

No. 6841

**AUSTRIA, BELGIUM, DENMARK, FRANCE,
FEDERAL REPUBLIC OF GERMANY, etc.**

**European Convention on Mutual Assistance in Criminal
Matters. Done at Strasbourg, on 20 April 1959**

Official texts: English and French.

Registered on 30 July 1963 by the Council of Europe acting on behalf of the Contracting Parties, in accordance with Resolution 54 (6) of the Committee of Ministers on the Council of Europe adopted on 3 April 1954.

**AUTRICHE, BELGIQUE, DANEMARK, FRANCE,
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE, etc.**

**Convention européenne d'entraide judiciaire en matière
pénale. Faite à Strasbourg, le 20 avril 1959**

Textes officiels anglais et français.

Enregistrée le 30 juillet 1963 par le Conseil de l'Europe agissant au nom des Parties contractantes, conformément à la résolution 54 (6) adoptée le 3 avril 1954 par le Comité des ministres du Conseil de l'Europe.

No. 6841. EUROPEAN CONVENTION¹ ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS. DONE AT STRASBOURG, ON 20 APRIL 1959

PREAMBLE

The Governments signatory hereto, being Members of the Council of Europe, Considering that the aim of the Council of Europe is to achieve greater unity among its Members;

Believing that the adoption of common rules in the field of mutual assistance in criminal matters will contribute to the attainment of this aim;

Considering that such mutual assistance is related to the question of extradition, which has already formed the subject of a Convention signed on 13th December 1957,²

Have agreed as follows :

CHAPTER I

GENERAL PROVISIONS

Article 1

1. The Contracting Parties undertake to afford each other, in accordance with the provisions of this Convention, the widest measure of mutual assistance in proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting Party.
2. This Convention does not apply to arrests, the enforcement of verdicts or offences under military law which are not offences under ordinary criminal law.

Article 2

Assistance may be refused :

- (a) if the request concerns an offence which the requested Party considers a political offence, an offence connected with a political offence, or a fiscal offence;

(Continued on p. 192)

¹ See footnote 1 on p. 188.

² United Nations, *Treaty Series*, vol. 359, p. 273; vol. 404, p. 373, and vol. 444, p. 348.

(Footnote 1 of p. 186)

¹ In accordance with article 27, the Convention came into force in respect of Italy, Greece and Norway on 12 June 1962, ninety days after the date of deposit of the third instrument of ratification, and in respect of Denmark on 12 December 1962, ninety days after the date of deposit of its instrument of ratification. The instruments of ratification were deposited with the Secretary-General of the Council of Europe on the dates indicated :

Italy (with declaration*)	23 August	1961
Greece	23 February	1962
Norway	14 March	1962
Denmark (with reservations and declarations*)	13 September	1962

*DECLARATIONS AND RESERVATIONS

Declaration made by Italy

[TRANSLATION — TRADUCTION **]

The Italian Government declares that :

— In accordance with Article 24 and for the purposes of the Convention the following authorities are to be considered Italian judicial authorities :

- Directors of Public Prosecution
- Assistant Public Prosecutors
- Ordinary Courts of Justice
- Military Courts
- Offices of the Public Prosecutor attached to the Military Courts
- Examining Magistrates
- Superior Magistrates
- Praetors

— Having regard to the provisions of Articles 16 and 21, paragraph 3, Italy will require, subject to reciprocity, that requests for legal assistance, together with supporting documents, and denunciations as provided for in Article 21 of the Convention, shall be accompanied by a translation in French or English.

The Italian Government requests that :

— Having regard to the provisions of Article 15, paragraph 6, of the Convention, where a request for legal assistance is addressed directly to the Italian judicial authorities, a copy of the relevant letters rogatory shall be communicated to the Ministry of Justice.

1. *Reservations made by Denmark*

Article 2

Assistance may be refused if the judicial authorities of Denmark or those of a third State have instituted legal proceedings against the accused for the offence which gave rise to proceedings in the requesting State; or if the accused has been convicted or acquitted by a final judgement given by the judicial authorities of Denmark or by those of a third State in respect of the offence which gave rise to proceedings in the requesting State; or if the said authorities have decided to waive or to discontinue proceedings in respect of the same offence.

Article 3, paragraph 2

A request for evidence to be taken on oath from a witness or expert may be refused if the competent Danish court does not consider the oath to be necessary.

Article 7, paragraph 1

A request for service to be effected otherwise than by simple transmission of the writ to the person to be served may be refused.

(Footnote 1 continued on p. 190)

**Translation by the Secretariat-General of the Council of Europe.
Traduction du Secrétariat général du Conseil de l'Europe.

(Footnote 1 continued from p. 188)

Article 11, paragraph 2

The Danish Government reserves its position on the whole of this clause.

