

76 (1970) Nr. 4

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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**JAARGANG 2009 Nr. 35**

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A. TITEL

*Europees Verdrag inzake de internationale geldigheid van  
strafvonnissen;  
(met Bijlagen)  
's-Gravenhage, 28 mei 1970*

B. TEKST

De Engelse en de Franse tekst van het Verdrag, met Bijlagen, zijn geplaatst in *Trb.* 1971, 137.

C. VERTALING

Zie *Trb.* 1971, 137.

D. PARLEMENT

Zie *Trb.* 1987, 162

E. PARTIJGEGEVENS

Zie *Trb.* 1971, 137.

Partij	Onder-tekening	Ratificatie	Type*	In werking	Opzeg-ging	Buiten werking
Albanië	08-06-00	22-10-03	R	23-01-04		
België	28-05-70					
Bulgarije	09-10-03	30-03-04	R	01-07-04		
Cyprus	03-03-72	25-04-74	R	26-07-74		

Partij	Ondertekening	Ratificatie	Type*	In werking	Opzegging	Buiten werking
Denemarken	28-05-70	03-03-71	R	26-07-74		
Duitsland	28-05-70					
Estland	08-06-00	25-04-01	R	26-07-01		
Georgië	08-06-00	25-03-02	R	26-06-02		
Griekenland	27-08-79					
IJsland	19-09-89	06-08-93	R	07-11-93		
Italië	04-02-71					
Letland	30-10-02	29-07-03	R	30-10-03		
Litouwen	10-07-95	08-04-98	R	09-07-98		
Luxemburg	08-04-76					
Moldavië	27-06-01	20-06-06	R	21-09-06		
<b>Nederlanden, het Koninkrijk der</b> – Nederland – Ned. Antillen – Aruba	28-05-70	30-09-87 – –	R	01-01-88 – –		
Noorwegen	28-05-70	19-09-74	R	20-12-74		
Oekraïne	08-06-00	11-03-03	R	12-06-03		
Oostenrijk	28-05-70	01-04-80	R	01-07-80		
Portugal	10-05-79					
Roemenië	20-11-97	08-06-00	R	09-09-00		
San Marino	11-12-01	17-04-02	R	18-07-02		
Servië	26-04-07	26-04-07	R	27-07-07		
Slovenië	25-01-00					
Spanje	30-05-84	02-09-94	R	03-12-94		
Turkije	26-06-74	27-10-78	R	28-01-79		
Zweden	28-05-70	21-06-73	R	26-07-74		

\* O=Ondertekening zonder voorbehoud of vereiste van ratificatie, R= Bekrchtiging, aanvaarding, goedkeuring of kennisgeving, T=Toetreding, VG=Voortgezette gebondenheid, NB=Niet bekend

## Uitbreidingen

### Denemarken

Uitgebreid tot	In werking	Buiten werking
Faeröer	26-07-1974	

### Noorwegen

Uitgebreid tot	In werking	Buiten werking
Bouvet-eiland	20-12-1974	
Koningin Maud Land	20-12-1974	
Peter-I-eiland	20-12-1974	

## Verklaringen, voorbehouden en bezwaren

Albanië, 22 oktober 2003

In accordance with Article 19, paragraph 2, of the Convention, the Republic of Albania reserves the right to require that requests and supporting documents be accompanied by a translation into the Albanian language.

In accordance with Article 61, paragraph 1, of the Convention, the Republic of Albania reserves the right:

- a) to refuse enforcement if it considers that the sentence relates to a fiscal or religious offence (Appendix I, a);
- b) to refuse enforcement of a sanction for an act which according to the law of the Republic of Albania could have been dealt with only by an administrative authority (Appendix I, b);
- 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 (Appendix I, c);
- d) 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 (Appendix I, e).

Bulgarije, 30 maart 2004

In accordance with Article 19, paragraph 2, of the Convention, the Republic of Bulgaria declares that the requests and accompanying documents shall be translated into Bulgarian language.

In accordance with Article 61, paragraph 1, of the Convention, the Republic of Bulgaria reserves the right:

- a) to refuse enforcement if it considers that the sentence relates to a religious offence (Appendix I, sub-paragraph a);
- b) to refuse enforcement of a sanction for an act which according to the Bulgarian law could have been dealt with only by an administrative authority (Appendix I, sub-paragraph b);
- 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 (Appendix I, sub-paragraph c);
- d) to refuse the enforcement of sanctions rendered in absentia and ordonnances pénales (Appendix I, sub-paragraph d);
- e) to refuse the application of the provisions of Article 8 where it 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 (Appendix I, sub-paragraph e).

Cyprus, 3 maart 1972

The Government of Cyprus wishes to avail itself of the reservations provided for in paragraphs a, b and d of Appendix I to the Convention.

