provisions of Articles 6 and 7.
2. The competent authority shall give its consent in accordance with national procedures.

#### **Article 6 – Information of the person**

Where a person wanted for the purpose of extradition is arrested on the territory of another Member State, the authority competent under its national law shall inform that person of the request relating to him and of the possibility of his consent to his surrender to the requesting State under the simplified procedure.

#### **Article 7 – Establishing consent**

1. The consent of the arrested person shall be given before a competent judicial authority of the requested State, in accordance with the law of that State.

2. Each Member State shall ensure that the person giving consent does so voluntarily and in full awareness of the consequences. To that end, the arrested person shall have the right to legal counsel.
3. Consent shall be recorded; the recording procedure shall be in accordance with the law of the requested Member State.
4. Consent may not be revoked.

#### **Article 8 – Effects of consent**

Any Member State may declare when depositing its instrument of ratification, acceptance or accession, or at a later date, that the rules laid down in Article 14 of the European Convention on Extradition do not apply when the person concerned:

- (a) is surrendered under the simplified procedure; or
- (b) has renounced speciality in the context of giving consent under Article 7.

#### **Article 9 – Communication of the decision**

1. Notwithstanding the rules laid down in Article 18(1) of the European Convention on Extradition, the decision and the information concerning the simplified extradition procedure shall be communicated directly between the competent authority of the requested State referred to in Article 5(2) and the authority of the requesting State having requested arrest within the meaning of Article 16 of the European Convention on Extradition.
2. Upon deposit of its instrument of ratification, acceptance or accession, each Member State shall state in a declaration which authority or authorities are competent within the meaning of Article 5(2).

#### **Article 10 – Deadline for surrender**

1. Surrender shall take place within thirty days of the due date.
2. After this deadline, if the person is being held for the purposes of surrender, he must be released.

### **Article 11 – Renunciation of speciality**

1. The submission of an application for extradition shall not preclude the possibility of the person held subsequently consenting to extradition and renouncing speciality.
2. Each Member State shall adopt the measures necessary to ensure that consent is established in conditions which demonstrate that the person has expressed it voluntarily and in full awareness of the consequences.
3. Upon deposit of its instrument of ratification, acceptance or accession, each Member State will state that, when it is the State requested, renunciation of the speciality rule will result from:
  - the consent of the person to be extradited,
  - his consent to renounce speciality as distinct from consent to extradition.

### **Article 12 – Re-extradition to another Member State**

1. Surrender of the person extradited to another Member State by the requesting Member State for offences pre-dating the one in question shall not be subject to the consent of the requested State.
2. The requesting State shall inform the State requested of this surrender and of the grounds on which it was carried out.

### **Article 13 – Combination of applications**

1. Where several applications for provisional arrest are made simultaneously, the simplified extradition procedure shall be implemented only provided the person in question consents to extradition with respect to all the applications.
2. The competent authority referred to in Article 5(2) shall determine the State to which the person is to be extradited in the light of the criteria defined in Article 17 of the European Convention on Extradition.
3. Where a further application for provisional arrest is received after the person has given his consent, that application shall not be implemented.
4. The competent authority referred to in paragraph 2 shall inform the requesting authority that an application for provisional arrest has been refused and shall indicate the State to which the person is to be surrendered.

## Article 14 – Transit

1. Application need not be made for transit through the territory of a Member State unless the person extradited is to enter the territory of the State of transit.
2. For the purposes of the Convention, overflying the territory of the State of transit shall not be regarded as entering its territory.
3. In an emergency, an application, containing the data required in Article 4, may be made to the State of transit by any method which leaves a written record. The State of transit may make its decision known using the same method.
4. The documents and data forwarded pursuant to Article 4 must be sufficient to allow the transit State to take the constraint measures needed for execution of the extradited person.
5. Upon deposit of its instrument of ratification, acceptance or accession, each Member State shall designate the authority responsible for receiving an application for transit and for authorizing such measure.

