

No. 14222

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## MULTILATERAL

**European Convention on the supervision of conditionally sentenced or conditionally released offenders (with annex). Concluded at Strasbourg on 30 November 1964**

*Authentic texts: English and French.*

*Registered by the Secretary-General of the Council of Europe, acting on behalf of the Parties, on 22 August 1975.*

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## MULTILATÉRAL

**Convention européenne pour la surveillance des personnes condamnées ou libérées sous condition (avec annex). Conclue à Strasbourg le 30 novembre 1964**

*Textes authentiques : anglais et français.*

*Enregistrée par le Secrétaire général du Conseil de l'Europe, agissant au nom des Parties, le 22 août 1975.*

# EUROPEAN CONVENTION<sup>1</sup> ON THE SUPERVISION OF CONDITIONALLY SENTENCED OR CONDITIONALLY RELEASED OFFENDERS

## PREAMBLE

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve greater unity among its Members;

Being resolved to take concerted action to combat crime;

Considering that, to this end, they are in duty bound to ensure, in the territory of the other Contracting Parties, either the social rehabilitation of offenders given suspended sentences or released conditionally by their own courts, or the enforcement of the sentence when the prescribed conditions are not fulfilled,

Have agreed as follows:

## PART I. BASIC PRINCIPLES

*Article 1.* 1. The Contracting Parties undertake to grant each other in the circumstances set out below the mutual assistance necessary for the social rehabilitation of the offenders referred to in Article 2. This assistance shall take the form of supervision designed to facilitate the good conduct and readaptation to social life of such offenders and to keep a watch on their behaviour with a view, should it become necessary, either to pronouncing sentence on them or to enforcing a sentence already pronounced.

2. The Contracting Parties shall, in the circumstances set out below and in accordance with the following provisions, enforce such detention order or other penalty involving deprivation of liberty as may have been passed on the offender, application of which has been suspended.

*Article 2.* 1. For the purposes of this Convention, the term "offender" shall be taken to mean any person who, in the territory of one of the Contracting Parties, has:

- (a) been found guilty by a court and placed on probation without sentence having been pronounced;
- (b) been given a suspended sentence involving deprivation of liberty, or a sentence of which the enforcement has been conditionally suspended, in whole or in part, either at the time of the sentence or subsequently.

<sup>1</sup> Came into force on 22 August 1975 in respect of the following States, i.e., three months after the date of deposit, effected with the Secretary-General of the Council of Europe, of the third instrument of ratification or acceptance, in accordance with article 34 (2):

<i>State</i>	<i>Date of deposit of the instrument of ratification, or acceptance (A)</i>
France* .....	16 September 1968 A
Belgium* .....	21 September 1970
Italy* .....	21 May 1975

\* See p. 248 of this volume for the texts of the reservations and declarations made upon ratification or acceptance.

2. In subsequent Articles, the term “sentence” shall be deemed to include all judicial decisions taken in accordance with sub-paragraphs (a) and (b) of paragraph 1 above.

*Article 3.* The decisions referred to in Article 2 must be final and must have executive force.

*Article 4.* The offence on which any request under Article 5 is based shall be one punishable under the legislation of both the requesting and the requested State.

*Article 5.* 1. The State which pronounced the sentence may request the State in whose territory the offender established his ordinary residence:

- (a) to carry out supervision only, in accordance with Part II;
- (b) to carry out supervision and if necessary to enforce the sentence, in accordance with Parts II and III;
- (c) to assume entire responsibility for applying the sentence, in accordance with the provisions of Part IV.

2. The requested State shall act upon such a request, under the conditions laid down in this Convention.

3. If the requesting State has made one of the requests mentioned in paragraph 1 above, and the requested State deems it preferable, in any particular case, to adopt one of the other courses provided for in that paragraph, the requested State may refuse to accede to such a request, at the same time declaring its willingness to follow another course, which it shall indicate.

*Article 6.* Supervision, enforcement or complete application of the sentence, as defined in the preceding Article, shall be carried out, at the request of the State in which sentence was pronounced, by the State in whose territory the offender establishes his ordinary residence.

*Article 7.* 1. Supervision, enforcement or complete application shall be refused:

- (a) if the request is regarded by the requested State as likely to prejudice its sovereignty, security, the fundamentals of its legal system, or other essential interests;
- (b) if the request relates to a sentence for an offence which has been judged in final instance in the requested State;
- (c) if the act for which sentence has been passed is considered by the requested State as either a political offence or an offence related to a political offence, or as a purely military offence;
- (d) if the penalty imposed can no longer be exacted, because of the lapse of time, under the legislation of either the requesting or the requested State;
- (e) if the offender has benefited under an amnesty or a pardon in either the requesting or the requested State.