Denemarken, 3 maart 1971

Denmark requires requests and supporting documents to be accompanied by a translation into Danish or English.

As regards enforcement of the sanctions of fines, mitigated imprisonment, imprisonment and confiscation, the Convention shall not apply as between Denmark and Finland, Norway and Sweden, seeing that these matters have already been regulated by uniform legislation in the four countries.

Under Danish law a fine cannot be converted into a sanction involving deprivation of liberty on the ground that the fine cannot be exacted.

List of Sanctions applied and enforced in Denmark:

1. fines
2. confiscation
3. sentences involving deprivation of liberty:
  - a) imprisonment which may be inflicted for life or for a specified term, normally covering not less than 30 days and not more than 16 years; where the term is three months or over, the sentence is generally served in one of the large State prisons; otherwise in one of the small local prisons;
  - b) youth prison, which if considered expedient, may be inflicted on persons between 15 and 21 years of age or, in appropriate cases, up to 23 years of age in lieu of ordinary imprisonment; the penalty of youth prison is indeterminate; as a principal rule release may take

place at the earliest on the expiration of twelve months, the maximum term being normally three years; such penalties are served in special youth prisons;

c) simple detention, which is normally inflicted for a term ranging from seven days to six months.

The Danish Criminal Code provides for application of the following measures in lieu of punishment to persistent recidivists:

d) workhouses, which under conditions specified in sect. 62 of the Criminal Code may be applied in lieu of imprisonment; sentences of commitment to workhouse are indeterminate; release may take place at the earliest on the expiration of twelve months, the maximum term being normally four years; the penalty is served in a special institution;

e) preventive detention, which under conditions specified in sect. 65 of the Criminal Code may be applied in lieu of imprisonment to professional or habitual offenders, if deemed necessary for reasons of public safety; the sentence is indeterminate; release may take place only after the expiration of four years; preventive detention is served in a special institution.

Finally, Chapter IX of the Criminal Code provides for measures applicable to persons who are exempted from punishment owing to irresponsibility or to persons who, because of psychic abnormality of a different nature, are considered imperious to influence through punishment. In such cases, courts may decide in particular that the offender concerned shall be committed to:

f) a mental hospital;

g) an institution for mental defectives, or

h) one of the special detention centres which have been established for psychopathic offenders who are unsuitable for punishment. Such measures are indeterminate; their cancellation requires a court order.

#### 4. Mandatory or collateral effects of criminal sentences entailing deprivation or restriction of freedom pronounced by criminal courts:

Section 78 of the Danish Criminal Code explicitly provides that a punishable offence shall not involve suspension of civil rights, including the right to carry on a trade or business under a licence. A person convicted of a punishable offence may, however, be debarred from carrying on a business requiring a special public authorisation or permission, if the offence carries with it an obvious risk of abuse of the position. Refusal of an application for such authorisation or permission is made by the authority which normally issues it; at the request of the person concerned, however, the question shall be brought before a court for decision.

Under Section 79 of the Criminal Code the terms of a sentence may provide that the right to continue to carry on a trade or business under a public authorisation or permission shall be withdrawn or restricted if the offence committed carries with it an obvious risk of abuse of the position. If warranted by special circumstances, the same applies to the car-

rying on of a business requiring no public authorisation or permission. The deprivation of such right is made for a period ranging from twelve months to five years, or for the time being, in which latter case the question may be reconsidered after the expiration of five years.

It follows from these provisions that sentences need not in all cases prevent the granting of a public authorisation or permission or the exercise of a profession, including academic activity. The facultative provision for depriving a convicted person of the right to carry on a particular business is conditional on an obvious danger of abuse.

A person who, owing to consumption of spirits, has not been able to drive a motor vehicle in a fully safe manner shall normally be deprived of the right to drive a motor vehicle. This shall apply also where the vehicle has been driven in a grossly irresponsible manner or where, according to the nature of the offence and to the available evidence on the offender's conduct as a driver of motor vehicles, it is found inadvisable, having regard to road safety, for him to drive a motor vehicle. The licence is withdrawn for a specified term of not less than six months, or for ever; in the case of driving while under the influence of liquor, the minimum term is twelve months.

Estland, 25 april 2001

Pursuant to Article 19, paragraph 2, of the Convention, the Republic of Estonia declares that it requires that requests and supporting documents be accompanied by a translation into Estonian or English.

Pursuant to Article 61, paragraph 1, of the Convention, the Republic of Estonia reserves the right:

- a) to refuse enforcement of a sanction for an act which, according to the law of the Republic of Estonia, could have been dealt with only by an administrative authority;
- b) to refuse enforcement of a European criminal judgment which the authorities of the requesting State rendered on a date when, under the law of the Republic of Estonia, the criminal proceedings in respect of the offence punished by the judgment would have been precluded by the lapse of time;
- c) to refuse the enforcement of sanctions rendered in absentia and "ordonnances pénales".

