COMMITTEE OF THE WHOLE
Working Group on Enforcement

WORKING PAPER ON ARTICLES 97 AND 98

Article 97

Transfer of the person upon completion of sentence

1.   Where the State of enforcement does not authorize the person to remain in its territory following completion of sentence, the person shall be transferred to another State. The person may indicate the State to which he wishes to be transferred. However, if that State does not agree to accept the person, he or she may be transferred to the State of his or her nationality or another State that agrees to accept the person.

2.   The costs involved in transferring the person to another State pursuant to paragraph 1 shall be borne by the Court, if no State bears those costs.

3.   [Subject to the provisions of article 98,] The State of enforcement may also, in accordance with its national law, extradite or otherwise surrender the person to the State which has requested the extradition or surrender of the person for purposes of trial or enforcement of a sentence.

GE.98-71125 (E)
ROM.98-1648

[Article 98

Limitation on prosecution or punishment for other offences

1.   A sentenced person in the custody of the State of enforcement shall not be subjected to prosecution or punishment or to extradition to a third State for any conduct committed prior to delivery to the State of enforcement, unless such prosecution, punishment or extradition has been approved by the [Court] [Presidency] at the request of the State of enforcement.

2.   The [Court] [Presidency] shall rule on the matter after having heard the person.

3.   Paragraph 1 of this article shall cease to apply if the sentenced person remains more than 30 days in the territory of the State of enforcement after having served the full sentence imposed by the Court or returns to the territory of that State after having left it.]