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Non-implementation of Council of Europe Conventions by member states

Written question No 484 to the Committee of Ministers

Reply from the Committee of Ministers
adopted at the 961st meeting of the Ministers' Deputies (5 April 2006)

I. Written Question No. 484 by Mr Tekellioğlu (Doc. 10821)

It has been 10 years since Mr. Özdemir Sabanci, a prominent Turkish businessman and his colleagues, Mr Haluk Görgün and Ms. Nilgün Hasefe were murdered in Istanbul on 9 January 1996.

They were murdered cold bloodedly by a gang of terrorists, including Fehriye Erdal who is a member of an extreme left wing terrorist organization "the Revolutionary People's Liberation Front" (DHKP/C). This organization, which is responsible for the murder of many innocent civilians, including a former prime minister, is included in the European Union's terrorist organizations list in May 2002.

When Fehriye Erdal was captured in Belgium in 1999, Turkey requested her extradition from the Belgian authorities referring to the provisions of the European Convention on Extradition to which both Turkey and Belgium are parties. This request was rejected by Belgium on the grounds of lame excuses such as the murder weapon was not a full automatic gun, but a semi-automatic one.

Although frustrated by this attitude, Turkey requested the extradition of the terrorist once again from Belgium in April 2004. Belgium did not even answer this request. Moreover, while denying her extradition to Turkey, Belgium refuses to try Fehriye Erdal in its courts.

Combating terrorism and legal co-operation between member states are areas where the Council of Europe made a significant and meaningful contribution to international codification efforts. There are a a number of Council of Europe conventions and protocols on the prevention of terrorism and mutual legal assistance under which Belgium has its signature. Just a couple of days ago the Belgian Ambassador signed the latest Council of Europe Convention on Prevention of Terrorism.

Although Belgium is either party, or signatory to all Council of Europe conventions and protocols on prevention of terrorism and mutual legal assistance, it refuses to abide by the letter and the spirit of these conventions. Above all, Belgium fails to implement the basic principle of "try or extradite" in the case of Fehriye Erdal.

I would like to find out your opinion on the non-implementation of the Council of Europe conventions by member states and the effect of this non-implementation on the effectiveness of these legal instruments and whether you have any plans to prevent the damage that such policies can have on the credibility on the Council of Europe's conventions system.

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II. Reply by the Committee of Ministers

1. In reply to the question put by the Honourable Parliamentarian, the Committee of Ministers recalls that it has on many occasions underlined the importance of judicial co-operation in criminal matters and in particular the need to prevent and to fight terrorism. The Parties to the relevant Council of Europe conventions are encouraged to make full use of the co-operation mechanisms foreseen in these conventions.

2. The Council of Europe has developed about 30 conventions in the criminal field, in order to create a comprehensive set of norms enabling member states to co-operate efficiently in fighting crime, bringing criminals to justice and avoiding situations of impunity. Among these conventions, the European Convention on extradition as well as the European Convention on mutual assistance in criminal matters and their Protocols, have been especially useful. These conventions were elaborated and opened to signature in the 1950s. They have since been ratified by almost all member states of the Council of Europe as well as by non-member states.

3. The Convention on extradition foresees the obligation between States Parties to extradite individuals requested for prosecution purposes or for the execution of a criminal sanction. The Convention also foresees the conditions to be met when making an extradition request (such as the necessary information to support a request) and sets limits for accepting such a request (providing for several grounds for refusal). Moreover, any extradition must be in conformity with the provisions of the European Convention on Human Rights.

4. In addition, in case of a dispute between Parties in relation to the implementation of the Convention on extradition, states are invited to find solutions through negotiation or any other peaceful means of their choice. If they so wish, they can submit their dispute for a friendly settlement to the competent Council of Europe body, which is the European Committee for Crime Problems (CDPC).