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# Convention

established by the Council in accordance with  
Article 34 of the Treaty on European Union,  
on Mutual Assistance in Criminal Matters  
between the Member States of the European Union

Brussels, 29 May 2000

[The United Kingdom instrument of adoption was deposited on 22 September 2005 and the  
Convention entered into force for the United Kingdom on 21 December 2005]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
March 2007*

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**CONVENTION  
ESTABLISHED BY THE COUNCIL IN ACCORDANCE WITH  
ARTICLE 34 OF THE TREATY ON EUROPEAN UNION ON MUTUAL  
ASSISTANCE IN CRIMINAL MATTERS  
BETWEEN THE MEMBER STATES OF  
THE EUROPEAN UNION**

THE HIGH CONTRACTING PARTIES to this Convention, Member States of the European Union,

REFERRING to the Council Act establishing the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union,

WISHING to improve judicial co-operation in criminal matters between the Member States of the Union, without prejudice to the rules protecting individual freedom,

POINTING OUT the Member States' common interest in ensuring that mutual assistance between the Member States is provided in a fast and efficient manner compatible with the basic principles of their national law, and in compliance with the individual rights and principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950<sup>1</sup>,

EXPRESSING their confidence in the structure and functioning of their legal systems and in the ability of all Member States to guarantee a fair trial,

RESOLVED to supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959<sup>2</sup> and other Conventions in force in this area, by a Convention of the European Union,

RECOGNISING that the provisions of those Conventions remain applicable for all matters not covered by this Convention,

CONSIDERING that the Member States attach importance to strengthening judicial co-operation, while continuing to apply the principle of proportionality,

RECALLING that this Convention regulates mutual assistance in criminal matters, based on the principles of the Convention of 20 April 1959,

WHEREAS, however, Article 20 of this Convention covers certain specific situations concerning interception of telecommunications, without having any implications with regard to other such situations outside the scope of the Convention,

WHEREAS the general principles of international law apply in situations which are not covered by this Convention,

RECOGNISING that this Convention does not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security, and that it is a matter for each Member State to determine, in accordance with Article 33 of the Treaty on European Union, under which conditions it will maintain law and order and safeguard internal security,

HAVE AGREED ON THE FOLLOWING PROVISIONS:

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<sup>1</sup> Treaty Series No. 71 (1953) Cm 8969.

<sup>2</sup> Treaty Series No. 24 (1992) Cm 1928.

## TITLE I

### GENERAL PROVISIONS

#### ARTICLE 1

##### **Relationship to other conventions on mutual assistance**

1. The purpose of this Convention is to supplement the provisions and facilitate the application between the Member States of the European Union, of:
  - (a) the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959, hereinafter referred to as the “European Mutual Assistance Convention”;
  - (b) the Additional Protocol of 17 March 1978 to the European Mutual Assistance Convention<sup>1</sup>;
  - (c) the provisions on mutual assistance in criminal matters of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders (hereinafter referred to as the “Schengen Implementation Convention”) which are not repealed pursuant to Article 2(2);
  - (d) Chapter 2 of the Treaty on Extradition and Mutual Assistance in Criminal Matters between the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands of 27 June 1962, as amended by the Protocol of 11 May 1974, (hereinafter referred to as the “Benelux Treaty”), in the context of relations between the Member States of the Benelux Economic Union.
2. This Convention shall not affect the application of more favourable provisions in bilateral or multilateral agreements between Member States or, as provided for in Article 26(4) of the European Mutual Assistance Convention, arrangements in the field of mutual assistance in criminal matters agreed on the basis of uniform legislation or of a special system providing for the reciprocal application of measures of mutual assistance in their respective territories.

#### ARTICLE 2

##### **Provisions relating to the Schengen acquis**

1. The provisions of Articles 3, 5, 6, 7, 12 and 23 and, to the extent relevant to Article 12, of Articles 15 and 16 and, to the extent relevant to the Articles referred to, of Article 1 constitute measures amending or building upon the provisions referred to in Annex A to the Agreement concluded by the Council of European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen acquis<sup>2</sup>.
2. The provisions of Articles 49(a), 52, 53 and 73 of the Schengen Implementation Convention are hereby repealed.

#### ARTICLE 3

##### **Proceedings in connection with which mutual assistance is also to be afforded**

1. Mutual assistance shall also be afforded in proceedings brought by the administrative authorities in respect of acts which are punishable under the national law of the requesting or the requested Member State, or both, by virtue of being infringements of the rules of law, and where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.

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<sup>1</sup> Treaty Series No. 24 (1992) Cm 1928.

<sup>2</sup> OJ L 176, 10.7.1999, p 36.

2. Mutual assistance shall also be afforded in connection with criminal proceedings and proceedings as referred to in paragraph 1 which relate to offences or infringements for which a legal person may be held liable in the requesting Member State.

#### ARTICLE 4

##### **Formalities and procedures in the execution of requests for mutual assistance**

1. Where mutual assistance is afforded, the requested Member State shall comply with the formalities and procedures expressly indicated by the requesting Member State, unless otherwise provided in this Convention and provided that such formalities and procedures are not contrary to the fundamental principles of law in the requested Member State.

2. The requested Member State shall execute the request for assistance as soon as possible, taking as full account as possible of the procedural deadlines and other deadlines indicated by the requesting Member State. The requesting Member State shall explain the reasons for the deadline.

3. If the request cannot, or cannot fully, be executed in accordance with the requirements set by the requesting Member State, the authorities of the requested Member State shall promptly inform the authorities of the requesting Member State and indicate the conditions under which it might be possible to execute the request. The authorities of the requesting and the requested Member State may subsequently agree on further action to be taken concerning the request, where necessary by making such action subject to the fulfilment of those conditions.

4. If it is foreseeable that the deadline set by the requesting Member State for executing its request cannot be met, and if the reasons referred to in paragraph 2, second sentence, indicate explicitly that any delay will lead to substantial impairment of the proceedings being conducted in the requesting Member State, the authorities of the requested Member State shall promptly indicate the estimated time needed for execution of the request. The authorities of the requesting Member State shall promptly indicate whether the request is to be upheld nonetheless. The authorities of the requesting and requested Member States may subsequently agree on further action to be taken concerning the request.

#### ARTICLE 5

##### **Sending and service of procedural documents**

1. Each Member State shall send procedural documents intended for persons who are in the territory of another Member State to them directly by post.

