



European Treaty Series - No. 70

**EUROPEAN CONVENTION
ON THE INTERNATIONAL VALIDITY
OF CRIMINAL JUDGMENTS**

The Hague, 28.V.1970

Preamble

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

Considering that the fight against crime, which is becoming increasingly an international problem, calls for the use of modern and effective methods on an international scale;

Convinced of the need to pursue a common criminal policy aimed at the protection of society;

Conscious of the need to respect human dignity and to promote the rehabilitation of offenders;

Considering that the aim of the Council of Europe is to achieve greater unity between its Members,

Have agreed as follows:

Part I – Definitions**Article 1**

For the purpose of this Convention:

- a “European criminal judgment” means any final decision delivered by a criminal court of a Contracting State as a result of criminal proceedings;
- b “Offence” comprises, apart from acts dealt with under the criminal law, those dealt with under the legal provisions listed in Appendix II to the present Convention on condition that where these provisions give competence to an administrative authority there must be opportunity for the person concerned to have the case tried by a court;
- c “Sentence” means the imposition of a sanction;
- d “Sanction” means any punishment or other measure expressly imposed on a person, in respect of an offence, in a European criminal judgment, or in an *ordonnance pénale*;
- e “Disqualification” means any loss or suspension of a right or any prohibition or loss of legal capacity;
- f “Judgment rendered *in absentia*” means any decision considered as such under Article 21, paragraph 2;
- g “*ordonnance pénale*” means any of the decisions delivered in another Contracting State and listed in Appendix III to this Convention.

Part II – Enforcement of European criminal judgments

Section 1 – General provisions

a – General conditions of enforcement

Article 2

This part is applicable to:

- a sanctions involving deprivation of liberty;
- b fines or confiscation;
- c disqualifications.

Article 3

- 1 A Contracting State shall be competent in the cases and under the conditions provided for in this Convention to enforce a sanction imposed in another Contracting State which is enforceable in the latter State.
- 2 This competence can only be exercised following a request by the other Contracting State.

Article 4

- 1 The sanction shall not be enforced by another Contracting State unless under its law the act for which the sanction was imposed would be an offence if committed on its territory and the person on whom the sanction was imposed liable to punishment if he had committed the act there.
- 2 If the sentence relates to two or more offences, not all of which fulfil the requirements of paragraph 1, the sentencing State shall specify which part of the sanction applies to the offences that satisfy those requirements.

Article 5

The sentencing State may request another Contracting State to enforce the sanction only if one or more of the following conditions are fulfilled:

- a if the person sentenced is ordinarily resident in the other State;
- b if the enforcement of the sanction in the other State is likely to improve the prospects for the social rehabilitation of the person sentenced;
- c if, in the case of a sanction involving deprivation of liberty, the sanction could be enforced following the enforcement of another sanction involving deprivation of liberty which the person sentenced is undergoing or is to undergo in the other State;
- d if the other State is the State of origin of the person sentenced and has declared itself willing to accept responsibility for the enforcement of that sanction;

- e if it considers that it cannot itself enforce the sanction, even by having recourse to extradition, and that the other State can.

Article 6

Enforcement requested in accordance with the foregoing provisions may not be refused, in whole or in part, save:

- a where enforcement would run counter to the fundamental principles of the legal system of the requested State;
- b where the requested State considers the offence for which the sentence was passed to be of a political nature or a purely military one;
- c where the requested State considers that there are substantial grounds for believing that the sentence was brought about or aggravated by considerations of race, religion, nationality or political opinion;
- d where enforcement would be contrary to the international undertakings of the requested State;
- e where the act is already the subject of proceedings in the requested State or where the requested State decides to institute proceedings in respect of the act;
- f where 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;
- g where the act was committed outside the territory of the requesting State;
- h where the requested State is unable to enforce the sanction;
- i where the request is grounded on Article 5.e and none of the other conditions mentioned in that article is fulfilled;
- j where the requested State considers that the requesting State is itself able to enforce the sanction;
- k where the age of the person sentenced at the time of the offence was such that he could not have been prosecuted in the requested State;
- l where under the law of the requested State the sanction imposed can no longer be enforced because of the lapse of time;
- m where and to the extent that the sentence imposes a disqualification.