Georgië, 25 maart 2002

In accordance with Article 19, paragraph 2, of the Convention, Georgia reserves the right to require that requests for execution of the judgment and supporting documents be accompanied by a translation into Georgian, English or Russian, if these documents are not done in one of the above mentioned languages.

Georgia is unable to assume responsibility for the fulfilment of obligations imposed by the Convention in the territories of Abkhazia and Tskhinvali region until the full jurisdiction of Georgia is restored over these territories.

In accordance with Article 61, paragraph 1, of the Convention, Georgia reserves the right :

- a) to refuse enforcement of the judgment, if it considers that the sentence relates to a fiscal offence;
- b) to refuse enforcement of a sanction, for an act which according to the legislation of Georgia could be dealt with only by an administrative authority;
- c) to refuse enforcement of the judgment, which the authority of the requesting State rendered on a date when, under Georgian legislation, the criminal proceedings in respect of the offence punished by the judgment would have been precluded by the lapse of time;
- d) to refuse enforcement of sanctions rendered in absentia and ordonnances pénales;
- e) to refuse the application of the provisions of Article 8 where Georgia 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.

IJsland, 6 augustus 1993

Iceland requires that requests and supporting documents be accompanied by a translation into Icelandic or English.

“Ordonnances Pénales” according to Icelandic legislation are: “Lögreglustjórasediktir” (Article 115 of the Act on Law of Criminal Procedure).

The Convention shall not apply to relations between Iceland and the other Nordic countries party to the Convention except where the enforcement of a criminal judgement is not governed by Nordic legislation concerning enforcement.

List of sanctions applied and enforced in Iceland:

1. Fines

Fines are imposed directly by court in fixed amounts.

2. Confiscation

Any object made through an offence or used to commit an offence may be confiscated by the court unless it belongs to a person who had nothing to do with the offence. The same applies with regard to an object which seems likely to be used for a criminal purpose if it is considered necessary because of judicial safety. An object or gain obtained through an offence or the value of such a gain which nobody has a legal claim to may also be confiscated.

3. Disqualification

A criminal conviction does not involve disqualification unless this is expressly stated in the judgement. Disqualification may consist of the loss of a right to hold a public position if the person concerned is no longer considered worthy or competent for the position. Disqualification may also consist of the loss of a right to perform certain activities when the right depends on a public authorisation or licence, constitution or examination, provided that the offence points to a significant risk of

abuse of the position. If the offence is of a grave nature a disqualification may be ordered if the person concerned is not considered to be worthy of performing these activities or enjoying these rights.

A person who, owing to alcohol use, has not been capable of driving a motor vehicle in a safe manner shall normally be deprived of the right to drive a motor vehicle. This applies also where the vehicle has been driven in a grossly irresponsible manner or where, according to the nature of the offence or to the offender's conduct as a driver of motor vehicles, it is considered inadvisable, having regard to road safety, for him to drive a motor vehicle, the licence is withdrawn for a specified term of not less than one month, or for life.

4. Sentences involving deprivation of liberty.

a) Imprisonment may be ordered for life or for a specified term according to the provisions relating to the offence in question. The general provisions on minimum and maximum fixed terms of imprisonment state that imprisonment cannot be ordered for less than 30 days or more than 16 years.

A prisoner serving a fixed term sentence of imprisonment may be released conditionally on expiry of two thirds of the term or, where particular circumstances warrant it, after having served half the term. Conditional release cannot be granted unless the prisoner has served at least two months of his term nor may it be granted if the prisoner has less than 30 days left to serve or if a release is considered inadvisable in view of the prisoner's circumstances. There are no provisions about the conditional release of a prisoner serving a life sentence.

The law relating to prisons and imprisonment provides that when deciding in which penal institution imprisonment is to take place account should be taken of the age and sex of the prisoner, where he lives and his criminal record.

b) Simple detention is ordered for a specified term ranging from five days to two years. The same rules apply regarding conditional release as in the case of imprisonment.

c) Security measures may under certain conditions be imposed on abnormal offenders who are exempted from punishment owing to irresponsibility and to persons who, because of psychic abnormality, are considered impervious to influence through punishment. Such sentences involving security measures and implying deprivation of liberty are indeterminate and are served in a special institution or a hospital. Their termination requires a court order.

Letland, 29 juli 2003

In accordance with Article 19, paragraph 2, of the Convention, the Republic of Latvia declares that it requires that requests and supporting documents be accompanied by a translation into Latvian language.

In accordance with Article 61, paragraph 1, of the Convention, the Republic of Latvia 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 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.