2. Procedural documents may be sent via the competent authorities of the requested Member State only if:

- (a) the address of the person for whom the document is intended is unknown or uncertain; or
- (b) the relevant procedural law of the requesting Member States requires proof of service of the document on the addressee, other than proof that can be obtain by post; or
- (c) it has not been possible to serve the document by post; or
- (d) the requesting Member States has justified reasons for considering that dispatch by post will be ineffective or is inappropriate.

3. Where there is reason to believe that the addressee does not understand the language in which the document is drawn up, the document, or at least the important passages thereof, must be translated into (one of) the language(s) of the Member State in the territory of which the addressee is staying. If the authority by which the procedural document was issued knows that the addressee understands only some other language, the document, or at least the important passages thereof, must be translated into that other language.

4. All procedural documents shall be accompanied by a report stating that the addressee may obtain information from the authority by which the document was issued or from other authorities in that Member State regarding his or her rights and obligations concerning the document. Paragraph 3 shall also apply to that report.

5. This Article shall not affect the application of Articles 8, 9 and 12 of the European Mutual Assistance Convention and Articles 32, 34 and 35 of the Benelux Treaty.

## ARTICLE 6

### **Transmission of requests for mutual assistance**

1. Requests for mutual assistance and spontaneous exchanges of information referred to in Article 7 shall be made in writing, or by any means capable of producing a written record under conditions allowing the receiving Member State to establish authenticity. Such requests shall be made directly between judicial authorities with territorial competence for initiating and executing them, and shall be returned through the same channels unless otherwise specified in this Article.

Any information laid by a Member State with a view to proceedings before the courts of another Member State within the meaning of Article 21 of the European Mutual Assistance Convention and Article 42 of the Benelux Treaty may be the subject of direct communications between the competent judicial authorities.

2. Paragraph 1 shall not prejudice the possibility of requests being sent or returned in specific cases:

- (a) between a central authority of a Member State and a central authority of another Member State, or
- (b) between a judicial authority of one Member State and a central authority of another Member State.

3. Notwithstanding paragraph 1, the United Kingdom and Ireland, respectively, may, when giving the notification provided for in Article 27(2), declare that requests and communications to it, as specified in the declaration, must be sent via its central authority. These Member States may at any time by a further declaration limit the scope of such a declaration for the purpose of giving greater effect to paragraph 1. They shall do so when the provisions on mutual assistance of the Schengen Implementation Convention are put into effect for them.

Any Member State may apply the principle of reciprocity in relation to the declarations referred to above.

4. Any request for mutual assistance may, in case of urgency, be made via the International Criminal Police Organisation (Interpol) or any body competent under provisions adopted pursuant to the Treaty on European Union.

5. Where, in respect of requests pursuant to Articles 12, 13 or 14, the competent authority is a judicial authority or a central authority in one Member State and a police or customs authority in the other Member State, requests may be made and answered directly between these authorities. Paragraph 4 shall apply to these contacts.

6. Where, in respect of requests for mutual assistance in relation to proceedings as envisaged in Article 3(1), the competent authority is a judicial authority or a central authority in one Member State and an administrative authority in the other Member State, requests may be made and answered directly between these authorities.

7. Any Member State may declare, when giving the notification provided for in Article 27(2), that it is not bound by the first sentence of paragraph 5 or by paragraph 6 of this Article, or both or that it will apply those provisions only under certain conditions which it shall specify. Such a declaration may be withdrawn or amended at any time.

8. The following requests or communications shall be made through the central authorities of the Member States:

- (a) requests for temporary transfer or transit of persons held in custody as referred to in Article 9 of this Convention, in Article 11 of the European Mutual Assistance Convention and in Article 33 of the Benelux Treaty;
- (b) notices of information from judicial records as referred to in Article 22 of the European Mutual Assistance Convention and Article 43 of the Benelux Treaty. However, requests for copies of convictions and measures as referred to in Article 4 of the Additional Protocol to the European Mutual Assistance Convention may be made directly to the competent authorities.

## ARTICLE 7

### **Spontaneous exchange of information**

1. Within the limits of their national law, the competent authorities of the Member States may exchange information, without a request to that effect, relating to criminal offences and the infringements of rules referred to in Article 3(1), the punishment or handling of which falls within the competence of the receiving authority at the time the information is provided.
2. The providing authority may, pursuant to its national law, impose conditions on the use of such information by the receiving authority.
3. The receiving authority shall be bound by those conditions.

## TITLE II

### REQUESTS FOR CERTAIN SPECIFIC FORMS OF MUTUAL ASSISTANCE

## ARTICLE 8

### **Restitution**

1. At the request of the requesting Member State and without prejudice to the rights of bona fide third parties, the requested Member State may place articles obtained by criminal means at the disposal of the requesting State with a view to their return to their rightful owners.
2. In applying Articles 3 and 6 of the European Mutual Assistance Convention and Articles 24(2) and 29 of the Benelux Treaty, the requested Member State may waive the return of articles either before or after handing them over to the requesting Member State if the restitution of such articles to the rightful owner may be facilitated thereby. The rights of bona fide third parties shall not be affected.
3. In the event of a waiver before handing over the articles to the requesting Member State, the requested Member State shall exercise no security right or other right of recourse under tax or customs legislation in respect of these articles.

A waiver as referred to in paragraph 2 shall be without prejudice to the right of the requested Member State to collect taxes or duties from the rightful owner.

## ARTICLE 9

### **Temporary transfer of persons held in custody for purposes of investigation**

1. Where there is agreement between the competent authorities of the Member States concerned, a Member State which has requested an investigation for which the presence of a person held in custody on its own territory is required may temporarily transfer that person to the territory of the Member State in which the investigation is to take place.
2. The agreement shall cover the arrangements for the temporary transfer of the person and the date by which he or she must be returned to the territory of the requesting Member State.
3. Where consent to the transfer is required from the person concerned, a statement of consent or a copy thereof shall be provided promptly to the requested Member State.
4. The period of custody in the territory of the requested Member State shall be deducted from the period of detention which the person concerned is or will be obliged to undergo in the territory of the requesting Member State.
5. The provisions of Articles 11(2) and (3), 12 and 20 of the European Mutual Assistance Convention shall apply *mutatis mutandis* to this Article.
6. When giving the notification provided for in Article 27(2), each Member State may declare that, before an agreement is reached under paragraph 1 of this Article, the consent referred to in paragraph 3 of this Article will be required or will be required under certain conditions indicated in the declaration.

