

European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders

Strasbourg, 30.XI.1964

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

- 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.
- 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

- 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.
- 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

- The State which pronounced the sentence may request the State in whose territory the offender establishes 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.
- The requested State shall act upon such a request, under the conditions laid down in this Convention.
- 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

- 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.
- 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.
- 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

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

- It shall inform the requesting State without delay of the answer given to its request;
- It shall contact the authorities or bodies responsible in its own territory for supervising and assisting offenders;
- 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

- 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.
- 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 shall extinguish the right of the requesting State to enforce the sentence.

Part V – Common provisions

Article 26

- 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.

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

Article 27

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

- 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.
- 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.
- 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 cost 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

4. 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.
5. 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

6. 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.
7. 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.
8. 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

9. This Convention shall not affect the undertakings given in any other existing or

future international Convention, whether bilateral or multilateral, between two or more of the Contracting Parties, on extradition or any other form of mutual assistance in criminal matters.

10. 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.
11. 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, notwithstanding 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

12. 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.
13. 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.
14. 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.
15. 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

16. This Convention shall remain in force indefinitely.
17. 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.
18. 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.

Annex

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

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

Convention on the Transfer of Sentenced Persons

Strasbourg, 21.III.1983

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

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Desirous of further developing international co-operation in the field of criminal law;

Considering that such co-operation should further the ends of justice and the social rehabilitation of sentenced persons;

Considering that these objectives require that foreigners who are deprived of their liberty as a result of their commission of a criminal offence should be given the opportunity to serve their sentences within their own society; and

Considering that this aim can best be achieved by having them transferred to their own countries,

Have agreed as follows:

Article 1 – Definitions

For the purposes of this Convention:

- a. "sentence" means any punishment or measure involving deprivation of liberty

- ordered by a court for a limited or unlimited period of time on account of a criminal offence;
- b. "judgment" means a decision or order of a court imposing a sentence;
 - c. "sentencing State" means the State in which the sentence was imposed on the person who may be, or has been, transferred;
 - d. "administering State" means the State to which the sentenced person may be, or has been, transferred in order to serve his sentence.

Article 2 – General principles

- e. The Parties undertake to afford each other the widest measure of co-operation in respect of the transfer of sentenced persons in accordance with the provisions of this Convention.
- f. A person sentenced in the territory of a Party may be transferred to the territory of another Party, in accordance with the provisions of this Convention, in order to serve the sentence imposed on him. To that end, he may express his interest to the sentencing State or to the administering State in being transferred under this Convention.
- g. Transfer may be requested by either the sentencing State or the administering State.

Article 3 – Conditions for transfer

- h. A sentenced person may be transferred under this Convention only on the following conditions:
 - a. if that person is a national of the administering State;
 - b. if the judgment is final;
 - c. if, at the time of receipt of the request for transfer, the sentenced person still has at least six months of the sentence to serve or if the sentence is indeterminate;
 - d. if the transfer is consented to by the sentenced person or, where in view of his age or his physical or mental condition one of the two States considers it necessary, by the sentenced person's legal representative;
 - e. if the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the administering State or would constitute a criminal offence if committed on its territory; and
 - f. if the sentencing and administering States agree to the transfer.
- i. In exceptional cases, Parties may agree to a transfer even if the time to be served by the sentenced person is less than that specified in paragraph 1.c.
- j. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, indicate that it intends to exclude the application of one of the procedures provided in Article 9.1.a and b in its relations with other Parties.
- k. Any State may, at any time, by a declaration addressed to the Secretary General of the Council of Europe, define, as far as it is concerned, the term "national" for the purposes of this Convention.