2. Supervision, enforcement or complete application may be refused:

- (a) if the competent authorities in the requested State have decided not to take proceedings, or to drop proceedings already begun, in respect of the same act;
- (b) if the act for which sentence has been pronounced is also the subject of proceedings in the requested State;
- (c) if the sentence to which the request relates was pronounced *in absentia*;

(d) to the extent that the requested State deems the sentence incompatible with the principles governing the application of its own penal law, in particular, if on account of his age the offender could not have been sentenced in the requested State.

3. In the case of fiscal offences, supervision or enforcement shall be carried out, in accordance with the provisions of this Convention, only if the Contracting Parties have so decided in respect of each such offence or category of offences.

*Article 8.* The requesting and requested State shall keep each other informed in so far as it is necessary of all circumstances likely to affect measures of supervision or enforcement in the territory of the requested State.

*Article 9.* The requested State shall inform the requesting State without delay what action is being taken on its request.

In the case of total or partial refusal to comply, it shall communicate its reasons for such refusal.

## PART II. SUPERVISION

*Article 10.* The requesting State shall inform the requested State of the conditions imposed on the offender and of any supervisory measures with which he must comply during his period of probation.

*Article 11.* 1. In complying with a request for supervision, the requested State shall, if necessary, adapt the prescribed supervisory measures in accordance with its own laws.

2. In no case may the supervisory measures applied by the requested State, as regards either their nature or their duration, be more severe than those prescribed by the requesting State.

*Article 12.* When the requested State agrees to undertake supervision, it shall proceed as follows:

1. it shall inform the requesting State without delay of the answer given to its request;
2. it shall contact the authorities or bodies responsible in its own territory for supervising and assisting offenders;
3. it shall inform the requesting State of all measures taken and their implementation.

*Article 13.* Should the offender become liable to revocation of the conditional suspension of his sentence referred to in Article 2 either because he has been prosecuted or sentenced for a new offence, or because he has failed to observe the prescribed conditions, the necessary information shall be supplied to the requesting State automatically and without delay by the requested State.

*Article 14.* When the period of supervision expires, the requested State shall, on application by the requesting State, transmit all necessary information to the latter.

*Article 15.* The requesting State shall alone be competent to judge, on the basis of the information and comments supplied by the requested State, whether or not the offender has satisfied the conditions imposed upon him, and, on the basis of such appraisal, to take any further steps provided for by its own legislation.

It shall inform the requested State of its decision.

## PART III. ENFORCEMENT OF SENTENCES

*Article 16.* After revocation of the conditional suspension of the sentence by the requesting State, and on application by that State, the requested State shall be competent to enforce the said sentence.

*Article 17.* Enforcement in the requested State shall take place in accordance with the law of that State, after verification of the authenticity of the request for enforcement and its compatibility with the terms of this Convention.

*Article 18.* The requested State shall in due course transmit to the requesting State a document certifying that the sentence has been enforced.

*Article 19.* The requested State shall, if need be, substitute for the penalty imposed in the requesting State, the penalty or measure provided for by its own legislation for a similar offence. The nature of such penalty or measure shall correspond as closely as possible to that in the sentence to be enforced. It may not exceed the maximum penalty provided for by the legislation of the requested State, nor may it be longer or more rigorous than that imposed by the requesting State.

*Article 20.* The requesting State may no longer itself take any of the measures of enforcement requested, unless the requested State indicates that it is unwilling or unable to do so.

*Article 21.* The requested State shall be competent to grant the offender conditional release. The right of pardon may be exercised by either the requesting or the requested State.

## PART IV. RELINQUISHMENT TO THE REQUESTED STATE

*Article 22.* The requesting State shall communicate to the requested State the sentence of which it requests complete application.

*Article 23.* 1. The requested State shall adapt to its own penal legislation the penalty or measure prescribed as if the sentence had been pronounced for the same offence committed in its own territory.

2. The penalty imposed by the requested State may not be more severe than that pronounced in the requesting State.

*Article 24.* The requested State shall ensure complete application of the sentence thus adapted as if it were a sentence pronounced by its own courts.