Article 7

A request for enforcement shall not be complied with if enforcement would run counter to the principles recognised in the provisions of Section 1 of Part III of this Convention.

b – Effects of the transfer of enforcement**Article 8**

For the purposes of Article 6, paragraph 1 and the reservation mentioned under c of Appendix I of the present Convention any act which interrupts or suspends a time limitation validly performed by the authorities of the sentencing State shall be considered as having the same effect for the purpose of reckoning time limitation in the requested State in accordance with the law of that State.

Article 9

- 1 A sentenced person detained in the requesting State who has been surrendered to the requested State for the purpose of enforcement shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or detention order for any offence committed prior to his surrender other than that for which the sentence to be enforced was imposed, nor shall he for any other reason be restricted in his personal freedom, except in the following cases:
 - a when the State which surrendered him consents. A request for consent shall be submitted, accompanied by all relevant documents and a legal record of any statement made by the convicted person in respect of the offence concerned. Consent shall be given when the offence for which it is requested would itself be subject to extradition under the law of the State requesting enforcement or when extradition would be excluded only by reason of the amount of the punishment;
 - b when the sentenced person, having had an opportunity to leave the territory of the State to which he has been surrendered, has not done so within 45 days of his final discharge, or if he has returned to that territory after leaving it.
- 2 The State requested to enforce the sentence may, however, take any measure necessary to remove the person from its territory, or any measures necessary under its law, including proceedings by default, to prevent any legal effects of lapse of time.

Article 10

- 1 The enforcement shall be governed by the law of the requested State and that State alone shall be competent to take all appropriate decisions, such as those concerning conditional release.
- 2 The requesting State alone shall have the right to decide on any application for review of sentence.
- 3 Either State may exercise the right of amnesty or pardon.

Article 11

- 1 When the sentencing State has requested enforcement it may no longer itself begin the enforcement of a sanction which is the subject of that request. The sentencing State may, however, begin enforcement of a sanction involving deprivation of liberty when the sentenced person is already detained on the territory of that State at the moment of the presentation of the request.
- 2 The right of enforcement shall revert to the requesting State:

- a if it withdraws its request before the requested State has informed it of an intention to take action on the request;
- b if the requested State notifies a refusal to take action on the request;
- c if the requested State expressly relinquishes its right of enforcement. Such relinquishment shall only be possible if both the States concerned agree or if enforcement is no longer possible in the requested State. In the latter case, a relinquishment demanded by the requesting State shall be compulsory.

Article 12

- 1 The competent authorities of the requested State shall discontinue enforcement as soon as they have knowledge of any pardon, amnesty or application for review of sentence or any other decision by reason of which the sanction ceases to be enforceable. The same shall apply to the enforcement of a fine when the person sentenced has paid it to the competent authority in the requesting State.
- 2 The requesting State shall without delay inform the requested State of any decision or procedural measure taken on its territory that causes the right of enforcement to lapse in accordance with the preceding paragraph.

c – Miscellaneous provisions

Article 13

- 1 The transit through the territory of a Contracting State of a detained person, who is to be transferred to a third Contracting State in application of this Convention, shall be granted at the request of the State in which the person is detained. The State of transit may require to be supplied with any appropriate document before taking a decision on the request. The person being transferred shall remain in custody in the territory of the State of transit, unless the State from which he is being transferred requests his release.
- 2 Except in cases where the transfer is requested under Article 34 any Contracting State may refuse transit:
 - a on one of the grounds mentioned in Article 6.b and c;
 - b on the ground that the person concerned is one of its own nationals.
- 3 If air transport is used, the following provisions shall apply:
 - a when it is not intended to land, the State from which the person is to be transferred may notify the State over whose territory the flight is to be made that the person concerned is being transferred in application of this Convention. In the case of an unscheduled landing such notification shall have the effect of a request for provisional arrest as provided for in Article 32, paragraph 2, and a formal request for transit shall be made;
 - b where it is intended to land, a formal request for transit shall be made.