Article 4 – Obligation to furnish information

- l. Any sentenced person to whom this Convention may apply shall be informed by the sentencing State of the substance of this Convention.
- m. If the sentenced person has expressed an interest to the sentencing State in being transferred under this Convention, that State shall so inform the administering State as soon as practicable after the judgment becomes final.
- n. The information shall include:
 - a. the name, date and place of birth of the sentenced person;

- b. his address, if any, in the administering State;
 - c. a statement of the facts upon which the sentence was based;
 - d. the nature, duration and date of commencement of the sentence.
- o. If the sentenced person has expressed his interest to the administering State, the sentencing State shall, on request, communicate to the State the information referred to in paragraph 3 above.
- p. The sentenced person shall be informed, in writing, of any action taken by the sentencing State or by the administering State under the preceding paragraphs, as well as of any decision taken by either State on a request for transfer.

Article 5 – Requests and replies

- q. Requests for transfer and replies shall be made in writing.
- r. Requests shall be addressed by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State. Replies shall be communicated through the same channels.
- s. Any Party may, by a declaration addressed to the Secretary General of the Council of Europe, indicate that it will use other channels of communication.
- t. The requested State shall promptly inform the requesting State of its decision whether or not to agree to the requested transfer.

Article 6 – Supporting documents

- u. The administering State, if requested by the sentencing State, shall furnish it with:
 - a. a document or statement indicating that the sentenced person is a national of that State;
 - b. a copy of the relevant law of the administering State which provides that the acts or omissions on account of which the sentence has been imposed in the sentencing State constitute a criminal offence according to the law of the administering State, or would constitute a criminal offence if committed on its territory;
 - c. a statement containing the information mentioned in Article 9.2.
- v. If a transfer is requested, the sentencing State shall provide the following documents to the administering State, unless either State has already indicated that it will not agree to the transfer:
 - a. a certified copy of the judgment and the law on which it is based;
 - b. a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission, and any other factor relevant to the enforcement of the sentence;
 - c. a declaration containing the consent to the transfer as referred to in Article 3.1.d; and
 - d. whenever appropriate, any medical or social reports on the sentenced person, information about his treatment in the sentencing State, and any recommendation for his further treatment in the administering State.
- w. Either State may ask to be provided with any of the documents or statements referred to in paragraphs 1 or 2 above before making a request for transfer or taking a decision on whether or not to agree to the transfer.

Article 7 – Consent and its verification

- x. The sentencing State shall ensure that the person required to give consent to the transfer in accordance with Article 3.1.d does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the sentencing State.
- y. The sentencing State shall afford an opportunity to the administering State to verify through a consul or other official agreed upon with the administering State, that the

consent is given in accordance with the conditions set out in paragraph 1 above.

Article 8 – Effect of transfer for sentencing State

- z. The taking into charge of the sentenced person by the authorities of the administering State shall have the effect of suspending the enforcement of the sentence in the sentencing State.
- aa. The sentencing State may no longer enforce the sentence if the administering State considers enforcement of the sentence to have been completed.

Article 9 – Effect of transfer for administering State

- ab. The competent authorities of the administering State shall:
 - a. continue the enforcement of the sentence immediately or through a court or administrative order, under the conditions set out in Article 10, or
 - b. convert the sentence, through a judicial or administrative procedure, into a decision of that State, thereby substituting for the sanction imposed in the sentencing State a sanction prescribed by the law of the administering State for the same offence, under the conditions set out in Article 11.
- ac. The administering State, if requested, shall inform the sentencing State before the transfer of the sentenced person as to which of these procedures it will follow.
- ad. The enforcement of the sentence shall be governed by the law of the administering State and that State alone shall be competent to take all appropriate decisions.
- ae. Any State which, according to its national law, cannot avail itself of one of the procedures referred to in paragraph 1 to enforce measures imposed in the territory of another Party on persons who for reasons of mental condition have been held not criminally responsible for the commission of the offence, and which is prepared to receive such persons for further treatment may, by way of a declaration addressed to the Secretary General of the Council of Europe, indicate the procedures it will follow in such cases.