Article 13, paragraph 1

The obligation to communicate extracts from judicial records under this provision shall apply only to the criminal record of a person charged with an offence.

Article 13, paragraph 2

The Danish Government reserves its position on the whole of this clause.

2. Declarations made by Denmark

Article 5, paragraph 1

A request for search or seizure may be refused if the conditions laid down in sub-paragraphs (a) and (c) of Article 5, paragraph 1, are not fulfilled.

Article 7, paragraph 3

A summons to be served on a person charged with an offence who is in Danish territory must be transmitted to the competent Danish authority at least 30 days before the date set for appearance.

Article 16, paragraph 2

Requests and annexed documents from countries other than Austria, France, the Federal Republic of Germany, Ireland, Norway, Sweden or the United Kingdom must be accompanied by a translation into either Danish or one of the official languages of the Council of Europe. With regard to longer documents, the Danish Government reserves the right, in any specific case, to require a Danish translation or to have one made at the expense of the requesting State.

Article 24

The term "judicial authorities" in Denmark means the courts of law and the Department of Public Prosecutions which itself, according to the Danish judicature and procedural code, includes the Ministry of Justice, the Attorney-General, the prosecutors, the Copenhagen Prefect of Police and the Police Commissioners.

Article 26

The Protocol on mutual legal assistance concluded on 26th June 1957* between Denmark, Norway and Sweden will remain in force.

* United Nations, *Treaty Series*, Vol. 324, p. 97.

(Continued from p. 186)

- (b) if the requested Party considers that execution of the request is likely to prejudice the sovereignty, security, *ordre public* or other essential interests of its country.

CHAPTER II

LETTERS ROGATORY

Article 3

1. The requested Party shall execute in the manner provided for by its law any letters rogatory relating to a criminal matter and addressed to it by the judicial authorities of the requesting Party for the purpose of procuring evidence or transmitting articles to be produced in evidence, records or documents.
2. If the requesting Party desires witnesses or experts to give evidence on oath, it shall expressly so request, and the requested Party shall comply with the request if the law of its country does not prohibit it.
3. The requested Party may transmit certified copies or certified photostat copies of records or documents requested, unless the requesting Party expressly requests the transmission of originals, in which case the requested Party shall make every effort to comply with the request.

Article 4

On the express request of the requesting Party the requested Party shall state the date and place of execution of the letters rogatory. Officials and interested persons may be present if the requested Party consents.

Article 5

1. Any Contracting Party may, by a declaration addressed to the Secretary-General of the Council of Europe, when signing this Convention or depositing its instrument of ratification or accession, reserve the right to make the execution of letters rogatory for search or seizure of property dependent on one or more of the following conditions :
 - (a) that the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the requested Party;
 - (b) that the offence motivating the letters rogatory is an extraditable offence in the requested country;
 - (c) that execution of the letters rogatory is consistent with the law of the requested Party.

2. Where a Contracting Party makes a declaration in accordance with paragraph 1 of this Article, any other Party may apply reciprocity.

Article 6

1. The requested Party may delay the handing over of any property, records or documents requested, if it requires the said property, records or documents in connection with pending criminal proceedings.

2. Any property, as well as original records or documents, handed over in execution of letters rogatory shall be returned by the requesting Party to the requested Party as soon as possible unless the latter Party waives the return thereof.

CHAPTER III

SERVICE OF WRITS AND RECORDS OF JUDICIAL VERDICTS — APPEARANCE OF WITNESSES, EXPERTS AND PROSECUTED PERSONS

Article 7

1. The requested Party shall effect service of writs and records of judicial verdicts which are transmitted to it for this purpose by the requesting Party.

Service may be effected by simple transmission of the writ or record to the person to be served. If the requesting Party expressly so requests, service shall be effected by the requested Party in the manner provided for the service of analogous documents under its own law or in a special manner consistent with such law.

2. Proof of service shall be given by means of a receipt dated and signed by the person served or by means of a declaration made by the requested Party that service has been effected and stating the form and date of such service. One or other of these documents shall be sent immediately to the requesting Party. The requested Party shall, if the requesting Party so requests, state whether service has been effected in accordance with the law of the requested Party. If service cannot be effected, the reasons shall be communicated immediately by the requested Party to the requesting Party.

3. Any Contracting Party may, by a declaration addressed to the Secretary-General of the Council of Europe, when signing this Convention or depositing its instrument of ratification or accession, request that service of a summons on an accused person who is in its territory be transmitted to its authorities by

a certain time before the date set for appearance. This time shall be specified in the aforesaid declaration and shall not exceed 50 days.

This time shall be taken into account when the date of appearance is being fixed and when the summons is being transmitted.

Article 8

A witness or expert who has failed to answer a summons to appear, service of which has been requested, shall not, even if the summons contains a notice of penalty, be subjected to any punishment or measure of restraint, unless subsequently he voluntarily enters the territory of the requesting Party and is there again duly summoned.