Article 14

Contracting States shall not claim from each other the refund of any expenses resulting from the application of this Convention.

Section 2 – Requests for enforcement**Article 15**

- 1 All requests specified in this Convention shall be made in writing. They, and all communications necessary for the application of this Convention, shall be sent either by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State or, if the Contracting States so agree, direct by the authorities of the requesting State to those of the requested State; they shall be returned by the same channel.
- 2 In urgent cases, requests and communications may be sent through the International Criminal Police Organisation (Interpol).
- 3 Any Contracting State may, by declaration addressed to the Secretary General of the Council of Europe, give notice of its intention to adopt other rules in regard to the communications referred to in paragraph 1 of this article.

Article 16

The request for enforcement shall be accompanied by the original, or a certified copy, of the decision whose enforcement is requested and all other necessary documents. The original, or a certified copy, of all or part of the criminal file shall be sent to the requested State, if it so requires. The competent authority of the requesting State shall certify the sanction enforceable.

Article 17

If the requested State considers that the information supplied by the requesting State is not adequate to enable it to apply this Convention, it shall ask for the necessary additional information. It may prescribe a date for the receipt of such information.

Article 18

- 1 The authorities of the requested State shall promptly inform those of the requesting State of the action taken on the request for enforcement.
- 2 The authorities of the requested State shall, where appropriate, transmit to those of the requesting State a document certifying that the sanction has been enforced.

Article 19

- 1 Subject to paragraph 2 of this article, no translation of requests or of supporting documents shall be required.
- 2 Any Contracting State may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, by declaration addressed to the Secretary General of the Council of Europe, reserve the right to require that requests and supporting documents 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

States may claim reciprocity.

- 3 This article shall be without prejudice to any provisions concerning 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 Contracting States.

Article 20

Evidence and documents transmitted in application of this Convention need not be authenticated.

Section 3 – Judgments rendered *in absentia* and *ordonnances pénales*

Article 21

- 1 Unless otherwise provided in this Convention, enforcement of judgments rendered *in absentia* and of *ordonnances pénales* shall be subject to the same rules as enforcement of other judgments.
- 2 Except as provided in paragraph 3, a judgment *in absentia* for the purposes of this Convention means any judgment rendered by a court in a Contracting State after criminal proceedings at the hearing of which the sentenced person was not personally present.
- 3 Without prejudice to Articles 25, paragraph 2, 26, paragraph 2, and 29, the following shall be considered as judgments rendered after a hearing of the accused:
 - a any judgment *in absentia* and any *ordonnance pénale* which have been confirmed or pronounced in the sentencing State after opposition by the person sentenced;
 - b any judgment rendered *in absentia* on appeal, provided that the appeal from the judgment of the court of first instance was lodged by the person sentenced.

Article 22

Any judgment rendered *in absentia* and any *ordonnances pénales* which have not yet been the subject of appeal or opposition may, as soon as they have been rendered, be transmitted to the requested State for the purpose of notification and with a view to enforcement.

Article 23

- 1 If the requested State sees fit to take action on the request to enforce a judgment rendered *in absentia* or an *ordonnance pénale*, it shall cause the person sentenced to be personally notified of the decision rendered in the requesting State.
- 2 In the notification to the person sentenced information shall also be given:
 - a that a request for enforcement has been presented in accordance with this Convention;
 - b that the only remedy available is an opposition as provided for in Article 24 of this Convention;
 - c that the opposition must be lodged with such authority as may be specified; that for the purposes of its admissibility the opposition is subject to the provisions of Article 24 of this Convention and that the person sentenced may ask to be heard by the authorities of the

sentencing State;

- d that, if no opposition is lodged within the prescribed period, the judgment will, for the entire purposes of this Convention, be considered as having been rendered after a hearing of the accused.