Article 10 – Continued enforcement

- af. In the case of continued enforcement, the administering State shall be bound by the legal nature and duration of the sentence as determined by the sentencing State.
- ag. If, however, this sentence is by its nature or duration incompatible with the law of the administering State, or its law so requires, that State may, by a court or administrative order, adapt the sanction to the punishment or measure prescribed by its own law for a similar offence. As to its nature, the punishment or measure shall, as far as possible, correspond with that imposed by the sentence to be enforced. It shall not aggravate, by its nature or duration, the sanction imposed in the sentencing State, nor exceed the maximum prescribed by the law of the administering State.

Article 11 – Conversion of sentence

- ah. In the case of conversion of sentence, the procedures provided for by the law of the administering State apply. When converting the sentence, the competent authority:
 - a. shall be bound by the findings as to the facts insofar as they appear explicitly or implicitly from the judgment imposed in the sentencing State;
 - b. may not convert a sanction involving deprivation of liberty to a pecuniary sanction;
 - c. shall deduct the full period of deprivation of liberty served by the sentenced person; and
 - d. shall not aggravate the penal position of the sentenced person, and shall not be bound by any minimum which the law of the administering State may provide for the offence or offences committed.
- ai. If the conversion procedure takes place after the transfer of the sentenced person, the

administering State shall keep that person in custody or otherwise ensure his presence in the administering State pending the outcome of that procedure.

Article 12 – Pardon, amnesty, commutation

Each Party may grant pardon, amnesty or commutation of the sentence in accordance with its Constitution or other laws.

Article 13 – Review of judgment

The sentencing State alone shall have the right to decide on any application for review of the judgment.

Article 14 – Termination of enforcement

The administering State shall terminate enforcement of the sentence as soon as it is informed by the sentencing State of any decision or measure as a result of which the sentence ceases to be enforceable.

Article 15 – Information on enforcement

The administering State shall provide information to the sentencing State concerning the enforcement of the sentence:

- aj. when it considers enforcement of the sentence to have been completed;
- ak. if the sentenced person has escaped from custody before enforcement of the sentence has been completed; or
- al. if the sentencing State requests a special report.

Article 16 – Transit

am. A Party shall, in accordance with its law, grant a request for transit of a sentenced person through its territory if such a request is made by another Party and that State has agreed with another Party or with a third State to the transfer of that person to or from its territory.

an. A Party may refuse to grant transit:

- a. if the sentenced person is one of its nationals, or
- b. if the offence for which the sentence was imposed is not an offence under its own law.

ao. Requests for transit and replies shall be communicated through the channels referred to in the provisions of Article 5.2 and 3.

ap. A Party may grant a request for transit of a sentenced person through its territory made by a third State if that State has agreed with another Party to the transfer to or from its territory.

aq. The Party requested to grant transit may hold the sentenced person in custody only for such time as transit through its territory requires.

ar. The Party requested to grant transit may be asked to give an assurance that the sentenced person will not be prosecuted, or, except as provided in the preceding paragraph, detained, or otherwise subjected to any restriction on his liberty in the territory of the transit State for any offence committed or sentence imposed prior to his departure from the territory of the sentencing State.

as. No request for transit shall be required if transport is by air over the territory of a Party and no landing there is scheduled. However, each State may, by a declaration addressed to the Secretary General of the Council of Europe at the time of signature or of deposit of its instrument of ratification, acceptance, approval or accession, require that it be notified of any such transit over its territory.

Article 17 – Language and costs

at. Information under Article 4, paragraphs 2 to 4, shall be furnished in the language of

the Party to which it is addressed or in one of the official languages of the Council of Europe.

- au. Subject to paragraph 3 below, no translation of requests for transfer or of supporting documents shall be required.
- av. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, require that requests for transfer 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 these languages as it shall indicate. It may on that occasion declare its readiness to accept translations in any other language in addition to the official language or languages of the Council of Europe.
- aw. Except as provided in Article 6.2.a, documents transmitted in application of this Convention need not be certified.
- ax. Any costs incurred in the application of this Convention shall be borne by the administering State, except costs incurred exclusively in the territory of the sentencing State.