*Article 25.* The acceptance by the requested State of a request in accordance with the present Part IV extinguish the right of the requesting State to enforce the sentence.

## PART V. COMMON PROVISIONS

*Article 26.* 1. All requests in accordance with Article 5 shall be transmitted in writing.

They shall indicate:

- (a) the issuing authority;
- (b) their purpose;
- (c) the identity of the offender and his place of residence in the requested State.

2. Requests for supervision shall be accompanied by the original or a certified transcript of the Court findings containing the reasons which justify the supervision and specifying the measures imposed on the offender. They should also certify the enforceable nature of the sentence and of the supervisory measures to be applied. So far as possible, they shall state the circumstances of the offence giving rise to the sentence of supervision, its time and place and legal destination and, where necessary, the length of the sentence to be enforced. They shall give full details of the nature and duration of the measures of supervision requested, and include a reference to the legal provisions applicable together with necessary information on the character of the offender and his behaviour in the requesting State before and after pronouncement of the supervisory order.

3. Requests for enforcement shall be accompanied by the original, or a certified transcript, of the decision to revoke conditional suspension of the pronouncement or enforcement of sentence and also of the decision imposing the sentence now to be enforced. The enforceable nature of both decisions shall be certified in the manner prescribed by the law of the State in which they were pronounced.

If the judgment to be enforced has replaced an earlier one and does not contain a recital of the facts of the case, a certified copy of the judgment containing such recital shall also be attached.

4. Requests for complete application of the sentence shall be accompanied by the documents mentioned in paragraph 2 above.

*Article 27.* 1. Requests shall be sent by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State and the reply shall be sent through the same channels.

2. Any communications necessary under the terms of this Convention shall be exchanged either through the channels referred to in paragraph 1 of this Article, or directly between the authorities of the Contracting Parties.

3. In case of emergency, the communications referred to in paragraph 2 of this Article may be made through the International Criminal Police Organisation (Interpol).

4. Any Contracting Party may, by declaration addressed to the Secretary-General of the Council of Europe, give notice of its intention to adopt new rules in regard to the communications referred to in paragraphs 1 and 2 of this Article.

*Article 28.* If the requested State considers that the information supplied by the requesting State is inadequate to enable it to apply this Convention, it shall ask for the additional information required. It may fix a time-limit for receipt of such information.

*Article 29.* 1. Subject to the provisions of paragraph 2 of this Article, no translation of requests, or of the supporting documents, or of any other documents relating to the application of this Convention, shall be required.

2. Any Contracting Party may, when signing this Convention or depositing its instrument of ratification, acceptance or accession, by a declaration addressed to the Secretary-General of the Council of Europe, reserve the right to require that requests and supporting documents should be accompanied by a translation into its own language, or into one of the official languages of the Council of Europe, or into such one of those languages as it shall indicate. The other Contracting Parties may claim reciprocity.

3. This Article shall be without prejudice to any provision regarding translation of requests and supporting documents that may be contained in agreements or arrangements now in force or that may be concluded between two or more of the Contracting Parties.

*Article 30.* Documents transmitted in application of this Convention shall not require authentication.

*Article 31.* The requested State shall have powers to collect, at the request of the requesting State, the costs of prosecution and trial incurred in that State.

Should it collect such costs, it shall be obliged to refund to the requesting State experts' fees only.

*Article 32.* Supervision and enforcement costs incurred in the requested State shall not be refunded.

#### PART VI. FINAL PROVISIONS

*Article 33.* This Convention shall be without prejudice to police regulations relating to foreigners.

*Article 34.* 1. This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary-General of the Council of Europe.

2. This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification or acceptance.

3. In respect of a signatory State ratifying or accepting subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification or acceptance.

*Article 35.* 1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any non-member State to accede thereto.

2. Such accession shall be effected by depositing with the Secretary-General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

*Article 36.* 1. Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory or territories to which this Convention shall apply.

2. Any Contracting Party may, when depositing its instrument of ratification, acceptance or accession or at any later date, by declaration addressed to the Secretary-General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 39 of this Convention.

*Article 37.* 1. This Convention shall not affect the undertakings given in any other existing or future international Convention, whether bilateral or multi-

lateral, between two or more of the Contracting Parties, on extradition or any other form of mutual assistance in criminal matters.

2. The Contracting Parties may not conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, except in order to supplement its provisions or facilitate application of the principles embodied in it.