- 3 A copy of the notification shall be sent promptly to the authority which requested enforcement.

Article 24

- 1 After notice of the decision has been served in accordance with Article 23, the only remedy available to the person sentenced shall be an opposition. Such opposition shall be examined, as the person sentenced chooses, either by the competent court in the requesting State or by that in the requested State. If the person sentenced expresses no choice, the opposition shall be examined by the competent court in the requested State.
- 2 In the cases specified in the preceding paragraph, the opposition shall be admissible if it is lodged with the competent authority of the requested State within a period of 30 days from the date on which the notice was served. This period shall be reckoned in accordance with the relevant rules of the law of the requested State. The competent authority of that State shall promptly notify the authority which made the request for enforcement.

Article 25

- 1 If the opposition is examined in the requesting State, the person sentenced shall be summoned to appear in that State at the new hearing of the case. Notice to appear shall be personally served not less than 21 days before the new hearing. This period may be reduced with the consent of the person sentenced. The new hearing shall be held before the court which is competent in the requesting State and in accordance with the procedure of that State.
- 2 If the person sentenced fails to appear personally or is not represented in accordance with the law of the requesting State, the court shall declare the opposition null and void and its decision shall be communicated to the competent authority of the requested State. The same procedure shall be followed if the court declares the opposition inadmissible. In both cases, the judgment rendered *in absentia* or the *ordonnance pénale* shall, for the entire purposes of this Convention, be considered as having been rendered after a hearing of the accused.
- 3 If the person sentenced appears personally or is represented in accordance with the law of the requesting State and if the opposition is declared admissible, the request for enforcement shall be considered as null and void.

Article 26

- 1 If the opposition is examined in the requested State the person sentenced shall be summoned to appear in that State at the new hearing of the case. Notice to appear shall be personally served not less than 21 days before the new hearing. This period may be reduced with the consent of the person sentenced. The new hearing shall be held before the court which is competent in the requested State and in accordance with the procedure of that State.
- 2 If the person sentenced fails to appear personally or is not represented in accordance with the law of the requested State, the court shall declare the opposition null and void. In that event, and if the court declares the opposition inadmissible, the judgment rendered *in absentia* or the *ordonnance pénale* shall, for the entire purposes of this Convention, be considered as having been

rendered after a hearing of the accused.

- 3 If the person sentenced appears personally or is represented in accordance with the law of the requested State, and if the opposition is admissible, the act shall be tried as if it had been committed in that State. Preclusion of proceedings by reason of lapse of time shall, however, in no circumstances be examined. The judgment rendered in the requesting State shall be considered null and void.
- 4 Any step with a view to proceedings or a preliminary enquiry, taken in the sentencing State in accordance with its law and regulations, shall have the same validity in the requested State as if it had been taken by the authorities of that State, provided that assimilation does not give such steps a greater evidential weight than they have in the requesting State.

Article 27

For the purpose of lodging an opposition and for the purpose of the subsequent proceedings, the person sentenced *in absentia* or by an *ordonnance pénale* shall be entitled to legal assistance in the cases and on the conditions prescribed by the law of the requested State and, where appropriate, of the requesting State.

Article 28

Any judicial decisions given in pursuance of Article 26, paragraph 3, and enforcement thereof, shall be governed solely by the law of the requested State.

Article 29

If the person sentenced *in absentia* or by an *ordonnance pénale* lodges no opposition, the decision shall, for the entire purposes of this Convention, be considered as having been rendered after the hearing of the accused.

Article 30

National legislations shall be applicable in the matter of reinstatement if the sentenced person, for reasons beyond his control, failed to observe the time-limits laid down in Articles 24, 25 and 26 or to appear personally at the hearing fixed for the new examination of the case.

Section 4 – Provisional measures

Article 31

If the sentenced person is present in the requesting State after notification of the acceptance of its request for enforcement of a sentence involving deprivation of liberty is received, that State may, if it deems it necessary in order to ensure enforcement, arrest him with a view to his transfer under the provisions of Article 43.