Article 18 – Signature and entry into force

- ay. This Convention shall be open for signature by the member States of the Council of Europe and non-member States which have participated in its elaboration. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
- az. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which three member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.
- ba. In respect of any signatory State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 19 – Accession by non-member States

- bb. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting the Contracting States, may invite any State not a member of the Council and not mentioned in Article 18.1 to accede to this Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee.
- bc. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 20 – Territorial application

- bd. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.
- be. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

bf. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 21 – Temporal application

This Convention shall be applicable to the enforcement of sentences imposed either before or after its entry into force.

Article 22 – Relationship to other Conventions and Agreements

bg. This Convention does not affect the rights and undertakings derived from extradition treaties and other treaties on international co-operation in criminal matters providing for the transfer of detained persons for purposes of confrontation or testimony.

bh. If two or more Parties have already concluded an agreement or treaty on the transfer of sentenced persons or otherwise have established their relations in this matter, or should they in future do so, they shall be entitled to apply that agreement or treaty or to regulate those relations accordingly, in lieu of the present Convention.

bi. The present Convention does not affect the right of States party to the European Convention on the International Validity of Criminal Judgments to conclude bilateral or multilateral agreements with one another on matters dealt with in that Convention in order to supplement its provisions or facilitate the application of the principles embodied in it.

bj. If a request for transfer falls within the scope of both the present Convention and the European Convention on the International Validity of Criminal Judgments or another agreement or treaty on the transfer of sentenced persons, the requesting State shall, when making the request, indicate on the basis of which instrument it is made.

Article 23 – Friendly settlement

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 necessary to facilitate a friendly settlement of any difficulty which may arise out of its application.

Article 24 – Denunciation

bk. Any Party may at any time denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

bl. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

bm. The present Convention shall, however, continue to apply to the enforcement of sentences of persons who have been transferred in conformity with the provisions of the Convention before the date on which such a denunciation takes effect.

Article 25 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the non-member States which have participated in the elaboration of this Convention and any State which has acceded to this Convention of:

bn. any signature;

bo. the deposit of any instrument of ratification, acceptance, approval or accession;

bp. any date of entry into force of this Convention in accordance with Articles 18.2 and 3, 19.2 and 20.2 and 3;

bq. any other act, declaration, notification or communication relating to this Convention.

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

Done at Strasbourg, this 21st day of March 1983, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention, and to any State invited to accede to it.

Additional Protocol to the Convention on the Transfer of Sentenced Persons

Strasbourg, 18.XII.1997

Preamble

The member States of the Council of Europe, and the other States signatory to this Protocol, Desirous of facilitating the application of the Convention on the Transfer of Sentenced Persons opened for signature at Strasbourg on 21 March 1983 (hereinafter referred to as "the Convention") and, in particular, pursuing its acknowledged aims of furthering the ends of justice and the social rehabilitation of sentenced persons;

Aware that many States cannot extradite their own nationals;

Considering it desirable to supplement the Convention in certain respects,

Have agreed as follows:

Article 1 – General provisions

- a. The words and expressions used in this Protocol shall be interpreted within the meaning of the Convention.
- b. The provisions of the Convention shall apply to the extent that they are compatible with the provisions of this Protocol.

Article 2 – Persons having fled from the sentencing State

- c. Where a national of a Party who is the subject of a sentence imposed in the territory of another Party as a part of a final judgment, seeks to avoid the execution or further execution of the sentence in the sentencing State by fleeing to the territory of the former Party before having served the sentence, the sentencing State may request the other Party to take over the execution of the sentence.
- d. At the request of the sentencing State, the administering State may, prior to the arrival of the documents supporting the request, or prior to the decision on that request, arrest the sentenced person, or take any other measure to ensure that the sentenced person remains in its territory, pending a decision on the request. Requests for provisional measures shall include the information mentioned in paragraph 3 of Article 4 of the Convention. The penal position of the sentenced person shall not be aggravated as a result of any period spent in custody by reason of this paragraph.
- e. The consent of the sentenced person shall not be required to the transfer of the execution of the sentence.