3. Should two or more Contracting Parties, however, have already established their relations in this matter on the basis of uniform legislation, or instituted a special system of their own, or should they in future do so, they shall be entitled to regulate those relations accordingly, not withstanding the terms of this Convention.

Contracting Parties ceasing to apply the terms of this Convention to their mutual relations in this matter shall notify the Secretary-General of the Council of Europe to that effect.

*Article 38.* 1. Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, declare that it avails itself of one or more of the reservations provided for in the Annex to this Convention.

2. Any Contracting Party may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary-General of the Council of Europe which shall become effective as from the date of its receipt.

3. A Contracting Party which has made a reservation in respect of any provision of this Convention may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

4. Any Contracting Party may, on signing the present Convention, or on depositing its instrument of ratification, acceptance or accession, notify the Secretary-General of the Council of Europe that it considers ratification, acceptance or accession as entailing an obligation, in international law, to introduce into municipal law measures to implement the said Convention.

*Article 39.* 1. This Convention shall remain in force indefinitely.

2. Any Contracting Party may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary-General of the Council of Europe.

3. Such denunciation shall take effect six months after the date of receipt by the Secretary-General of such notification.

*Article 40.* The Secretary-General of the Council of Europe shall notify the member States of the Council, and any State that has acceded to this Convention of:

- (a) any signature;
- (b) any deposit of an instrument of ratification, acceptance or accession;
- (c) any date of entry into force of this Convention in accordance with Article 34;
- (d) any notification or declaration received in pursuance of the provisions of paragraph 4 of Article 27, of paragraph 2 of Article 29, of paragraph 3 of Article 37 and of paragraph 4 of Article 38;
- (e) any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 36;
- (f) any reservation made in pursuance of the provisions of paragraph 1 of Article 38;



- (g) the withdrawal of any reservation carried out in pursuance of the provisions of paragraph 2 of Article 38;
- (h) any notification received in pursuance of the provisions of Article 39, and the date on which denunciation takes effect.

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

DONE at Strasbourg this 30th day of November 1964 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 each of the signatory and acceding States.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet, ont signé la présente Convention.

FAIT à Strasbourg, le 30 novembre 1964 en français et en anglais, les deux textes faisant également foi, en un seul exemplaire qui sera déposé dans les archives du Conseil de l'Europe. Le Secrétaire Général du Conseil de l'Europe en communiquera copie certifiée conforme à chacun des Etats signataires et adhérents.

For the Government  
of the Republic of Austria:

Strasbourg, le 11 décembre 1964

W. GREDLER

Pour le Gouvernement  
de la République d'Autriche :

For the Government  
of the Kingdom of Belgium:

Strasbourg, le 22 décembre 1964

L. COUVREUR

Pour le Gouvernement  
du Royaume de Belgique :

For the Government  
of the Republic of Cyprus:

Pour le Gouvernement  
de la République de Chypre :

For the Government  
of the Kingdom of Denmark:

Strasbourg, le 22 septembre 1966

MOGENS WARBERG

Pour le Gouvernement  
du Royaume de Danemark :

For the Government  
of the French Republic:

C. H. BONFILS

Pour le Gouvernement  
de la République française :

For the Government  
of the Federal Republic of Germany:

FELICIAN PRILL

Pour le Gouvernement  
de la République Fédérale d'Allemagne :

For the Government  
of the Icelandic Republic:

For the Government  
of Ireland:

Pour le Gouvernement  
de la République islandaise :

Pour le Gouvernement  
d'Irlande :

For the Government  
of the Italian Republic:

Pour le Gouvernement  
de la République italienne :

Strasbourg, le 29 juin 1965

ALESSANDRO MARIENI

For the Government  
of the Grand Duchy of Luxembourg:

Pour le Gouvernement  
du Grand-Duché de Luxembourg :

JEAN WAGNER

For the Government  
of the Kingdom of the Netherlands:

Pour le Gouvernement  
du Royaume des Pays-Bas :

Strasbourg, le 7 avril 1965

W. J. D. PHILIPSE

For the Government  
of the Kingdom of Norway:

Pour le Gouvernement  
du Royaume de Norvège :

For the Government  
of the Kingdom of Sweden:

Pour le Gouvernement  
du Royaume de Suède :

For the Government  
of the Swiss Confederation:

Pour le Gouvernement  
de la Confédération suisse :

For the Government  
of the Turkish Republic:

Pour le Gouvernement  
de la République turque :

Strasbourg, le 13 septembre 1965

NIHAT DINÇ

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 :

## A N N E X

Any Contracting Party may declare that it reserves the right to make known:

1. that it does not accept the provisions of the Convention as related to the enforcement of sentences or their complete application;
2. that it accepts only part of these provisions;
3. that it does not accept the provisions of paragraph 2 of Article 37.