Article 32

- 1 When the requesting State has requested enforcement, the requested State may arrest the person sentenced:
 - a if, under the law of the requested State, the offence is one which justifies remand in custody, and
 - b if there is a danger of abscondence or, in case of a judgment rendered *in absentia*, a danger of secretion of evidence.
- 2 When the requesting State announces its intention to request enforcement, the requested State may, on application by the requesting State arrest the person sentenced, provided that requirements under a and b of the preceding paragraph are satisfied. The said application shall state the offence which led to the judgment and the time and place of its perpetration, and contain as accurate a description as possible of the person sentenced. It shall also contain a brief statement of the facts on which the judgment is based.

Article 33

- 1 The person sentenced shall be held in custody in accordance with the law of the requested State; the law of that State shall also determine the conditions on which he may be released.
- 2 The person in custody shall in any event be released:
 - a after a period equal to the period of deprivation of liberty imposed in the judgment;
 - b if he was arrested in pursuance of Article 32, paragraph 2, and the requested State did not receive, within 18 days from the date of the arrest, the request together with the documents specified in Article 16.

Article 34

- 1 A person held in custody in the requested State in pursuance of Article 32 who is summoned to appear before the competent court in the requesting State in accordance with Article 25 as a result of the opposition he has lodged, shall be transferred for that purpose to the territory of the requesting State.
- 2 After transfer, the said person shall not be kept in custody by the requesting State if the condition set out in Article 33, paragraph 2.a, is met or if the requesting State does not request enforcement of a further sentence. The person shall be promptly returned to the requested State unless he has been released.

Article 35

- 1 A person summoned before the competent court of the requesting State as a result of the opposition he has lodged shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or detention order nor shall he for any other reason be restricted in his personal freedom for any act or offence which took place prior to his departure from the territory of the requested State and which is not specified in the summons unless he expressly consents in writing. In the case referred to in Article 34, paragraph 1, a copy of the statement of consent shall be sent to the State from which he has been transferred.

- 2 The effects provided for in the preceding paragraph shall cease when the person summoned, having had the opportunity to do so, has not left the territory of the requesting State during 15 days after the date of the decision following the hearing for which he was summoned to appear or if he returns to that territory after leaving it without being summoned anew.

Article 36

- 1 If the requesting State has requested enforcement of a confiscation of property, the requested State may provisionally seize the property in question, on condition that its own law provides for seizure in respect of similar facts.
- 2 Seizure shall be carried out in accordance with the law of the requested State which shall also determine the conditions on which the seizure may be lifted.

Section 5 – Enforcement of sanctions

a – General clauses

Article 37

A sanction imposed in the requesting State shall not be enforced in the requested State except by a decision of the court of the requested State. Each Contracting State may, however, empower other authorities to take such decisions if the sanction to be enforced is only a fine or a confiscation and if these decisions are susceptible of appeal to a court.

Article 38

The case shall be brought before the court or the authority empowered under Article 37 if the requested State sees fit to take action on the request for enforcement.

Article 39

- 1 Before a court takes a decision upon a request for enforcement the sentenced person shall be given the opportunity to state his views. Upon application he shall be heard by the court either by letters rogatory or in person. A hearing in person must be granted following his express request to that effect.
- 2 The court may, however, decide on the acceptance of the request for enforcement in the absence of a sentenced person requesting a personal hearing if he is in custody in the requesting State. In these circumstances any decision as to the substitution of the sanction under Article 44 shall be adjourned until, following his transfer to the requested State, the sentenced person has been given the opportunity to appear before the court.

Article 40

- 1 The court, or in the cases referred to in Article 37, the authority empowered under the same article, which is dealing with the case shall satisfy itself:
 - a that the sanction whose enforcement is requested was imposed in a European criminal judgment;
 - b that the requirements of Article 4 are met;

- c that the condition laid down in Article 6.a is not fulfilled or should not preclude enforcement;
 - d that enforcement is not precluded by Article 7;
 - e that, in case of a judgment rendered *in absentia* or an *ordonnance pénale* the requirements of Section 3 of this part are met.
- 2 Each Contracting State may entrust to the court or the authority empowered under Article 37 the examination of other conditions of enforcement provided for in this Convention.