Litouwen, 8 april 1998

In accordance with Article 19, paragraph 2, of the Convention, the Republic of Lithuania declares that it reserves the right to require that requests and supporting documents submitted to it, which are not drawn up in English, German, Russian or Lithuanian, be accompanied by a translation into one of those languages.

In accordance with Article 61, paragraph 1, of the said Convention, the Republic of Lithuania declares that it reserves the right:

- a) to refuse enforcement, if it considers that the sentence relates to a fiscal offence;
- b) to refuse enforcement of a sanction for an act which, according to the law of the Republic of Lithuania, 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 the law of the Republic of Lithuania, 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”;
- e) to refuse the application of the provisions of Article 8 where the Republic of Lithuania 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.

Litouwen, 11 februari 1999

The Ministry of Foreign Affairs of Lithuania, referring to Article 63 of the Convention, provides the list of sanctions applied and enforced in the Republic of Lithuania for the purposes of the application of the Convention:

The main punishments are the following:

1 Imprisonment

Imprisonment can be imposed for a period of 3 months up to 20 years.

If a new crime is committed prior to the end of serving the previous crime, imprisonment up to 25 years may be imposed. Life imprisonment can be imposed for certain crimes. Sentences for persons that were under age 18 at the time of committing the crime cannot be longer than 10 years.

Having regard to the seriousness of the crime committed and the personality of the convicted person, deprivation of liberty may be served:

- a) in prison;
- b) under common, strict or very strict regime;
- c) in an open correctional institution;
- d) in a correctional institution, under common or strict regime.

#### 2 Community service

Community service may be imposed for a period from 2 months to 2 years; where the sentence is served at the sentenced person's working place, his or her salary is deducted by 5 up to 20%.

#### 3 Fine

Fines are pecuniary sanctions that may be imposed either as the main or as an ancillary punishment. Fines as the principal punishment can be imposed in the range from 100 (one hundred) to 1000 (one thousand) MLS. Fine as the additional punishment can be imposed in the range of 10 (ten) to 500 (five hundred) MLS. The amount of fine for the committed crime is imposed by court, with regard to the seriousness of the crime committed, the damage that it produced and the wealth of the person convicted.

The court may impose a term of imprisonment in replacement of a fine imposed by way of a main punishment, if the person refuses to pay and if it is not possible to enforce the fine.

Together with the principal punishments the following additional sanctions can be imposed:

##### 1 Confiscation of property

Confiscation of property is an additional mandatory punishment, imposed by the court for the crimes provided for in Article 35 of the Criminal Code of the Republic of Lithuania. It is mandatory that confiscation of property is applied to the whole or part of property which belongs exclusively to the sentenced person, or property which is in the custody of another person, but was gained by the offender in connection with the committed crime.

##### 2 Deprivation of the right to hold a certain position or perform a certain job or activity

Deprivation of the right to hold a certain position or perform a certain job or activity is an additional punishment that is imposed by the court when the crime is committed in the area of activity of the convicted person or in abuse of his position, and with regard of the committed crime the court decides that the sentenced person should not engage in activities in certain areas.

Deprivation of the right to engage in activities in certain areas can be imposed for a period from 1 to 5 years.

Moldavië, 20 juni 2006

According to Article 15, paragraph 3, of the Convention, the Republic of Moldova declares that the requests, as well as all the communications necessary for applying the above-mentioned Convention, will be addressed through the agency of the Ministry of Justice of the Republic of Moldova.

According to Article 19, paragraph 2, of the Convention, the Republic of Moldova declares that the requests and supporting documents have to be accompanied by a translation either in Moldavian or in one of the official languages of the Council of Europe.

According to Article 60, paragraph 1, of the Convention, the Republic of Moldova declares that, until the full re-establishment of the territorial integrity of the Republic of Moldova, the provisions of the Convention will be applied only on the territory effectively controlled by the authorities of the Republic of Moldova.

According to Article 61, paragraph 1, of the Convention, the Republic of Moldova 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 authority of the requesting State rendered on a date when, under its own law, the criminal proceeding in respect of the offence punished by the judgment would have been precluded by the lapse of time;
- d) to refuse enforcement of a sanction rendered in absentia and “ordonnances pénales”;
- e) to accept only the section 1 of Title III of the Convention to be applied.

**Nederlanden, het Koninkrijk der**, 30 september 1987

The Kingdom of the Netherlands accepts the said Convention, with Annexes, for the Kingdom in Europe.