Article 9

The allowances, including subsistence, to be paid and the travelling expenses to be refunded to a witness or expert by the requesting Party shall be calculated as from his place of residence and shall be at rates at least equal to those provided for in the scales and rules in force in the country where the hearing is intended to take place.

Article 10

1. If the requesting Party considers the personal appearance of a witness or expert before its judicial authorities especially necessary, it shall so mention in its request for service of the summons and the requested Party shall invite the witness or expert to appear.

The requested Party shall inform the requesting Party of the reply of the witness or expert.

2. In the case provided for under paragraph 1 of this Article the request or the summons shall indicate the approximate allowances payable and the travelling and subsistence expenses refundable.

3. If a specific request is made, the requested Party may grant the witness or expert an advance. The amount of the advance shall be endorsed on the summons and shall be refunded by the requesting Party.

Article 11

1. A person in custody whose personal appearance as a witness or forpur poses of confrontation is applied for by the requesting Party, shall be temporarily transferred to the territory where the hearing is intended to take place, provided that

he shall be sent back within the period stipulated by the requested Party and subject to the provisions of Article 12 in so far as these are applicable.

Transfer may be refused :

- (a) if the person in custody does not consent,
- (b) if his presence is necessary at criminal proceedings pending in the territory of the requested Party,
- (c) if transfer is liable to prolong his detention, or
- (d) if there are other overriding grounds for not transferring him to the territory of the requesting Party.

2. Subject to the provisions of Article 2, in a case coming within the immediately preceding paragraph, transit of the person in custody through the territory of a third State, Party to this Convention, shall be granted on application, accompanied by all necessary documents, addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the Party through whose territory transit is requested.

A Contracting Party may refuse to grant transit to its own nationals.

3. The transferred person shall remain in custody in the territory of the requesting Party and, where applicable, in the territory of the Party through which transit is requested, unless the Party from whom transfer is requested applies for his release.

Article 12

1. A witness or expert, whatever his nationality, appearing on a summons before the judicial authorities of the requesting Party shall not be prosecuted or detained or subjected to any other restriction of his personal liberty in the territory of that Party in respect of acts or convictions anterior to his departure from the territory of the requested Party.

2. A person, whatever his nationality, summoned before the judicial authorities of the requesting Party to answer for acts forming the subject of proceedings against him, shall not be prosecuted or detained or subjected to any other restriction of his personal liberty for acts or convictions anterior to his departure from the territory of the requested Party and not specified in the summons.

3. The immunity provided for in this article shall cease when the witness or expert or prosecuted person, having had for a period of fifteen consecutive days from the date when his presence is no longer required by the judicial authorities an opportunity of leaving, has nevertheless remained in the territory, or having left it, has returned.

CHAPTER IV

JUDICIAL RECORDS

Article 13

1. A requested Party shall communicate extracts from and information relating to judicial records, requested from it by the judicial authorities of a Contracting Party and needed in a criminal matter, to the same extent that these may be made available to its own judicial authorities in like case.
2. In any case other than that provided for in paragraph 1 of this Article the request shall be complied with in accordance with the conditions provided for by the law, regulations or practice of the requested Party.

CHAPTER V

PROCEDURE

Article 14

1. Requests for mutual assistance shall indicate as follows :
 - (a) the authority making the request,
 - (b) the object of and the reason for the request,
 - (c) where possible, the identity and the nationality of the person concerned, and
 - (d) where necessary, the name and address of the person to be served.
2. Letters rogatory referred to in Articles 3, 4 and 5 shall, in addition, state the offence and contain a summary of the facts.

Article 15

1. Letters rogatory referred to in Articles 3, 4 and 5 as well as the applications referred to in Article 11 shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels.
2. In case of urgency, letters rogatory may be addressed directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party. They shall be returned together with the relevant documents through the channels stipulated in paragraph 1 of this article.
3. Requests provided for in paragraph 1 of Article 13 may be addressed directly by the judicial authorities concerned to the appropriate authorities of the requested

Party, and the replies may be returned directly by those authorities. Requests provided for in paragraph 2 of Article 13 shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party.

4. Requests for mutual assistance, other than those provided for in paragraphs 1 and 3 of this article and, in particular, requests for investigation preliminary to prosecution, may be communicated directly between the judicial authorities.

5. In cases where direct transmission is permitted under this Convention, it may take place through the International Criminal Police Organisation (Interpol).

6. A Contracting Party may, when signing this Convention or depositing its instrument of ratification or accession, by a declaration addressed to the Secretary-General of the Council of Europe, give notice that some or all requests for assistance shall be sent to it through channels other than those provided for in this article, or require that, in a case provided for in paragraph 2 of this article, a copy of the letters rogatory shall be transmitted at the same time to its Ministry of Justice.