Article 41

The judicial decisions taken in pursuance of the present section with respect to the requested enforcement and those taken on appeal from decisions by the administrative authority referred to in Article 37 shall be appealable.

Article 42

The requested State shall be bound by the findings as to the facts in so far as they are stated in the decision or in so far as it is impliedly based on them.

b – Clauses relating specifically to enforcement of sanctions involving deprivation of liberty

Article 43

When the sentenced person is detained in the requesting State he shall, unless the law of that State otherwise provides, be transferred to the requested State as soon as the requesting State has been notified of the acceptance of the request for enforcement.

Article 44

- 1 If the request for enforcement is accepted, the court shall substitute for the sanction involving deprivation of liberty imposed in the requesting State a sanction prescribed by its own law for the same offence. This sanction may, subject to the limitations laid down in paragraph 2, be of a nature or duration other than that imposed in the requesting State. If this latter sanction is less than the minimum which may be pronounced under the law of the requested State, the court shall not be bound by that minimum and shall impose a sanction corresponding to the sanction imposed in the requesting State.
- 2 In determining the sanction, the court shall not aggravate the penal situation of the person sentenced as it results from the decision delivered in the requesting State.
- 3 Any part of the sanction imposed in the requesting State and any term of provisional custody, served by the person sentenced subsequent to the sentence, shall be deducted in full. The same shall apply in respect of any period during which the person sentenced was remanded in custody in the requesting State before being sentenced in so far as the law of that State so requires.

- 4 Any Contracting State may, at any time, deposit with the Secretary General of the Council of Europe a declaration which confers on it in pursuance of the present Convention the right to enforce a sanction involving deprivation of liberty of the same nature as that imposed in the requesting State even if the duration of that sanction exceeds the maximum provided for by its national law for a sanction of the same nature. Nevertheless, this rule shall only be applied in cases where the national law of this State allows, in respect of the same offence, for the imposition of a sanction of at least the same duration as that imposed in the requesting State but which is of a more severe nature. The sanction imposed under this paragraph may, if its duration and purpose so require, be enforced in a penal establishment intended for the enforcement of sanctions of another nature.

c – Clauses relating specifically to enforcement of fines and confiscations

Article 45

- 1 If the request for enforcement of a fine or confiscation of a sum of money is accepted, the court or the authority empowered under Article 37 shall convert the amount thereof into the currency of the requested State at the rate of exchange ruling at the time when the decision is taken. It shall thus fix the amount of the fine, or the sum to be confiscated, which shall nevertheless not exceed the maximum sum fixed by its own law for the same offence, or failing such a maximum, shall not exceed the maximum amount customarily imposed in the requested State in respect of a like offence.
- 2 However, the court or the authority empowered under Article 37 may maintain up to the amount imposed in the requesting State the sentence of a fine or of a confiscation when such a sanction is not provided for by the law of the requested State for the same offence, but this law allows for the imposition of more severe sanctions. The same shall apply if the sanction imposed in the requesting State exceeds the maximum laid down in the law of the requested State for the same offence, but this law allows for the imposition of more severe sanctions.
- 3 Any facility as to time of payment or payment by instalments, granted in the requesting State, shall be respected in the requested State.

Article 46

- 1 When the request for enforcement concerns the confiscation of a specific object, the court or the authority empowered under Article 37 may order the confiscation of that object only in so far as such confiscation is authorised by the law of the requested State for the same offence.
- 2 However, the court or the authority empowered under Article 37 may maintain the confiscation ordered in the requesting State when this sanction is not provided for in the law of the requested State for the same offence but this law allows for the imposition of more severe sanctions.

Article 47

- 1 The proceeds of fines and confiscations shall be paid into the public funds of the requested State without prejudice to any rights of third parties.
- 2 Property confiscated which is of special interest may be remitted to the requesting State if it so requires.