## ARTICLE 10

### **Hearing by videoconference**

1. If a person is in one Member State's territory and has to be heard as a witness or expert by the judicial authorities of another Member State, the latter may, where it is not desirable or possible for the person to be heard to appear in its territory in person, request that the hearing take place by videoconference, as provided for in paragraphs 2 to 8.
2. The requested Member State shall agree to the hearing by videoconference provided that the use of the videoconference is not contrary to fundamental principles of its law and on condition that it has the technical means to carry out the hearing. If the requested Member State has no access to the technical means for videoconferencing, such means may be made available to it by the requesting Member State by mutual agreement.
3. Requests for a hearing by videoconference shall contain, in addition to the information referred to in Article 14 of the European Mutual Assistance Convention and Article 37 of the Benelux Treaty, the reason why it is not desirable or possible for the witness or expert to attend in person, the name of the judicial authority and of the persons who will be conducting the hearing.
4. The judicial authority of the requested Member State shall summon the person concerned to appear in accordance with the forms laid down by its law.
5. With reference to hearing by videoconference, the following rules shall apply:
  - (a) a judicial authority of the requested Member State shall be present during the hearing, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identification of the person to be heard and respect for the fundamental principles of the law of the requested Member State. If the judicial authority of the requested Member State is of the view that during the hearing the fundamental principles of the law of the requested Member State are being infringed, it shall immediately take the necessary measures to ensure that the hearing continues in accordance with the said principles;



- (b) measures for the protection of the person to be heard shall be agreed, where necessary, between the competent authorities of the requesting and the requested Member States;
- (c) the hearing shall be conducted directly by, or under the direction of, the judicial authority of the requesting Member State in accordance with its own laws;
- (d) at the request of the requesting Member State or the person to be heard the requested Member State shall ensure that the person to be heard is assisted by an interpreter, if necessary;
- (e) the person to be heard may claim the right not to testify which would accrue to him or her under the law of either the requested or the requesting Member State;

6. Without prejudice to any measures agreed for the protection of persons, the judicial authority of the requested Member State shall on the conclusion of the hearing draw up minutes indicating the date and place of the hearing, the identity of the person heard, the identities and functions of all other persons in the requested Member State participating in the hearing, any oaths taken and the technical conditions under which the hearing took place. The document shall be forwarded by the competent authority of the requested Member State to the competent authority of the requesting Member State.

7. The cost of establishing the video link, costs related to the servicing of the video link in the requested Member State, the remuneration of interpreters provided by it and allowances to witnesses and experts and their travelling expenses in the requested Member State shall be refunded by the requesting Member State to the requested Member State, unless the latter waives the refunding of all or some of these expenses.

8. Each Member State shall take the necessary measures to ensure that, where witnesses or experts are being heard within its territory in accordance with this Article and refuse to testify when under an obligation to testify or do not testify according to the truth, its national law applies in the same way as if the hearing took place in a national procedure.

9. Member States may at their discretion also apply the provisions of this Article, where appropriate and with the agreement of their competent judicial authorities, to hearings by videoconference involving an accused person. In this case, the decision to hold the videoconference, and the manner in which the videoconference shall be carried out, shall be subject to agreement between the Member States concerned, in accordance with their national law and relevant international instruments, including the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms.

Any Member State may, when giving its notification pursuant to Article 27(2), declare that it will not apply the first subparagraph. Such a declaration may be withdrawn at any time.

Hearings shall only be carried out with the consent of the accused person. Such rules as may prove to be necessary, with a view to the protection of the rights of accused persons, shall be adopted by the Council in a legally binding instrument.

## ARTICLE 11

### **Hearing of witnesses and experts by telephone conference**

1. If a person is in one Member State's territory and has to be heard as a witness or expert by judicial authorities of another Member State, the latter may, where its national law so provides, request assistance of the former Member State to enable the hearing to take place by telephone conference, as provided for in paragraphs 2 to 5.

2. A hearing may be conducted by telephone conference only if the witness or expert agrees that the hearing take place by that method.
3. The requested Member State shall agree to the hearing by telephone conference where this is not contrary to fundamental principles of its law.
4. A request for a hearing by telephone conference shall contain, in addition to the information referred to in Article 14 of the European Mutual Assistance Convention and Article 37 of the Benelux Treaty, the name of the judicial authority and of the persons who will be conducting the hearing and an indication that the witness or expert is willing to take part in a hearing by telephone conference.
5. The practical arrangements regarding the hearing shall be agreed between the Member States concerned. When agreeing such arrangements, the requested Member State shall undertake to:
  - (a) notify the witness or expert concerned of the time and the venue of the hearing;
  - (b) ensure the identification of the witness or expert;
  - (c) verify that the witness or expert agrees to the hearing by telephone conference.

The requested Member State may make its agreement subject, fully or in part, to the relevant provisions of Article 10(5) and (8). Unless otherwise agreed, the provisions of Article 10(7) shall apply *mutatis mutandis*.

## ARTICLE 12

### **Controlled deliveries**

1. Each Member State shall undertake to ensure that, at the request of another Member State, controlled deliveries may be permitted on its territory in the framework of criminal investigations into extraditable offences.
2. The decision to carry out controlled deliveries shall be taken in each individual case by the competent authorities of the requested Member State, with due regard for the national law of that Member State.
3. Controlled deliveries shall take place in accordance with the procedures of the requested Member State. The right to act and to direct and control operations shall lie with the competent authorities of that Member State.

## ARTICLE 13

### **Joint investigation teams**

1. By mutual agreement, the competent authorities of two or more Member States may set up a joint investigation team for a specific purpose and a limited period, which may be extended by mutual consent, to carry out criminal investigations in one or more of the Member States setting up the team. The composition of the team shall be set out in the agreement.

A joint investigation team may, in particular, be set up where:

- (a) a Member State's investigations into criminal offences require difficult and demanding investigations having links with other Member States;
- (b) a number of Member States are conducting investigations into criminal offences in which the circumstances of the case necessitate coordinated, concerted action in the Member States involved.

A request for the setting up of a joint investigation team may be made by any of the Member States concerned. The team shall be set up in one of the Member States in which the investigations are expected to be carried out.