Article 3 – Sentenced persons subject to an expulsion or deportation order

- f. Upon being requested by the sentencing State, the administering State may, subject to

- the provisions of this Article, agree to the transfer of a sentenced person without the consent of that person, where the sentence passed on the latter, or an administrative decision consequential to that sentence, includes an expulsion or deportation order or any other measure as the result of which that person will no longer be allowed to remain in the territory of the sentencing State once he or she is released from prison.
- g. The administering State shall not give its agreement for the purposes of paragraph 1 before having taken into consideration the opinion of the sentenced person.
 - h. For the purposes of the application of this Article, the sentencing State shall furnish the administering State with:
 - a. a declaration containing the opinion of the sentenced person as to his or her proposed transfer, and
 - b. a copy of the expulsion or deportation order or any other order having the effect that the sentenced person will no longer be allowed to remain in the territory of the sentencing State once he or she is released from prison.
 - i. Any person transferred under the provisions of this Article 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 or her transfer other than that for which the sentence to be enforced was imposed, nor shall he or she for any other reason be restricted in his or her personal freedom, except in the following cases:
 - a. when the sentencing State so authorises: a request for authorisation shall be submitted, accompanied by all relevant documents and a legal record of any statement made by the convicted person; authorisation shall be given when the offence for which it is requested would itself be subject to extradition under the law of the sentencing State or when extradition would be excluded only by reason of the amount of punishment;
 - b. when the sentenced person, having had an opportunity to leave the territory of the administering State, has not done so within 45 days of his or her final discharge, or if he or she has returned to that territory after leaving it.
 - j. Notwithstanding the provisions of paragraph 4, the administering State may take any measures necessary under its law, including proceedings *in absentia*, to prevent any legal effects of lapse of time.
 - k. Any contracting State may, by way of a declaration addressed to the Secretary General of the Council of Europe, indicate that it will not take over the execution of sentences under the circumstances described in this Article.

Article 4 – Signature and entry into force

- l. This Protocol shall be open for signature by the member States of the Council of Europe and the other States signatory to the Convention. It shall be subject to ratification, acceptance or approval. A Signatory may not ratify, accept or approve this Protocol unless it has previously or simultaneously ratified, accepted or approved the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
- m. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the deposit of the third instrument of ratification, acceptance or approval.
- n. In respect of any signatory State which subsequently deposits its instrument of ratification, acceptance or approval, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit.

Article 5 – Accession

- o. Any non-member State which has acceded to the Convention may accede to this Protocol after it has entered into force.

- p. In respect of any acceding State, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession.

Article 6 – Territorial application

- q. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.
- r. Any Contracting State may, at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
- s. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 7 – Temporal application

This Protocol shall be applicable to the enforcement of sentences imposed either before or after its entry into force.

Article 8 – Denunciation

- t. Any Contracting State may at any time denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.
- u. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.
- v. This Protocol shall, however, continue to apply to the enforcement of sentences of persons who have been transferred in conformity with the provisions of both the Convention and this Protocol before the date on which such denunciation takes effect.
- w. Denunciation of the Convention automatically entails denunciation of this Protocol.

Article 9 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any Signatory, any Party and any other State which has been invited to accede to the Convention of:

- x. any signature;
- y. the deposit of any instrument of ratification, acceptance, approval or accession;
- z. any date of entry into force of this Protocol in accordance with Articles 4 or 5;
- aa. any other act, declaration, notification or communication relating to this Protocol.

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

Done at Strasbourg, this eighteenth day of December 1997, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the other States signatory to the Convention and to any State invited to accede to the Convention.