Article 48

If a fine cannot be exacted, a court of the requested State may impose an alternative sanction involving deprivation of liberty in so far as the laws of both States so provide in such cases unless the requesting State expressly limited its request to exacting of the fine alone. If the court decides to impose an alternative sanction involving deprivation of liberty, the following rules shall apply:

- a If conversion of a fine into a sanction involving deprivation of liberty is already prescribed either in the sentence pronounced in the requesting State or directly in the law of that State, the court of the requested State shall determine the nature and length of such sanction in accordance with the rules laid down by its own law. If the sanction involving deprivation of liberty already prescribed in the requesting State is less than the minimum which may be imposed under the law of the requested State, the court shall not be bound by that minimum and impose a sanction corresponding to the sanction prescribed in the requesting State. In determining the sanction the court shall not aggravate the penal situation of the person sentenced as it results from the decision delivered in the requesting State.
- b In all other cases the court of the requested State shall convert the fine in accordance with its own law, observing the limits prescribed by the law of the requesting State.

d – Clauses relating specifically to enforcement of disqualification**Article 49**

- 1 Where a request for enforcement of a disqualification is made such disqualification imposed in the requesting State may be given effect in the requested State only if the law of the latter State allows for disqualification for the offence in question.
- 2 The court dealing with the case shall appraise the expediency of enforcing the disqualification in the territory of its own State.

Article 50

- 1 If the court orders enforcement of the disqualification it shall determine the duration thereof within the limits prescribed by its own law, but may not exceed the limits laid down in the sentence imposed in the requesting State.
- 2 The court may order the disqualification to be enforced in respect of some only of the rights whose loss or suspension has been pronounced.

Article 51

Article 11 shall not apply to disqualifications.

Article 52

The requested State shall have the right to restore to the person sentenced the rights of which he has been deprived in accordance with a decision taken in application of this section.

Part III – International effects of European criminal judgments**Section 1 – *Ne bis in idem*****Article 53**

- 1 A person in respect of whom a European criminal judgment has been rendered may for the same act neither be prosecuted nor sentenced nor subjected to enforcement of a sanction in another Contracting State:
 - a if he was acquitted;
 - b if the sanction imposed:
 - i has been completely enforced or is being enforced, or
 - ii has been wholly, or with respect to the part not enforced, the subject of a pardon or an amnesty, or
 - iii can no longer be enforced because of lapse of time;
 - c if the court convicted the offender without imposing a sanction.
- 2 Nevertheless, a Contracting State shall not, unless it has itself requested the proceedings, be obliged to recognise the effect of *ne bis in idem* if the act which gave rise to the judgment was directed against either a person or an institution or any thing having public status in that State, or if the subject of the judgment had himself a public status in that State.
- 3 Furthermore, any Contracting State where the act was committed or considered as such according to the law of that State shall not be obliged to recognise the effect of *ne bis in idem* unless that State has itself requested the proceedings.

Article 54

If new proceedings are instituted against a person who in another Contracting State has been sentenced for the same act, then any period of deprivation of liberty arising from the sentence enforced shall be deducted from the sanction which may be imposed.

Article 55

This section shall not prevent the application of wider domestic provisions relating to the effect of *ne bis in idem* attached to foreign criminal judgments.

Section 2 – Taking into consideration**Article 56**

Each Contracting State shall legislate as it deems appropriate to enable its courts when rendering a judgment to take into consideration any previous European criminal judgment rendered for another offence after a hearing of the accused with a view to attaching to this judgment all or some of the effects which its law attaches to judgments rendered in its territory. It shall determine the conditions in which this judgment is taken into consideration.

Article 57

Each Contracting State shall legislate as it deems appropriate to allow the taking into consideration of any European criminal judgment rendered after a hearing of the accused so as to enable application of all or part of a disqualification attached by its law to judgments rendered in its territory. It shall determine the conditions in which this judgment is taken into consideration.