2. In addition to the information referred to in the relevant provisions of Article 14 of the European Mutual Assistance Convention and Article 37 of the Benelux Treaty, requests for the setting up of a joint investigation team shall include proposals for the composition of the team.
3. A joint investigation team shall operate in the territory of the Member States setting up the team under the following general conditions:
  - (a) the leader of the team shall be a representative of the competent authority participating in criminal investigations from the Member State in which the team operates. The leader of the team shall act within the limits of his or her competence under national law;
  - (b) the team shall carry out its operations in accordance with the law of the Member State in which it operates. The members of the team shall carry out their tasks under the leadership of the person referred to in subparagraph (a), taking into account the conditions set by their own authorities in the agreement on setting up the team.
  - (c) the Member State in which the team operates shall make the necessary organisational arrangements for it to do so.
4. In this Article, members of the joint investigation team from Member States other than the Member State in which the team operates are referred to as being “seconded” to the team.
5. Seconded members of the joint investigation team shall be entitled to be present when investigative measures are taken in the Member State of operation. However, the leader of the team may, for particular reasons, in accordance with the law of the Member State where the team operates, decide otherwise.
6. Seconded members of the joint investigation team may, in accordance with the law of the Member State where the team operates, be entrusted by the leader of the team with the task of taking certain investigative measures where this has been approved by the competent authorities of the Member State of operation and the seconding Member State.
7. Where the joint investigation team needs investigative measures to be taken in one of the Member States setting up the team, members seconded to the team by that Member State may request their own competent authorities to take those measures. Those measures shall be considered in that Member State under the conditions which would apply if they were requested in a national investigation.
8. Where the joint investigation team needs assistance from a Member State other than those which have set up the team, or from a third State, the request for assistance may be made by the competent authorities of the State of operation to the competent authorities of the other State concerned in accordance with the relevant instruments or arrangements.
9. A member of the joint investigation team may, in accordance with his or her national law and within the limits of his or her competence, provide the team with information available in the Member State which has seconded him or her for the purpose of the criminal investigations conducted by the team.
10. Information lawfully obtained by a member or seconded member while part of a joint investigation team which is not otherwise available to the competent authorities of the Member States concerned may be used for the following purposes:
  - (a) for the purposes for which the team has been set up;
  - (b) subject to the prior consent of the Member State where the information became available, for detecting, investigating and prosecuting other criminal offences. Such consent may be withheld only in cases where such use would endanger criminal investigations in the Member State concerned or in respect of which that Member State could refuse mutual assistance;
  - (c) for preventing an immediate and serious threat to public security, and without prejudice to subparagraph (b) if subsequently a criminal investigation is opened;

(d) for other purposes to the extent that this is agreed between Member States setting up the team.

11. This Article shall be without prejudice to any other existing provisions or arrangements on the setting up or operation of joint investigation teams.

12. To the extent that the laws of the Member States concerned or the provisions of any legal instrument applicable between them permit, arrangements may be agreed for persons other than representatives of the competent authorities of the Member States setting up the joint investigation team to take part in the activities of the team. Such persons may, for example, include officials of bodies set up pursuant to the Treaty on European Union. The rights conferred upon the members or seconded members of the team by virtue of this Article shall not apply to these persons unless the agreement expressly states otherwise.

## ARTICLE 14

### **Covert investigations**

1. The requesting and the requested Member State may agree to assist one another in the conduct of investigations into crime by officers acting under covert or false identity (covert investigations).

2. The decision on the request is taken in each individual case by the competent authorities of the requested Member State with due regard to its national law and procedures. The duration of the covert investigation, the detailed conditions, and the legal status of the officers concerned during covert investigations shall be agreed between the Member States with due regard to their national law and procedures.

3. Covert investigations shall take place in accordance with the national law and procedures of the Member State on the territory of which the covert investigation takes place. The Member States involved shall co-operate to ensure that the covert investigation is prepared and supervised and to make arrangements for the security of the officers acting under covert or false identity.

4. When giving the notification provided for in Article 27(2), any Member State may declare that it is not bound by this Article. Such a declaration may be withdrawn at any time.

## ARTICLE 15

### **Criminal liability regarding officials**

During the operations referred to in Articles 12, 13 and 14, officials from a Member State other than the Member State of operation shall be regarded as officials of the Member State of operation with respect to offences committed against them or by them.

## ARTICLE 16

### **Civil liability regarding officials**

1. Where, in accordance with Articles 12, 13 and 14, officials of a Member State are operating in another Member State, the first Member State shall be liable for any damage caused by them during their operations, in accordance with the law of the Member State in whose territory they are operating.

2. The Member State in whose territory the damage referred to in paragraph 1 was caused shall make good such damage under the conditions applicable to damage caused by its own officials.

3. The Member State whose officials have caused damage to any person in the territory of another Member State shall reimburse the latter in full any sums it has paid to the victims or persons entitled on their behalf.

4. Without prejudice to the exercise of its right vis-à-vis third parties and with the exception of paragraph 3, each Member State shall refrain in the case provided for in paragraph 1 from requesting reimbursement of damages it has sustained from another Member State.

### TITLE III

#### INTERCEPTION OF TELECOMMUNICATIONS

##### ARTICLE 17

###### **Authorities competent to order interception of telecommunications**

For the purpose of the application of the provisions of Articles 18, 19 and 20, “competent authority” shall mean a judicial authority, or, where judicial authorities have no competence in the area covered by those provisions, an equivalent competent authority, specified pursuant to Article 24(1)(e) and acting for the purpose of a criminal investigation.

##### ARTICLE 18

###### **Requests for interception of telecommunications**

1. For the purpose of a criminal investigation, a competent authority in the requesting Member State may, in accordance with the requirements of its national law, make a request to a competent authority in the requested Member State for:

- (a) the interception and immediate transmission to the requesting Member State of telecommunications; or
- (b) the interception, recording and subsequent transmission to the requesting Member State of the recording of telecommunications.

2. Requests under paragraph 1 may be made in relation to the use of means of telecommunications by the subject of the interception, if this subject is present in:

- (a) the requesting Member State and the requesting Member State needs the technical assistance of the requested Member State to intercept his or her communications;
- (b) the requested Member State and his or her communications can be intercepted in that Member State;
- (c) a third Member State which has been informed pursuant to Article 20(2)(a) and the requesting Member State needs the technical assistance of the requested Member State to intercept his or her communications.