## RESERVATIONS AND DECLARATIONS MADE UPON RATIFICATION OR ACCEPTANCE (A)

## BELGIUM

[TRANSLATION<sup>1</sup> — TRADUCTION<sup>2</sup>](1) *Reservations*

Article 7: The Government of the Kingdom of Belgium declares that complete application shall be refused if the person to whom the decision relates has been finally sentenced for the same offence by the competent authorities of a third State and if, having been sentenced, he is serving, has already served or has been dispensed from serving sentence.

Part III: The Government of the Kingdom of Belgium does not accept the provisions of part III.

Article 37, paragraph 2: By reason of the special system in force between the Benelux countries, the Government of the Kingdom of Belgium does not accept the provisions of paragraph 2 of article 37."

(2) *Declaration*

Article 7, paragraph 2 (c): The Government of the Kingdom of Belgium declares that the provisions of part II and of part IV shall not be applied to sentences pronounced *in absentia*.

## FRANCE (A)

[TRANSLATION<sup>1</sup> — TRADUCTION<sup>2</sup>]

The Government of the French Republic confirms that it is availing itself of the reservation provided for in article 38, paragraph 1, of the Convention and its annex allowing non-acceptance of the whole of part III (Enforcement of sen-

## RÉSERVES ET DÉCLARATIONS FAITES LORS DE LA RATIFICATION OU DE L'ACCEPTATION (A)

## BELGIQUE

1) *Réserves*

«Article 7 : Le Gouvernement du Royaume de Belgique déclare que l'entière application ne sera pas accordée si la personne qui fait l'objet de la décision a été jugée définitivement pour le même fait par les autorités compétentes d'un Etat tiers et si, en cas de condamnation pour ce fait, le condamné subit sa peine, l'a déjà subie ou en a été dispensé.

«Titre III : Le Gouvernement du Royaume de Belgique n'accepte pas les dispositions du Titre III.

«Article 37, paragraphe 2 : En raison du régime particulier entre les pays du Benelux, le Gouvernement du Royaume de Belgique n'accepte pas les dispositions du paragraphe 2 de l'article 37.»

2) *Déclaration*

«Article 7, paragraphe 2, c : Le Gouvernement du Royaume de Belgique déclare que les dispositions du Titre II et du Titre IV ne seront pas appliquées aux condamnations par défaut.»

## FRANCE (A)

«Le Gouvernement de la République Française confirme qu'il fait usage de la réserve prévue par l'article 38, paragraphe 1 de la Convention et son annexe, permettant de ne pas accepter la totalité du Titre III (De l'exécution des

<sup>1</sup> Translation supplied by the Secretary General of the Council of Europe.

<sup>2</sup> Traduction fournie par le Secrétaire général du Conseil de l'Europe.

tences) and of part IV (Relinquishment to the requested State).

*ITALY*

[TRANSLATION<sup>1</sup> — TRADUCTION<sup>2</sup>]

The Italian Government, availing themselves of article 38 (1) and point 1 of the annex, declare that Italy does not accept the provisions of the Convention on the enforcement of sentences (part III) or on their complete application (part IV).

Furthermore, at the time of signing and in pursuance of the provisions of paragraph 2 of article 29 of the Convention, the Italian Government declared that it reserves the right to require that requests and supporting documents should be accompanied by a translation into French.

condamnations) et du Titre IV (Du desaisissement en faveur de l'Etat requis).»

*ITALIE*

«Le Gouvernement italien, faisant usage des dispositions prévues à l'article 38, paragraphe 1, ainsi qu'au n° 1 de l'Annexe, déclare que l'Italie n'accepte pas les dispositions de la Convention qui traitent de l'exécution des condamnations (Titre III) ou de leur entière application (Titre IV).

«En outre, au moment de la signature et en application des dispositions prévues à l'article 29, paragraphe 2, de la Convention, le Gouvernement italien déclare se réserver la faculté d'exiger que les demandes et pièces annexes lui soient adressées accompagnées d'une traduction en langue française.»

<sup>1</sup> Translation supplied by the Secretary General of the Council of Europe.

<sup>2</sup> Traduction fournie par le Secrétaire général du Conseil de l'Europe.