The provisions [of the Convention] shall be observed subject to the following reservations in pursuance of the provisions of paragraph 1 of Article 61 of the Convention:

- a) The Kingdom of the Netherlands declares that it reserves the right to refuse to enforce an “ordonnance pénale” (penal order) or a judgment in absentia rendered by the authorities of the requesting State at a time when the right to institute criminal proceedings for the offence to which the “ordonnance pénale” (penal order) or judgment relates would have been precluded under Dutch criminal law for reasons of lapse of time.
- b) The Kingdom of the Netherlands accepts the application of Part III of the Convention only in respect of Section I thereof.

With regard to Articles 37 and 41 of the Convention: The Netherlands Government does not believe that it is the intention that a person sen-

tenced abroad should have more extensive rights of appeal than would be applicable under Netherlands law in the case of persons prosecuted and sentenced in the first instance in the Netherlands.

With regard to Article 45, paragraph 1, of the Convention: Fines or confiscation of sums of money imposed in a currency of which the rate of exchange against the Dutch guilder is not registered daily at the Amsterdam foreign exchange, shall be expressed in terms of special drawing rights of the currency in question on the last working day of the month in which the requesting State imposed the sanction to be implemented.

With regard to Article 19, paragraph 2, of the Convention: Documents submitted to the Kingdom of the Netherlands, where not drawn up in Dutch, French, English or German, should be accompanied by a translation into one of the above four languages.

With regard to Article 64, paragraph 4, of the Convention: Once the Convention on the enforcement of criminal judgments concluded in Brussels on 26 September 1968 between the Kingdom of the Netherlands, the Kingdom of Belgium and the Grand Duchy of Luxembourg comes into force, it will preclude application of the present European Convention as regards relations between the Kingdom of the Netherlands, the Kingdom of Belgium and the Grand Duchy of Luxembourg.

**Nederlanden, het Koninkrijk der**, 29 augustus 1990

The Kingdom of the Netherlands designates the following legal provisions for inclusion in Appendix II to the Convention:

– in the Netherlands : any unlawful behaviour to which the Traffic Regulations (Administrative Enforcement) Act (Wet administratiefrechtelijke handhaving verkeersvoorschriften) of 3 July 1989 (Bulletin of Act, Orders and Decrees, 300) is applicable.

Noorwegen, 19 september 1974

We hereby approve, ratify and confirm the said Convention, while declaring that Part III, Section I, of the Convention shall not be applied insofar as the provisions of that Section preclude criminal proceedings in Norway for an offence committed by a person who at the time of the commitment of the offence was a Norwegian citizen or had his habitual residence in Norway.

Norway requires that requests and supporting documents be accompanied by a translation into Norwegian or English.

The Convention shall not apply to relations between Norway and the other Nordic States parties to the Convention, except where the enforcement of a criminal judgment is not regulated by Nordic legislation concerning enforcement.

With reference to Article 63, paragraph 1, I also have the honour to give the following information on the sanctions applicable in Norway and their enforcement:

List of sanctions applied and enforced in Norway

#### 1. Fines

Fines are imposed directly by the court in fixed amounts. There is no legal maximum for fines.

#### 2. Confiscation

Any benefit obtained through an offence, a product being the result of an offence, or the value of such a product, and any object having been the subject of an offence, may be confiscated. An object which in view of its nature and other relevant circumstances entails a risk of being used to commit an offence, may also be confiscated.

#### 3. Disqualification

A criminal conviction does not involve disqualification unless this is expressly stated in the judgment. Disqualification may comprise the loss of a government or municipal office or other post, the loss of a civil position, the loss of the right to perform certain activities, the loss of the right to perform military service, or the loss of the right to vote in public affairs.

The suspension or revocation of a driving licence and of certain other licences is an administrative matter which generally is not dealt with by the criminal courts.

#### 4. Sentences involving deprivation of liberty are: imprisonment, security measures, arrest and jailing.

a) Imprisonment may be ordered for life or for a specified term according to the provisions relating to the offence in question. The general provisions on minimum and maximum fixed terms of imprisonment state that imprisonment cannot be ordered for less than 21 days or more than 15 years, and, in case of concurrent offences, 20 years.

Any prisoner serving a fixed term sentence of imprisonment may be released conditionally on expiry of two thirds of the term or, where particular circumstances warrant it, after having served half the term. In no case shall he be released before the expiry of four months of the prison term.

A prisoner serving life imprisonment may be released conditionally after having served 12 years of his sentence.

Further reduction of the term of imprisonment may be granted by the King, through pardon.

b) Security measures may under certain conditions be imposed on abnormal offenders and on persons who are exempted from punishment owing to irresponsibility. Such sentences involving security measures and implying deprivation of liberty are served in a hospital, in an institution under the Prison Administration or in an ordinary prison.

c) Arrest may be imposed on military persons convicted for a military offence. Arrest may be ordered from 1 day, up to 60 days, and in case of concurrence up to 90 days.

d) Jailing may be imposed for political crimes, but is practically not used.