3. By way of derogation from Article 14 of the European Mutual Assistance Convention and Article 37 of the Benelux Treaty, requests under this Article shall include the following:

- (a) an indication of the authority making the request;
- (b) confirmation that a lawful interception order or warrant has been issued in connection with a criminal investigation;

- (c) information for the purpose of identifying the subject of the interception;
  - (d) an indication of the criminal conduct under investigation;
  - (e) the desired duration of the interception; and
  - (f) if possible, the provision of sufficient technical data, in particular the relevant network connection number, to ensure that the request can be met.
4. In the case of a request pursuant to paragraph 2(b), a request shall also include a summary of the facts. The requested Member State may require any further information to enable it to decide whether the requested measure would be taken by it in a similar national case.
5. The requested Member State shall undertake to comply with requests under paragraph 1(a):
- (a) in the case of a request pursuant to paragraph 2(a) and 2(c), on being provided with the information in paragraph 3. The requested Member State may allow the interception to proceed without further formality;
  - (b) in the case of a request pursuant to paragraph 2(b), on being provided with the information in paragraphs 3 and 4 and where the requested measure would be taken by it in a similar national case. The requested Member State may make its consent subject to any conditions which would have to be observed in a similar national case.
6. Where immediate transmission is not possible, the requested Member State shall undertake to comply with requests under paragraph 1(b) on being provided with the information in paragraphs 3 and 4 and where the requested measure would be taken by it in a similar national case. The requested Member State may make its consent subject to any condition which would have to be observed in a similar national case.
7. When giving the notification provided for in Article 27(2), any Member State may declare that it is bound by paragraph 6 only when it is unable to provide immediate transmission. In this case the other Member States may apply the principle of reciprocity.
8. When making a request under paragraph 1(b), the requesting Member State may, where it has a particular reason to do so, also request a transcription of the recording. The requested Member State shall consider such requests in accordance with its national law and procedures.
9. The Member State receiving the information provided under paragraphs 3 and 4 shall keep that information confidential in accordance with its national law.

## ARTICLE 19

### **Interceptions of telecommunications on national territory by the use of service providers**

1. Member States shall ensure that systems of telecommunications services operated via a gateway on their territory, which for the lawful interception of the communications of a subject present in another Member State are not directly accessible on the territory of the latter, may be made directly accessible for the lawful interception by that Member State through the intermediary of a designated service provider present on its territory.
2. In the case referred to in paragraph 1, the competent authorities of a Member State shall be entitled, for the purposes of a criminal investigation and in accordance with applicable national law and provided that the subject of the interception is present in that Member State, to carry out the interception through the intermediary of a designated service provider present on its territory without involving the Member State on whose territory the gateway is located.

3. Paragraph 2 shall also apply where the interception is carried out upon a request made pursuant to Article 18(2)(b).

4. Nothing in this Article shall prevent a Member State from making a request to the Member State on whose territory the gateway is located for the lawful interception of telecommunications in accordance with Article 18, in particular where there is no intermediary in the requesting Member State.

## ARTICLE 20

### **Interception of Telecommunications without the technical assistance of Another Member State**

1. Without prejudice to the general principles of international law as well as to the provisions of Article 18(2)(c), the obligations under this Article shall apply to interception orders made or authorised by the competent authority of one Member State in the course of criminal investigations which present the characteristics of being an investigation following the commission of a specific criminal offence, including attempts in so far as they are criminalised under national law, in order to identify and arrest, charge, prosecute or deliver judgement on those responsible.

2. Where for the purpose of a criminal investigation, the interception of telecommunications is authorised by the competent authority of one Member State (the “interception Member State”), and the telecommunication address of the subject specified in the interception order is being used on the territory of another Member State (the “notified Member State”) from which no technical assistance is needed to carry out the interception, the intercepting Member State shall inform the notified Member State of the interception:

- (a) prior to the interception in cases where it knows when ordering the interception that the subject is on the territory of the notified Member State;
- (b) in other cases, immediately after it becomes aware that the subject of the interception is on the territory of the notified Member State.

3. The information to be notified by the intercepting Member State shall include:

- (a) an indication of the authority ordering the interception;
- (b) confirmation that a lawful interception order has been issued in connection with a criminal investigation;
- (c) information for the purpose of identifying the subject of the interception;
- (d) an indication of the criminal conduct under investigation; and
- (e) the expected duration of the interception.

4. The following shall apply where a Member State is notified pursuant to paragraphs 2 and 3:

- (a) Upon receipt of the information provided under paragraph 3 the competent authority of the notified Member State shall, without delay, and at the latest within 96 hours, reply to the interception Member State, with a view to:
  - (i) allowing the interception to be carried out or to be continued. The notified Member State may make its consent subject to any conditions which would have to be observed in a similar national case;
  - (ii) requiring the interception not to be carried out or to be terminated where the interception would not be permissible pursuant to the national law of the notified Member State, or for the reasons specified in Article 2 of the European Mutual Assistance Convention. Where the notified Member State imposes such a requirement, it shall give reasons for its decision in writing;

- (iii) in cases referred to in point (ii), requiring that any material already intercepted while the subject was on its territory may not be used, or may only be used under conditions which it shall specify. The notified Member State shall inform the intercepting Member State of the reasons justifying the said conditions;
  - (iv) requiring a short extension, of up to a maximum period of eight days, to the original 96-hour deadline, to be agreed with the intercepting Member State, in order to carry out internal procedures under its national law. The notified Member State shall communicate, in writing, to the intercepting Member State, the conditions which, pursuant to its national law, justify the requested extension of the deadline.
- (b) Until a decision has been taken by the notified Member State pursuant to points (i) or (ii) of subparagraph a), the intercepting Member State:
- (i) may continue the interception; and
  - (ii) may not use the material already intercepted, except:
    - if otherwise agreed between the Member States concerned; or
    - for taking urgent measures to prevent an immediate and serious threat to public security. The notified Member State shall be informed of any such use and the reasons justifying it.
- (c) The notified Member State may request a summary of the facts of the case and any further information necessary to enable it to decide whether interception would be authorised in a similar national case. Such a request does not affect the application of subparagraph (b), unless otherwise agreed between the notified Member State and the intercepting Member State.
- (d) The Member States shall take the necessary measures to ensure that a reply can be given within the 96-hour period. To this end they shall designate contact points, on duty 24 hours a day, and include them in their statements under Article 24(1)(e).
5. The notified Member State shall keep the information provided under paragraph 3 confidential in accordance with its national law.
6. Where the intercepting Member State is of the opinion that the information to be provided under paragraph 3 is of a particularly sensitive nature, it may be transmitted to the competent authority through a specific authority where that has been agreed on a bilateral basis between the Member States concerned.
7. When giving its notification under Article 27(2), or at any time thereafter, any Member State may declare that it will not be necessary to provide it with information on interceptions as envisaged in this Article.

## ARTICLE 21

### **Responsibility for charges made by Telecommunications Operators**

Costs which are incurred by telecommunications operators or service providers in executing requests pursuant to Article 18 shall be borne by the requesting Member State.