7. The provisions of this article are without prejudice to those of bilateral agreements or arrangements in force between Contracting Parties which provide for the direct transmission of requests for assistance between their respective authorities.

Article 16

1. Subject to paragraph 2 of this article, translations of requests and annexed documents shall not be required.

2. Each Contracting Party may, when signing or depositing its instrument of ratification or accession, by means of a declaration addressed to the Secretary-General of the Council of Europe, reserve the right to stipulate that requests and annexed documents shall be addressed to it accompanied by a translation into its own language or into either of the official languages of the Council of Europe or into one of the latter languages, specified by it. The other Contracting Parties may apply reciprocity.

3. This article is without prejudice to the provisions concerning the translation of requests or annexed documents contained in the agreements or arrangements in force or to be made, between two or more Contracting Parties.

Article 17

Evidence or documents transmitted pursuant to this Convention shall not require any form of authentication.

Article 18

Where the authority which receives a request for mutual assistance has no jurisdiction to comply therewith, it shall, *ex officio*, transmit the request to the competent authority of its country and shall so inform the requesting Party through the direct channels, if the request has been addressed through such channels.

Article 19

Reasons shall be given for any refusal of mutual assistance.

Article 20

Subject to the provisions of Article 9, execution of requests for mutual assistance shall not entail refunding of expenses except those incurred by the attendance of experts in the territory of the requested Party or the transfer of a person in custody carried out under Article 11.

CHAPTER VI

LAYING OF INFORMATION
IN CONNECTION WITH PROCEEDINGS*Article 21*

1. Information laid by one Contracting Party with a view to proceedings in the courts of another Party shall be transmitted between the Ministries of Justice concerned unless a Contracting Party avails itself of the option provided for in paragraph 6 of Article 15.
2. The requested Party shall notify the requesting Party of any action taken on such information and shall forward a copy of the record of any verdict pronounced.
3. The provisions of Article 16 shall apply to information laid under paragraph 1 of this article.

CHAPTER VII

EXCHANGE OF INFORMATION FROM JUDICIAL RECORDS

Article 22

Each Contracting Party shall inform any other Party of all criminal convictions and subsequent measures in respect of nationals of the latter Party, entered in the

judicial records. Ministries of Justice shall communicate such information to one another at least once a year. Where the person concerned is considered a national of two or more other Contracting Parties, the information shall be given to each of these Parties, unless the person is a national of the Party in the territory of which he was convicted.

CHAPTER VIII

FINAL PROVISIONS

Article 23

1. Any Contracting Party may, when signing this Convention or when depositing its instrument of ratification or accession, make a reservation in respect of any provision or provisions of the Convention.
2. Any Contracting Party which has made a reservation shall withdraw it as soon as circumstances permit. Such withdrawal shall be made by notification to the Secretary-General of the Council of Europe.
3. A Contracting Party which has made a reservation in respect of a provision of the Convention may not claim application of the said provision by another Party save in so far as it has itself accepted the provision.

Article 24

A Contracting Party may, when signing the Convention or depositing its instrument of ratification or accession, by a declaration addressed to the Secretary-General of the Council of Europe, define what authorities it will, for the purposes of the Convention, deem judicial authorities.

Article 25

1. This Convention shall apply to the metropolitan territories of the Contracting Parties.
2. In respect of France, it shall also apply to Algeria and to the overseas Departments, and, in respect of Italy, it shall also apply to the territory of Somaliland under Italian administration.

3. The Federal Republic of Germany may extend the application of this Convention to the *Land* of Berlin by notice addressed to the Secretary-General of the Council of Europe.
4. In respect of the Kingdom of the Netherlands, the Convention shall apply to its European territory. The Netherlands may extend the application of this Convention to the Netherlands Antilles, Surinam and Netherlands New Guinea by notice addressed to the Secretary-General of the Council of Europe.
5. By direct arrangement between two or more Contracting Parties and subject to the conditions laid down in the arrangement, the application of this Convention may be extended to any territory, other than the territories mentioned in paragraphs 1, 2, 3 and 4 of this article, of one of these Parties, for the international relations of which any such Party is responsible.

Article 26

1. Subject to the provisions of Article 15, paragraph 7, and Article 16, paragraph 3, this Convention shall, in respect of those countries to which it applies, supersede the provisions of any treaties, conventions or bilateral agreements governing mutual assistance in criminal matters between any two Contracting Parties.
2. This Convention shall not affect obligations incurred under the terms of any other bilateral or multilateral international convention which contains or may contain clauses governing specific aspects of mutual assistance in a given field.
3. The Contracting Parties may conclude between themselves bilateral or multilateral agreements on mutual assistance in criminal matters only in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.
4. Where, as between two or more Contracting Parties, mutual assistance in criminal matters is practised on the basis of uniform legislation or of a special system providing for the reciprocal application in their respective territories of measures of mutual assistance, these Parties shall, notwithstanding the provisions of this Convention, be free to regulate their mutual relations in this field exclusively in accordance with such legislation or system. Contracting Parties which, in accordance with this paragraph, exclude as between themselves the application of this Convention shall notify the Secretary-General of the Council of Europe accordingly.