Oekraïne, 11 maart 2003

Without prejudice to the provision of Article 19, paragraph 3, of the Convention, Ukraine declares that requests or supporting documents shall be drawn up in Ukrainian or in one of the official languages of the Council of Europe or be accompanied by a translation into one of these languages.

Ukraine declares that it reserves the right to refuse enforcement of:

- a sanction for an act which according to Ukrainian law could have been dealt with only by an administrative authority (Appendix I, paragraph b, to the Convention);
- a European criminal judgment which the authorities of the requesting State rendered on a date when, under Ukrainian law, the criminal proceedings in respect of the offence punished by the judgment would have been precluded by the lapse of time (Appendix I, paragraph c, to the Convention);
- sanctions rendered in absentia. Ukraine will enforce and recognise only “ordonnances pénales” delivered by a court (Appendix I, paragraph d, to the Convention).

Oostenrijk, 28 mei 1970

At the time of signature of the said Convention the Minister of Justice of the Republic of Austria declared that his government wished to avail itself of the reservations provided for in paragraphs a, b and c of Appendix I to the Convention.

Oostenrijk, 1 april 1980

Austria will refuse enforcement where and to the extent that the sentence imposes a disqualification.

Without prejudice to Article 19, paragraph 3, requests for enforcement and supporting documents which are not drawn up in German, French or English, must be accompanied by a translation into one of these languages.

Austria will refuse enforcement if it considers that the sentence relates to a fiscal offence, Austria regards all those offences as fiscal offences which are violations of regulations concerning imposts, taxes, duties, monopolies and foreign exchange, or of regulations concerning the export, import, transit and rationing of goods (Appendix I, paragraph a). Austria will refuse enforcement of a sanction for an act which according to Austrian law could have been dealt with only by an administrative authority (Appendix I, paragraph b).

Austria will refuse enforcement of a European criminal judgment which the authorities of the requesting state rendered on a date when, under Austrian law, the criminal proceedings in respect of the offence punished by the judgment would have been precluded by the lapse of time (Appendix I, paragraph c).

Austria will refuse enforcement of sanctions rendered in absentia and of ordonnances pénales (Appendix I, paragraph d).

Austria will refuse the application of the provisions of Article 8 where Austria has an original competence, and will recognise in these cases only the equivalence of acts interrupting or suspending time limitation which have been accomplished in the requesting State (Appendix I, paragraph e).

Roemenië, 8 juni 2000

Romania declares that, without prejudice to the provisions of Article 19, paragraph 1, of the Convention, requests and supporting documents submitted to the Romanian authorities pursuant to this Convention shall be accompanied by a translation into French or English.

Romania declares that it reserves the right:

1. to refuse enforcement, if it considers that the sentence relates to a religious offence (Appendix I.a);
2. 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 (Appendix I.b).

San Marino, 17 april 2002

In accordance with Article 61, paragraph 1, of the Convention, the Republic of San Marino declares that it avails itself of the reservations (a), (b), (c), (d) and (e) provided in Appendix I to the Convention.

In addition, it declares also that it accepts the application of Part III only in respect of Section 1 - *Ne bis in idem*.

Servië, 26 april 2007

In accordance with Article 61, paragraph 1, of the Convention, the Republic of Serbia reserves the right:

- to refuse enforcement if it considers that the sentence relates to a fiscal offence;
- to refuse enforcement of a sanction for an act which according to the law of the Republic of Serbia could have been dealt with only by an administrative authority;
- to refuse enforcement of a European criminal judgment which the authority of the requesting State rendered on a date when, under the law of the Republic of Serbia, the criminal proceedings in respect of the offence punished by the judgment would have been precluded by the lapse of time;
- to refuse the enforcement of sanctions rendered in *abstentia* and “*ordonnances pénales*” or one of these categories of decisions only;
- to refuse the application of the provisions of Article 8 where the Republic of Serbia 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.

Spanje, 2 september 1994

Pursuant to Article 19, paragraph 2, Spain reserves the right to require that requests for enforcement and supporting documents be accompanied by a translation into Spanish.

Pursuant to Article 44, paragraph 4, Spain reserves 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 under Spanish law for a sanction of the same nature. Nevertheless, this rule shall only be applied in cases where Spanish law 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 may, if its duration and purpose so require, be enforced in a penal establishment intended for the enforcement of sanctions of another nature.

Pursuant to Article 63, Spain declares that the Convention shall apply to sentences imposed in criminal court judgments or by investigating judges and to preventive measures imposed in sentences or discharges under the terms of Article 8.1 of the Penal Code.

Turkije, 27 oktober 1978

In conformity with Article 61, paragraph 1, Turkey declares that it avails itself of the reservations (a) and (e) provided for in Appendix I of the Convention.