Part IV – Final provisions**Article 58**

- 1 This Convention shall be open to signature by the member States represented on the Committee of Ministers 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 The 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 59

- 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, provided that the resolution containing such invitation receives the unanimous agreement of the members of the Council who have ratified the Convention.
- 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 60

- 1 Any Contracting State 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 State 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 66 of this Convention.

Article 61

- 1 Any Contracting State 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 Appendix I to this Convention.
- 2 Any Contracting State 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 State which has made a reservation in respect of any provision of this Convention may not claim the application of that provision by any other State; 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.

Article 62

- 1 Any Contracting State may at any time, by declaration addressed to the Secretary General of the Council of Europe, set out the legal provisions to be included in Appendices II or III to this Convention.
- 2 Any change of the national provisions listed in Appendices II or III shall be notified to the Secretary General of the Council of Europe if such a change renders the information in these appendices incorrect.
- 3 Any changes made in Appendices II or III in application of the preceding paragraphs shall take effect in each Contracting State one month after the date of their notification by the Secretary General of the Council of Europe.

Article 63

- 1 Each Contracting State shall, at the time of depositing its instrument of ratification, acceptance or accession, supply the Secretary General of the Council of Europe with relevant information on the sanctions applicable in that State and their enforcement, for the purposes of the application of this Convention.
- 2 Any subsequent change which renders the information supplied in accordance with the previous paragraph incorrect, shall also be notified to the Secretary General of the Council of Europe.

Article 64

- 1 This Convention affects neither the rights and the undertakings derived from extradition treaties and international multilateral conventions concerning special matters, nor provisions concerning matters which are dealt with in the present Convention and which are contained in other existing conventions between Contracting States.
- 2 The Contracting States 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 States, 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, notwithstanding the terms of this Convention.
- 4 Contracting States 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 65

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Convention and shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 66

- 1 This Convention shall remain in force indefinitely.
- 2 Any Contracting State 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 67

The Secretary General of the Council of Europe shall notify the member States represented on the Committee of Ministers 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 58 thereof;
- d any declaration received in pursuance of Article 19, paragraph 2;
- e any declaration received in pursuance of Article 44, paragraph 4;
- f any declaration received in pursuance of Article 60;
- g any reservation made in pursuance of the provisions of Article 61, paragraph 1, and the withdrawal of such reservation;
- h any declaration received in pursuance of Article 62, paragraph 1, and any subsequent notification received in pursuance of that article, paragraph 2;
- i any information received in pursuance of Article 63, paragraph 1, and any subsequent notification received in pursuance of that article, paragraph 2;

- j any notification concerning the bilateral or multilateral agreements concluded in pursuance of Article 64, paragraph 2, or concerning uniform legislation introduced in pursuance of Article 64, paragraph 3;
- k any notification received in pursuance of Article 66, and the date on which denunciation takes effect.

Article 68

This Convention and the declarations and notifications authorised thereunder shall apply only to the enforcement of decisions rendered after the entry into force of the Convention between the Contracting States concerned.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, this 28th day of May 1970, 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.

APPENDIX I

Each Contracting State may declare that it reserves the right:

- a to refuse enforcement, if it considers that the sentence relates to a fiscal or religious offence;
- b to refuse enforcement of a sanction for an act which according to the law of the requested State could have been dealt with only by an administrative authority;
- c to refuse enforcement of a European criminal judgment which the authorities of the requesting State rendered on a date when, under its own law, the criminal proceedings in respect of the offence punished by the judgment would have been precluded by the lapse of time;
- d to refuse the enforcement of sanctions rendered *in absentia* and *ordonnances pénales* or of one of these categories of decisions only;
- e to refuse the application of the provisions of Article 8 where this State has an original competence and to recognise in these cases only the equivalence of acts interrupting or suspending time limitation which have been accomplished in the requesting State;
- f to accept the application of Part III in respect of one of its two sections only.

APPENDIX II

List of offences other than offences dealt with under criminal law

APPENDIX III

List of *Ordonnances pénales*