Article 27

1. This Convention shall be open to signature by the Members of the Council of Europe. It shall be ratified. The instruments of ratification shall be deposited with the Secretary-General of the Council.
2. The Convention shall come into force 90 days after the date of deposit of the third instrument of ratification.
3. As regards any signatory ratifying subsequently the Convention shall come into force 90 days after the date of the deposit of its instrument of ratification.

Article 28

1. The Committee of Ministers of the Council of Europe may invite any State not a Member of the Council to accede to this Convention, provided that the resolution containing such invitation obtains the unanimous agreement of the Members of the Council who have ratified the Convention.
2. Accession shall be by deposit with the Secretary-General of the Council of an instrument of accession which shall take effect 90 days after the date of its deposit.

Article 29

Any Contracting Party may denounce this Convention in so far as it is concerned by giving notice to the Secretary-General of the Council of Europe. Denunciation shall take effect six months after the date when the Secretary-General of the Council received such notification.

Article 30

The Secretary-General of the Council of Europe shall notify the Members of the Council and the Government of any State which has acceded to this Convention of :

- (a) the names of the Signatories and the deposit of any instrument of ratification or accession;
- (b) the date of entry into force of this Convention;
- (c) any notification received in accordance with the provisions of Article 5 - paragraph 1, Article 7 - paragraph 3, Article 15 - paragraph 6, Article 16 - paragraph 2, Article 24, Article 25 - paragraphs 3 and 4, or Article 26 - paragraph 4;
- (d) any reservation made in accordance with Article 23, paragraph 1;

- (e) the withdrawal of any reservation in accordance with Article 23, paragraph 2;
- (f) any notification of denunciation received in accordance with the provisions of Article 29 and the date on which such denunciation will take effect.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Convention.

DONE at Strasbourg, this 20th day of April 1959, in English and French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General of the Council of Europe shall transmit certified copies to the signatory and acceding Governments.

For the Government
of the Republic of Austria :

Pour le Gouvernement
de la République d'Autriche :

Reservation to Article 1 (1)

Austria will only grant assistance in proceedings in respect of offences also punishable under Austrian law and the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities.

Réserve au paragraphe 1 de l'article 1^{er}

L'Autriche n'accordera l'entraide judiciaire que dans les procédures visant des infractions également punissables selon le droit autrichien dont la répression serait, au moment où l'entraide est demandée, de la compétence des autorités judiciaires.

Reservation to Article 2 (a)

Austria will not lend assistance in the case of offences referred to under (a).

Réserve à l'alinéa (a) de l'article 2

L'Autriche refusera l'entraide judiciaire pour les infractions énoncées à l'alinéa (a).

Reservation to Article 2 (b)

In " other essential interests of its country " Austria will include maintaining the secrecy stipulated by Austrian legislation.

Réserve à l'alinéa (b) de l'article 2

Par « autres intérêts essentiels de son pays », l'Autriche entend notamment la protection de l'obligation du secret prévue par la législation autrichienne.

Declaration concerning Article 5 (1)

Austria will make the execution of letters rogatory for search or seizure of property subject to the condition laid down in sub-paragraph (c).

Déclaration concernant le paragraphe 1 de l'article 5

L'Autriche soumettra l'exécution des commissions rogatoires aux fins de perquisition ou saisie d'objets aux conditions stipulées à l'alinéa (c).

Declaration concerning Article 16 (2)

Austria will require that requests for assistance and annexed documents which, in accordance with Article 15 (2), will be addressed directly to the Austrian judicial authorities or Department of Public Prosecution, shall be accompanied by a translation into German.

Déclaration concernant le paragraphe 2 de l'article 16

L'Autriche exigera que les demandes d'entraide judiciaire et pièces annexes qui, conformément au paragraphe 2 de l'article 15, seront adressées directement aux autorités judiciaires pénales autrichiennes ou au ministère public autrichien, soient accompagnées d'une traduction en langue allemande.

Declaration concerning Article 24

For the purposes of the Convention, Austria will regard as judicial authorities the Criminal Courts, the Department of Public Prosecution and the Federal Ministry of Justice.

Déclaration concernant l'article 24

Aux fins de la présente Convention, l'Autriche considérera comme autorités judiciaires autrichiennes les tribunaux de l'ordre pénal, le ministère public et le Ministère fédéral de la Justice.