In conformity with Article 15, paragraph 3, the request for enforcement and the communications necessary for the application of the Convention shall be sent through diplomatic channels.

In conformity with Article 19, paragraph 2, Turkey declares that it reserves the right to require that requests and supporting documents be accompanied by a translation into Turkish.

In conformity with Article 44, paragraph 4, Turkey declares that it reserves 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 Turkish law for a sanction of the same nature.

Information on the sanctions applicable in Turkey and their enforcement (supplied in accordance with Article 63 of the Convention).

Article 11 of the Turkish Criminal Code (Act No. 765 of 1 March 1926) lists the sanctions applicable with respect to serious and minor offences:

- for serious offences, the death penalty, confinement, imprisonment, heavy fines, disqualifications from holding public office,
- for minor offences, detention, light fines, temporary disqualification from carrying on a profession or trade.

From the point of view of their enforcement, according to Article 1 of Act No. 647 of 13 July 1965 on the enforcement of penalties, penal sanctions fall into three categories:

1. the death penalty;

2. penalties involving long-term or short-term deprivation of liberty;
3. fines.

The death penalty is not carried out in public; it is subject to confirmation by the Court of Cassation, followed by a decision of the Great National Assembly of Turkey.

Penalties involving long-term deprivation of liberty are either for life or temporary.

Temporary penalties involving long-term deprivation of liberty are those the duration of which exceeds six months.

Penalties involving deprivation of liberty for six months or less are short-term (Article 3).

The court may, having regard to the particular circumstances of an offender and to the circumstances and way in which the offence was committed, replace a penalty involving short-term deprivation of liberty with a fine or other measure (such as the obligation to attend a re-education establishment or a detention centre for a fixed period of time) (Article 4).

Where a penalty involving short-term deprivation of liberty is imposed on persons aged under eighteen at the time of the offence, its place is taken by a fine or other measure.

Any person sentenced to a fine, to confinement for up to six months or to imprisonment for up to one year may have his sentence suspended under Section 6 of the Act on the enforcement of penalties and Article 89 of the Criminal Code. Suspended sentences are available on even more favourable terms under Turkish law for convicted persons who at the time of commission of the offence were under the age of fifteen or eighteen, as the case may be, or seventy years old or more.

Conditional release is automatically available to persons on whom penalties involving deprivation of liberty have been imposed and who have served two-thirds of their sentence with good behaviour, as well as to persons sentenced to confinement for life who have served twenty-four years of their sentence with good behaviour.

The Government of Turkey, while ratifying the European Convention on the International Validity of Criminal Judgments, declares that it does not consider itself bound to carry out the provisions of the said Convention in relation to the Greek Cypriot Administration, which is not constitutionally entitled to represent alone the Republic of Cyprus.

Zweden, 21 juni 1973

Sweden does not accept the application of Section I of Part III of the Convention insofar as the provisions of that Section preclude criminal proceedings in Sweden for an offence carrying a minimum penalty in Swedish law of at least four years' imprisonment, and insofar as they preclude the enforcement in Sweden of a sanction imposed for an offence in Sweden.

In conformity with Article 19, paragraph 2, Sweden declares that if the request for enforcement or the supporting documents are written in a

language other than Danish, Norwegian or Swedish, they are to be accompanied by a translation into Swedish or English.

In conformity with Article 64, paragraph 3, Sweden declares that the Convention shall not apply to relations between Sweden and the other Nordic countries party to the Convention except where the enforcement of a criminal judgment is not governed by Nordic legislation concerning enforcement.

List of sanctions whose enforcement may be requested by a Swedish authority within another State signatory to the European Convention on the International Validity of Criminal Judgments, together with information on the enforcement of sentences involving deprivation of liberty.

#### 1. Sentences involving deprivation of liberty

##### 1.1 Imprisonment (Chapter 26 of the Swedish Penal Code and Act of 6 May 1964 on treatment in penal institutions)

Imprisonment is ordered for life or for a specified term, according to the provisions concerning the offence in question. The general provisions on minimum and maximum fixed terms of imprisonment state that imprisonment cannot be ordered for less than one month or more than ten years. In the case of cumulative penalties for different offences, the maximum term may be extended to twelve years.

Any prisoner serving a fixed term sentence is released conditionally on expiry of two-thirds of the term or, where particular circumstances warrant it, after having served half the sentence. In no case shall he be released before the expiry of four months of the prison term.

Life imprisonment is usually commuted by a pardon to a specific term of 12-15 years. The provisions governing conditional release thus become applicable, and the life prisoner is generally released conditionally after serving 8-10 years of his sentence.