## ARTICLE 22

### **Bilateral arrangements**

Nothing in this Title shall preclude any bilateral or multilateral arrangements between Member States for the purpose of facilitating the exploitation of present and future technical possibilities regarding the lawful interception of telecommunications.

## TITLE IV

## ARTICLE 23

### **Personal data protection**

1. Personal data communicated under this Convention may be used by the Member State to which they have been transferred:

- (a) for the purpose of proceedings to which this Convention applies;
- (b) for other judicial and administrative proceedings directly related to proceedings referred to under point (a);
- (c) for preventing an immediate and serious threat to public security;
- (d) for any other purpose, only with the prior consent of the communicating Member State, unless the Member State concerned has obtained the consent of the data subject.

2. This Article shall also apply to personal data not communicated but obtained otherwise under this Convention.

3. In the circumstances of the particular case, the communicating Member State may require the Member State to which the personal data have been transferred to give information on the use made of the data.

4. Where conditions on the use of personal data have been imposed pursuant to Articles 7(2), 18(5)(b), 18(6) or 20(4), these conditions shall prevail. Where no such conditions have been imposed, this Article shall apply.

5. The provisions of Article 13(10) shall take precedence over this Article regarding information obtained under Article 13.

6. This Article does not apply to personal data obtained by a Member State under this Convention and originating from that Member State.

7. Luxembourg may, when signing the Convention, declare that where personal data are communicated by Luxembourg under this Convention to another Member State, the following applies:

Luxembourg may, subject to paragraph 1(c), in the circumstances of a particular case require that unless the Member State concerned has obtained the consent of the data subject, the personal data may only be used for the purposes referred to in paragraph 1(a) and (b) with the prior consent of Luxembourg in respect of proceedings for which Luxembourg could have refused or limited the transmission or use of the personal data in accordance with the provisions of this Convention or the instruments referred to in Article 1.

If, in a particular case, Luxembourg refuses to give its consent to a request from a Member State pursuant to the provisions of paragraph 1, it must give reasons for its decision in writing.

## TITLE V

### FINAL PROVISIONS

#### ARTICLE 24

##### **Statements**

1. When giving the notification referred to in Article 27(2), each Member State shall make a statement naming the authorities which, in addition to those already indicated in the European Mutual Assistance Convention and the Benelux Treaty, are competent for the application of this Convention and the application between the Member States of the provisions on mutual assistance in criminal matters of the instruments referred to in Article 1(1), including in particular:

- (a) the competent administrative authorities within the meaning of Article 3(1), if any;
- (b) one or more central authorities for the purposes of applying Article 6 as well as the authorities competent to deal with the requests referred to in Article 6(8);
- (c) the police or customs authorities competent for the purposes of Article 6(5), if any;
- (d) the administrative authorities competent for the purposes of Article 6(6), if any; and
- (e) the authority or authorities competent for the purposes of the application of Article 18 and 19 and Article 20(1) to (5).

2. Statements made in accordance with paragraph 1 may be amended in whole or in part at any time by the same procedure.

#### ARTICLE 25

##### **Reservations**

No reservations may be entered in respect of this Convention, other than those for which it makes express provision.

#### ARTICLE 26

##### **Territorial application**

The application of this Convention to Gibraltar will take effect upon extension of the European Mutual Assistance Convention to Gibraltar.

The United Kingdom shall notify in writing the President of the Council when it wishes to apply the Convention to the Channel Islands and the Isle of Man following extension of the European Mutual Assistance Convention to those territories. A decision on this request shall be taken by the Council acting with the unanimity of its members.

#### ARTICLE 27

##### **Entry into Force**

1. This Convention shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.

2. Member States shall notify the Secretary-General of the Council of the European Union of the completion of the constitutional procedures for the adoption of this Convention.

3. This Convention shall, 90 days after the notification referred to in paragraph 2 by the State, member of the European Union at the time of adoption by the Council of the Act establishing this Convention, which is the eighth to complete this formality, enter into force for the eight Member States concerned.

4. Any notification by a Member State subsequent to the receipt of the eighth notification referred to in paragraph 2 shall have the effect that, 90 days after the subsequent notification, this Convention shall enter into force as between this Member State and those Member States for which the Convention has already entered into force.

5. Before the Convention has entered into force pursuant to paragraph 3, any Member State may, when giving the notification referred to in paragraph 2 or at any time thereafter, declare that it will apply this Convention in its relations with Member States which have made the same declaration. Such declarations shall take effect 90 days after the date of deposit thereof.

6. This Convention shall apply to mutual assistance initiated after the date on which it has entered into force, or is applied pursuant to paragraph 5, between the Member States concerned.

## ARTICLE 28

### **Accession of New Member States**

1. This Convention shall be open to accession by any State which becomes a member of the European Union.

2. The text of this Convention in the language of the acceding State, drawn up by the Council of the European Union, shall be authentic.

3. The instruments of accession shall be deposited with the depositary.

4. This Convention shall enter into force with respect to any State which accedes to it ninety days after the deposit of its instrument of accession or on the date of entry into force of this Convention if it has not already entered into force at the time of expiry of the said period of ninety days.

5. Where this Convention is not yet in force at the time of the deposit of their instrument of accession, Article 27(5) shall apply to acceding Member States.

## ARTICLE 29

### **Entry into Force for Iceland and Norway**

1. Without prejudice to Article 8 of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen acquis (the "Association Agreement"), the provisions referred to in Article 2(1) shall enter into force for Iceland and Norway 90 days after the receipt by the Council and the Commission of the information pursuant to Article 8(2) of the Association Agreement upon fulfilment of their constitutional requirements, in their mutual relations with any Member State for which this Convention has already entered into force pursuant to Article 27(3) or (4).

2. Any entry into force of this Convention for a Member State after the date of entry into force of the provisions referred to in Article 2(1) for Iceland and Norway, shall render these provisions also applicable in the mutual relations between that Member State and Iceland and Norway.

3. The provisions referred to in Article 2(1) shall in any event not become binding on Iceland and Norway before the date to be fixed pursuant to Article 15(4) of the Association Agreement.

4. Without prejudice to paragraphs 1, 2 and 3 above, the provisions referred to in Article 2(1) shall enter into force for Iceland and Norway not later than on the date of entry into force of this Convention for the fifteenth State, being a member of the European Union at the time of the adoption by the Council of the Act establishing this Convention.