Leopold FIGL

For the Government
of the Kingdom of Belgium :

Pour le Gouvernement
du Royaume de Belgique :

On signing the European Convention on Mutual Assistance in Criminal Matters the Belgian Government declares :

1. *that it will avail itself of the option provided for under Article 5 (1) b of the Convention and will not allow execution of letters rogatory for search or seizure except for extraditable offences ;*

2. *that it makes the following reservations :*

- (a) *the temporary transfer of prisoners provided for in Article 11 will not be authorised ;*
- (b) *the " subsequent measures " referred to in Article 22 will not be notified automatically ; but the possibility of such notification will not be ruled out in particular cases and on the request of the authorities concerned ;*
- (c) *the Belgian Government, notwithstanding the provisions of Article 26, reserves the right to maintain or to conclude with adjacent countries*

Au moment de la signature de la Convention européenne d'entraide judiciaire en matière pénale, le Gouvernement belge déclare :

1. *qu'il fait usage de la faculté prévue au paragraphe 1 (b) de l'article 5 de la Convention et ne permettra l'exécution des commissions rogatoires aux fins de perquisition ou saisie d'objets que pour des faits susceptibles de donner lieu à extradition ;*

2. *qu'il formule les réserves suivantes :*

- (a) *le prêt de détenus visé à l'article 11 ne sera pas autorisé ;*
- (b) *la communication des « mesures postérieures » visée à l'article 22 ne sera pas faite automatiquement ; toutefois, la possibilité de cette communication ne sera pas exclue dans des cas d'espèce et sur demande des autorités intéressées ;*
- (c) *Le Gouvernement belge, nonobstant les dispositions de l'article 26, se réserve le droit de maintenir ou de conclure avec des pays limitro-*

bilateral or multilateral agreements offering wider scope for mutual assistance in criminal matters.

phes des traités bilatéraux ou multilatéraux offrant des possibilités plus larges pour l'entraide judiciaire en matière pénale.

P. WIGNY

For the Government
of the Kingdom of Denmark :

Pour le Gouvernement
du Royaume de Danemark :

Kjeld PHILIP

For the Government
of the French Republic :¹

Pour le Gouvernement
de la République française¹ :

The French Government declares that, by reason of the internal organisation and functioning of the judicial records department in France, the authorities responsible are unable to inform automatically the Contracting Parties to the present Convention, under Article 22 thereof, of measures taken subsequently to the conviction of their nationals—such as measures of clemency, rehabilitation or amnesty—which are entered in the judicial records.

Le Gouvernement français déclare que, en raison de l'organisation interne et du fonctionnement du casier judiciaire en France, les autorités qui en sont chargées se trouvent dans l'impossibilité matérielle de donner automatiquement avis aux Parties Contractantes à la présente Convention, conformément à l'article 22, des mesures intervenues postérieurement à la condamnation de leurs ressortissants — telles que les mesures de grâce, de réhabilitation ou d'amnistie — qui font l'objet d'une inscription au casier judiciaire.

The French Government gives, however, an assurance that the responsible

Il donne cependant l'assurance que ces autorités, lorsqu'elles en seront requises

¹ Declaration made by the French Government at the time of signature :

¹ Déclaration faite par le Gouvernement français au moment de la signature :

[TRANSLATION — TRADUCTION]

... that as regards the field of application of the Convention the term "Algeria" mentioned in Article 25 (2) must be interpreted as meaning the Algerian and Saharan Departments, and consequently as applying to the Departments of Oasis and Saoura.

« qu'en ce qui concerne le champ d'application de la Convention, le terme « Algérie », mentionné à l'article 25 — paragraphe 2 — doit être interprété comme visant les départements algériens et sahariens et s'appliquant, par conséquent, aux départements des Oasis et de la Saoura ».

authorities, if requested to do so in particular cases, will as far as possible supply the said Contracting Parties with details of the position of their nationals as regards the criminal law.

The French Government declares that the authorities to be considered for the purposes of this Convention as French judicial authorities are the following :

- first presidents, presidents, counsellors and judges (“ conseillers ”) of criminal courts,
- examining magistrates (“ juges d’instruction ”) of those courts,
- members of the Department of Public Prosecution (“ ministère public ”) acting in those courts, namely :
 - directors of Public Prosecution,
 - deputy directors of Public Prosecution,
 - Assistant Public Prosecutors,
- heads of the Prosecution Department in courts of first instance and their assistants,
- representatives of the Department of Public Prosecution in police courts,
- judge-advocates in courts martial.

à propos de cas particuliers, préciseront dans la mesure du possible auxdites Parties Contractantes la situation pénale de leurs ressortissants.