A person sentenced to imprisonment for not more than three months is usually placed in an open institution. Those sentenced to longer terms are first committed to a closed institution and later transferred to an open institution. Closed institutions are usually surrounded by a high wall and provided with various security measures to prevent escapes and outside contacts. Open institutions are without a wall and in many cases even without a fence.

##### 1.2 Approved schools (Chapter 29 of the Penal Code and 1964 Act on treatment in penal institutions).

Any person over 18 and under 21 years of age may be sent to an approved school if this seems appropriate in view of his personal development, his conduct and his general background. Exceptionally, persons under 18 or over 21 but not yet 23 years of age may be placed in approved schools.

Committal to an approved school is not for a fixed term. Persons detained in approved schools are however usually released after one year and they should not normally be kept for more than three. Their release is conditional and they are subject to surveillance for at least two years. If their behaviour is unsatisfactory they may be returned

to an institution.

Approved schools may be either open or closed institutions.

1.3 Preventive treatment (Chapter 30 of Penal Code and 1964 Act on treatment in penal institutions).

Preventive treatment is imposed on habitual criminals in order to protect society from the serious crimes which they might continue to commit if left at liberty.

Preventive detention is of indeterminate length. The minimum term in an institution is fixed by the court at not less than one year and not more than twelve years. Without specific authorisation by the court, inmates may not be kept in such institutions for more than three years beyond the minimum term or, if the minimum term was set at three years or more, for more than five years longer. If the detainee has not committed further offences or if his behaviour is not grossly reprehensible, he is usually released at the end of the minimum term. He is then subject to surveillance for three years at least.

Detention takes place in special security institutions. In all cases detainees are first committed to closed institutions and later transferred to open institutions.

## 2. Fines (Chapter 25 of the Penal Code)

Fines are imposed either directly, in lump sums, or as day-fines. The day-fine penalty has two aspects: the number of day-fines, established in terms of the gravity of the offence, and the amount of the day-fine, based on the offender's average income.

## 3. Confiscation (Chapter 36 of the Penal Code)

Confiscation may be imposed in the case of gain obtained through an offence not entailing damage to a private individual, and of any object or payment given or received for the purpose of an offence, or of the value of any benefit thereby obtained.

Further any object used as the instrument of an offence or constituting the proceeds of such an offence may be declared confiscated, as may any object whose use constitutes an offence or by whose instrumentality an activity involving an offence has been performed. In lieu of such an object, its value may be declared confiscated.

Lastly, objects which, in view of their particular nature and of all the circumstances, seem likely to be used for criminal purposes may be confiscated.

A criminal conviction does not involve loss of civil rights.

It may entail loss of a government or municipal post, if the civil servant convicted has clearly shown through his offence that he is unfitted for his job. Similarly, the licence required for the practice of certain professions, such as the medical profession, may be withdrawn if the practitioner has been sentenced for an offence of a certain gravity.

Withdrawal of driving licence is the commonest form of disqualification. The driving licence is usually withdrawn from persons guilty of drunken driving or of gross negligence on the road. It is withdrawn for an indeterminate period and may not be restored before the expiry of at least

one year for drunken driving and two years for gross negligence. In certain exceptional cases the driving licence is restored after a shorter period.

#### G. INWERKINGTREDING

Zie *Trb.* 1987, 162.

Overeenkomstige bepalingen van het Verdrag zullen ingevolge artikel 26, eerste lid, van het in rubriek J vermelde Kaderbesluit van 27 november 2008, vanaf 5 december 2011 in de verhoudingen tussen EU-lidstaten door dat Kaderbesluit worden vervangen.

Wat betreft het Koninkrijk der Nederlanden, geldt de vervanging alleen voor Nederland.

#### J. VERWIJZINGEN

Zie voor verwijzingen en overige verdragsgegevens *Trb.* 1971, 137 en *Trb.* 1987, 162.

#### **Verbanden**

Het Verdrag wordt, wat betreft overeenkomstige bepalingen, tussen EU-lidstaten vervangen door:

- Titel : Kaderbesluit 2008/909/JBZ van de Raad van 27 november 2008 inzake de toepassing van het beginsel van wederzijdse erkenning op strafvonnissen waarbij vrijheidsstraffen of tot vrijheidsbeneming strekkende maatregelen zijn opgelegd, met het oog op de tenuitvoerlegging ervan in de Europese Unie; Brussel, 27 november 2008
- Tekst : *Pb.* EU Nr. L 327 van 5 december 2008, blz. 27-46

#### **Overige verwijzingen**

- Titel : Statuut van de Raad van Europa; Londen, 5 mei 1949
- Laatste *Trb.* : *Trb.* 2007, 146

Uitgegeven de *zestiende* maart 2009.

*De Minister van Buitenlandse Zaken,*

M. J. M. VERHAGEN