#### ARTICLE 30

##### **Depositary**

1. The Secretary-General of the Council of the European Union shall act as depositary of this Convention.

2. The depositary shall publish in the Official Journal of the European Communities information on the progress of adoptions and accessions, statements and reservations and also any other notification concerning this Convention.

Done at Brussels on the twenty-ninth day of May in the year two thousand

HERE FOLLOW THE SIGNATURES

## DECLARATIONS

### COUNCIL DECLARATION ON ARTICLE 10(9)

“When considering the adoption of an instrument as referred to in Article 10(9), the Council shall respect Member States’ obligations under the European Convention on Human Rights.”

### DECLARATION BY THE UNITED KINGDOM ON ARTICLE 20

This Declaration shall form an agreed, integral part of the Convention:

“In the United Kingdom, Article 20 will apply in respect of interception warrants issued by the Secretary of State to the police service or HM Customs & Excise where, in accordance with national law on the interception of communications, the stated purpose of the warrant is the detection of serious crime. It will also apply to such warrants issued to the Security Service where, in accordance with national law, it is acting in support of an investigation presenting the characteristics described in Article 20(1)”.

## NOTIFICATIONS AND EFFECTIVE DATES

<i>State</i>	<i>Action</i>	<i>Date</i>	<i>Effective Date</i>
Austria	Notification	04 Apr 2005	23 Aug 2005
Belgium	Notification	25 May 2005	23 Aug 2005
Cyprus	Notification	03 Nov 2005	01 Feb 2006
Czech Republic	Notification	14 May 2006	12 Jun 2006
Germany	Notification	04 Nov 2005	02 Feb 2006
Denmark	Notification	24 Dec 2002	23 Aug 2005
Estonia	Notification	28 Jul 2004	23 Aug 2005
Spain	Notification	27 Jan 2003	23 Aug 2005
France	Notification	10 May 2005	23 Aug 2005
United Kingdom	Notification	22 Sep 2005	21 Dec 2005
Hungary	Notification	25 Aug 2005	23 Nov 2005
Lithuania	Notification	28 May 2004	23 Aug 2005
Latvia	Notification	14 Jun 2004	23 Aug 2005
Netherlands	Notification	02 Apr 2004	23 Aug 2005
Portugal	Notification	05 Nov 2001	23 Aug 2005
Poland	Notification	28 Jul 2005	26 Oct 2005
Sweden	Notification	07 Jul 2005	05 Oct 2005
Finland	Notification	27 Feb 2004	23 Aug 2005
Slovenia	Notification	28 Jun 2005	26 Sep 2005

## DECLARATIONS

### **Austria**

Re Article 24(1) of the Convention: Austria declares in accordance with Article 24(1) that the authorities competent for the application of the Convention are those already indicated in the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959, and names the district administrations and federal police authorities as the competent administrative authorities within the meaning of Article 3(1); the Federal Ministry of Justice as the competent central authority within the meaning of Article 6(2) and (8); the public prosecutor's office in whose jurisdiction the border is expected to be crossed or from whose jurisdiction the controlled delivery is to start as the competent authorities within the meaning of Article 6(5) and for requests under Article 12; the examining magistrate of the regional Court of First Instance for requests under Article 13; the Court of First Instance from whose jurisdiction the operation is expected to be launched for requests under Article 14; the district administrations and federal police authorities as the competent authorities within the meaning of Article 6(6); the examining magistrate of the regional Court of First Instance as the competent authority within the meaning of Articles 18, 19 and 20(1) to (5); SIRENE Austria as the competent authority for the notification under Article 20(2).

Re Article 27(5) of the Convention: Austria declares in accordance with Article 27(5) that it will apply this Convention in its relations with Member States which have made the same declaration until the entry into force of the Convention.

### **Belgium**

In accordance with Article 24 of the Convention, the Kingdom of Belgium states that the competent authorities for the application of the Convention are the judicial authorities and, where the intervention of a central authority is required, the Directorate-General of Legislation, Fundamental Freedoms and Rights at the Federal Department of Justice (Service public fédéral Justice, Direction générale de la Législation et des Libertés et Droits fondamentaux, Autorité centrale d'entraide pénale, Boulevard de Waterloo 115, 1000 Bruxelles). As stated in the Declaration made in connection with the 1959 Convention on Mutual Assistance, the Kingdom of Belgium defines "judicial authorities" as "members of the judicial authority responsible for delivering rulings, examining magistrates and members of the Public Prosecutor's Office". The Kingdom of Belgium does not designate any non-judicial authority for the application of the Convention.

## **Cyprus**

In accordance with Article 24, of the Convention on Mutual Assistance in Criminal Matters, the Republic of Cyprus declares that the designated authorities for the application of the provisions of the aforesaid Convention between the Member States are as follows:

- (a) the Ministry of Justice and Public Order, for the application of Article 3 paragraph 1 of the Convention,
- (b) the Ministry of Justice and Public Order and the Chief of the Cyprus Police, for the application of Article 6 and Article 6 paragraph 8 of the Convention,
- (c) the Chief of the Cyprus Police, the Director of Customs and Commissioner for VAT, the Unit for Combating Money Laundering, the Director of the Inland Revenue Department and the Central Bank of Cyprus, for the application of Article 6 paragraph 5 of the Convention,
- (d) The Ministry of Justice and Public Order and the Law Office of the Republic, for the application of Article 6 paragraph 6 of the Convention,
- (e) the Department of Electronic Communications of the Ministry of Communications and Works, the Commissioner of Electronic Communication and Postal Regulation and the Commissioner for the Protection of Personal Data, for the application of Articles 18, 19 and 20 paragraphs 1 to 5, of the Convention.

Pursuant to Article 9 paragraph 6 of the Convention, the Republic of Cyprus declares that, before an agreement is reached, under Article 9, paragraph 1, the written consent referred to in paragraph 3 is required. Pursuant to Article 28 paragraph 5 and Article 27 paragraph 5 of the Convention, the Republic of Cyprus declares that if the Convention is not yet in force by the time of deposition of this Declaration, the Convention shall apply to the relations between the Republic of Cyprus and the other Member States that have made the same declaration.

## **Czech Republic**

In accordance with Article 6(7) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Brussels, 29 May 2000), the Czech Republic declares that it is not bound by the first sentence of Article 6(5) of the Convention.

In accordance with Article 6(7) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Brussels, 29 May 2000), the Czech Republic declares that, pursuant to Article 6(6) of the Convention, requests made by administrative authorities under Article 3(1) of the Convention are sent to the judicial authorities of the Czech Republic, and therefore cannot be sent directly to the administrative authorities of the Czech Republic.