Le Gouvernement français déclare que, doivent être considérées comme autorités judiciaires françaises aux fins de la présente Convention les autorités suivantes :

- les premiers présidents, présidents, conseillers et juges des juridictions répressives,
- les juges d’instruction desdites juridictions,
- les membres du ministère public près lesdites juridictions, à savoir :
 - les procureurs généraux,
 - les avocats généraux,
 - les substituts des procureurs généraux,
 - les procureurs de la République et et leurs substituts,
 - les représentants du ministère public auprès des tribunaux de police,
 - les commissaires du gouvernement près les tribunaux des forces armées.

Signé à Strasbourg, le 28 avril 1961

Lecompte BOINET

For the Government
of the Federal Republic of Germany :

Pour le Gouvernement
de la République fédérale d’Allemagne :

VON MERKATZ

For the Government
of the Kingdom of Greece :

Pour le Gouvernement
du Royaume de Grèce :

The Greek Government formulates reservations with regard to Articles 4 and 11 of the Convention, which are incompatible with Articles 97 and 459 of the Greek Code of Criminal Procedure.

Le Gouvernement hellénique formule des réserves formelles sur les articles 4 et 11 de la Convention, leur acceptation étant incompatible avec les articles 97 et 459 du Code hellénique de procédure pénale.

CAMBALOURIS

For the Government
of the Icelandic Republic :

Pour le Gouvernement
de la République islandaise :

For the Government
of Ireland :

Pour le Gouvernement
d'Irlande :

For the Government
of the Italian Republic :

Pour le Gouvernement
de la République italienne :

PELLA

For the Government
of the Grand Duchy of Luxembourg :

Pour le Gouvernement
du Grand Duché de Luxembourg :

E. SCHAUS

For the Government
of the Kingdom of the Netherlands :

Pour le Gouvernement
du Royaume des Pays-Bas :

For the Government
of the Kingdom of Norway :¹

Pour le Gouvernement
du Royaume de Norvège¹ :

Signed at Strasbourg, this 21st day
of April 1961

Einar LÖCHEN

¹ Reservations and declarations made by the Norwegian Government at the time of signature :

¹ Réserves et déclarations faites par le Gouvernement norvégien au moment de la signature :

[TRADUCTION — TRANSLATION *]

Article 2

Assistance can be refused :

a) if the accused person is being prosecuted by the public prosecutor of Norway, or by the judicial authorities of a third state for the criminal offence or offences which have given rise to the proceedings in the requesting state;

or
b) if the accused person has been convicted or acquitted by final judgment of a Norwegian court or the judicial authorities of a third state in respect of the criminal offence or offences which have given rise to the proceedings in the requesting state, or if the public prosecutor of Norway or the judicial authorities of a third state have decided either not to institute proceedings or to terminate proceedings in respect of said offence or offences.

Article 3, paragraph 2

A request for witnesses to give evidence on oath can be refused if in the opinion of the Norwegian Court concerned an oath should not be exacted.

Article 7, paragraph 1

A request for service of writs, etc., otherwise than by the informal handing over of the document to the person in question, can always be refused.

Article 11, paragraph 2

Reservation is made to the provision in its entirety.

(Footnote 1 continued on p. 220)

Article 2

L'entraide judiciaire pourra être refusée :

a) si l'accusé fait l'objet de poursuites intentées par le Ministère public norvégien ou par les autorités judiciaires d'un État tiers, pour l'infraction ou les infractions ayant motivé les poursuites dans l'État requérant;

ou

b) si l'accusé a été condamné ou acquitté par jugement définitif prononcé par un tribunal norvégien ou par les autorités judiciaires d'un État tiers, pour l'infraction ou les infractions ayant motivé les poursuites dans l'État requérant, ou si le Ministère public norvégien ou les autorités judiciaires d'un État tiers ont décidé de ne pas engager de poursuites ou de mettre fin aux poursuites concernant ladite ou lesdites infractions.

Article 3, paragraphe 2

Toute demande visant à faire déposer des témoins sous serment pourra être rejetée, si de l'avis du tribunal norvégien compétent, la prestation du serment ne doit pas être exigée.

Article 7, paragraphe 1

Une demande de remise des actes de procédure, etc. autre que la simple transmission au destinataire du document en question peut toujours être refusée.

Article 11, paragraphe 2

Le Gouvernement norvégien formule des réserves sur l'ensemble de cette clause.

(Suite de la note 1 à la p. 220)

* Traduction du Secrétariat général du Conseil de l'Europe.

Translation by the Secretariat General of the Council of Europe.

(Footnote 1 continued from p. 219)

Article 13, paragraph 1

The obligation to communicate extracts from and information relating to judicial records applies exclusively to the penal record of persons who are being prosecuted for a criminal offence.

Article 13, paragraph 2

Reservation is made to the provision in its entirety.

In addition the Government of Norway makes the following declarations :

Article 5, paragraph 1

A request for search or seizure can be refused if the conditions laid down in Article 5, paragraph 1, *a*, *b* and *c*, are not fulfilled.

Article 7, paragraph 3

A summons which is to be served on an accused person who is staying in Norway must be transmitted to the competent Norwegian authority at least 30 days prior to the date set for his appearance in court.

Article 16, paragraph 2

Requests and annexed documents not drawn up in Norwegian, Danish, English or Swedish, should be accompanied by a translation into Norwegian. If not, the right is reserved for a translation into Norwegian to be made for the account of the requesting state.

Article 24

For the purposes of this convention the term "judicial authorities" applies in Norway to the courts and the office of the Public Prosecutor, including Chiefs of Police.

Article 26

The Protocol of the 26th June, 1957, between Norway, Denmark and Sweden on reciprocal assistance in legal matters shall remain in force.

(Suite de la note 1 de la p. 219)

Article 13, paragraphe 1

L'obligation de communiquer les extraits du casier judiciaire et tous renseignements relatifs à ce dernier ne s'applique qu'au dossier pénal des personnes poursuivies pour une infraction pénale.

Article 13, paragraphe 2

Le Gouvernement norvégien formule des réserves sur l'ensemble de cette clause.

Le Gouvernement norvégien fait en outre les déclarations suivantes :

Article 5, paragraphe 1

Toute demande de perquisition ou de saisie peut être refusée si les conditions énoncées aux alinéas *a*, *b*, et *c* du paragraphe 1 de l'article 5 ne sont pas remplies.

Article 7, paragraphe 3

Toute citation à comparaître destinée à une personne poursuivie se trouvant sur le territoire norvégien doit être transmise à l'autorité norvégienne compétente trente jours au moins avant la date fixée pour la comparution de ladite personne devant le tribunal.

Article 16, paragraphe 2

Les demandes et pièces annexes qui ne sont pas établies en norvégien, en danois, en anglais ou en suédois doivent être accompagnées d'une traduction en norvégien. Sinon, le droit est réservé de les faire traduire en norvégien, aux frais de l'État requérant.

Article 24

Aux fins de la présente Convention, le terme « autorités judiciaires » désigne, en Norvège, les tribunaux et le Ministère public, y compris les Chefs de Police.

Article 26

Le Protocole d'entraide judiciaire, conclu le 26 juin 1957, entre la Norvège, le Danemark et la Suède, demeure en vigueur.

For the Government
of the Kingdom of Sweden :

Pour le Gouvernement
du Royaume de Suède :

Leif BELFRAGE

For the Government
of the Turkish Republic :¹

Pour le Gouvernement
de la République turque¹ :

Signé à Strasbourg, le 23 octobre 1959

M. BOROVALI

For the Government of the United
Kingdom of Great Britain
and Northern Ireland :

Pour le Gouvernement
du Royaume-Uni de Grande-
Bretagne et d'Irlande du Nord :

¹ Declarations made by the Government
of the Turkish Republic at the time of
signature :

1. *Article 5*

The execution of letters rogatory for search
or seizure of property shall be dependent on
the conditions stipulated in paragraphs 1
(a) (b) and (c).

2. *Article 7, paragraph 3*

Service of summons on an accused person
who is in the territory of the Turkish Republic
shall be affected by transmission to the proper
Turkish authorities at least 40 days before the
date set for appearance.

3. *Article 15, paragraph 6*

All requests for mutual assistance shall be
sent to the Ministry of Foreign Affairs.

4. *Article 16, paragraph 2*

Requests for mutual assistance and
annexed documents shall be accompanied by
a certified translation into one of the official
languages of the Council of Europe (French
or English).

5. *Article 21*

Information laid with a view to proceedings
in the courts shall also be transmitted between
the Ministries of Foreign Affairs concerned.

¹ Déclarations faites par le Gouvernement
de la République turque au moment de la
signature :

1. *Article 5*

L'exécution des commissions rogatoires aux
fins de perquisition ou saisie d'objets sera
soumise aux conditions prévues aux alinéas
a), b) et c) du paragraphe 1^{er}.

2. *Article 7, paragraphe 3*

Les citations à comparaître destinées à des
personnes poursuivies se trouvant sur le
territoire de la République turque devront être
transmises aux autorités turques intéressées
dans un délai minimum de 40 jours avant la
date fixée pour la comparution.

3. *Article 15, paragraphe 6*

Toutes demandes d'entraide judiciaire
devront être adressées au Ministère des
Affaires étrangères.

4. *Article 16, paragraphe 2*

Les demandes d'entraide et les pièces
annexes devront être accompagnées d'une
traduction certifiée conforme dans l'une des
langues officielles du Conseil de l'Europe
(française ou anglaise).

5. *Article 21*

Toute dénonciation en vue de poursuites
devant les tribunaux devra de même faire
l'objet de communications entre ministères
des Affaires étrangères.