In accordance with Article 9(6) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Brussels, 29 May 2000), the Czech Republic declares that the consent stipulated in Article 9(3) of the Convention will be required before an agreement is concluded on the temporary transfer of an individual under Article 9(1) of the Convention.

In accordance with Article 24(1)(b) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Brussels, 29 May 2000), the Czech Republic declares that the judicial authority competent to deal with requests for controlled under Article 12 of the Convention is the Regional Prosecutor's Office in Prague, Husova 11, 110 01 Prague 1, tel.: +420 222 111 700, fax: +420 222 220 075.

In accordance with Article 24(1)(b) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Brussels, 29 May 2000), the Czech Republic declares that the judicial authority competent to deal with requests to set up joint investigation teams under Article 13 of the Convention is the Supreme Prosecutor's Office of the Czech Republic, International Department, Jezuitská 4, 660 55 Brno, tel.: +420 542 512 416, fax: +420 542 512 414.

In accordance with Article 24(1)(b) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Brussels, 29 May 2000), the Czech Republic declares that the judicial authority competent to deal with requests for covert investigations under Article 14 of the Convention is the Chief Prosecutor's Office in Prague, náměstí Hrdinu 1300, 140 65 Prague 4, tel.: +420 261 196 111, fax: +420 241 401 400.

In accordance with Article 24(1)(b) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Brussels, 29 May 2000), the Czech Republic declares that the central authority referred to in Article 6(8) of the Convention is the Ministry of Justice of the Czech Republic.

In accordance with Article 24(1)(e) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Brussels, 29 May 2000), the Czech Republic declares that the contact point referred to in Article 20(4)(d) of the Convention is the Police Headquarters of the Czech Republic, International Police Cooperation Division, Interpol Bureau, Strojnická 27, 170 89 Prague 7, tel.: +420 974 834 380, fax: +420 974 834 716.

### **Germany**

Re Article 9(6) Where persons held in custody are temporarily transferred for purposes of investigation, the consent of the persons concerned in accordance with Article 9(3) will generally be required for the purposes of reaching the agreement referred to in Article 9(1). Re Article 10(9) Application of the first subparagraph of Article 10(9) (Hearing of an accused person by videoconference) is not excluded in principle. However, such hearings can be conducted only on a voluntary basis (Article 10(9), third subparagraph). Moreover, pursuant to the national law of the Federal Republic of Germany, no costs may be imposed or regulatory measures laid down against a witness or expert (Article 10(1)) who fails to respond to an invitation to a hearing by videoconference to be conducted by a foreign judicial authority.

### **Denmark**

In connection with its accession to the Convention, Denmark declares as follows:

1. In relation to Article 24 Denmark states that:
  - (a) The “judicial authorities” in Denmark include the courts and prosecution authorities, which under the Danish Administration of Justice Act include the Ministry of Justice, the Director of Public Prosecutions, the District Public Prosecutors, the Commissioner of the Copenhagen Police and the chief constables.
  - (b) The “central authority” in Denmark is the Ministry of Justice, International office, Slotsholmsgade 10, DK-1216 København K, tel + 45 33 92 33 40, fax + 45 33 93 35 10, e-mail: jm@jm.dk
  - (c) The Ministry of Justice can provide information about which “judicial authority” in Denmark has territorial competence to receive and process requests for mutual judicial assistance.
  - (d) In cases of doubt, the authorities in other Member States may contact the Ministry of Justice to discover which judicial authority in Denmark is competent to transmit a request for a particular form of mutual judicial assistance.
  - (e) The police (the Commissioner of the Copenhagen Police and the chief constables) are competent as regards the application of Articles 18, 19 and 20.
2. In relation to Article 6(7), Denmark declares that requests for mutual judicial assistance covered by Article 6(5) and (6) must be transmitted via the central authority in the requested Member State. Thus requests for mutual judicial assistance may not be forwarded directly between the judicial authorities on one side and the customs or (other) administrative authorities on the other side; see Article 6(7).



3. In relation to Article 9(6), Denmark declares that it will require the consent referred to in Article 9(3) before agreement is reached on the temporary transfer of a person held in custody under Article 9(1).

4. In relation to Article 10(9), Denmark declares that it will not agree to requests for the hearing of an accused person by videoconferencing.

5. In relation to Article 14(4), Denmark declares that it is not bound by Article 14 on covert investigations.

### **Estonia**

1. Pursuant to Article 24 paragraph 1 of the Convention, the Republic of Estonia declares that:

- (1) the central authority for mutual assistance in criminal matters referred to in Article 6 paragraph 8 of this Convention is the Ministry of Justice;
- (2) for the purposes of the application of Article 6 paragraph 5, Articles 18 and 19 and Article 20 paragraphs 1-5 of the Convention, the competent authorities are the National Police Board, police prefectures, Security Police Board, Central Criminal Police, Estonian Tax and Customs Board and Estonian Board of Border Guard;
- (3) the contact point on duty twenty-four hours a day referred to in Article 20 paragraph 4 subparagraph d of the Convention is the Central Criminal Police;

2. Pursuant to Article 9 paragraph 6 of the Convention: before an agreement is reached under Article 9 paragraph 1 concerning temporary transfer of the person held in custody, the written consent referred to in Article 9 paragraph 3 to the transfer of the person concerned is required in all cases.

3. Pursuant to Article 14 paragraph 4 of the Convention Estonia is not bound by Article 14.

### **Spain**

STATEMENTS TO BE MADE BY SPAIN AT THE TIME OF NOTIFYING ACCEPTANCE OF THE CONVENTION, ESTABLISHED BY THE COUNCIL IN ACCORDANCE WITH ARTICLE 34 OF THE TREATY ON EUROPEAN UNION, ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE MEMBER STATES OF THE EUROPEAN UNION, DONE AT BRUSSELS ON 29 MAY 2000 “Under Article 24(1)(b), Spain designates as central authority, in accordance with Article 6(2), the Ministry of Justice (Directorate-General for Legislative Policy and International Judicial Cooperation).” “Under Article 24(1)(e) and for the purposes of Articles 18 and 20, the competent authority is the “Audiencia Nacional” (National High Court), when Spain is the requested State. With reference to paragraph 4 of Article 20 on the designation of contact points to be on duty twenty-four hours a day, Spain’s contact points will be the “Juzgados de Instrucción” (magistrates courts) and the “Juzgados Centrales de Instrucción de Guardia” (central duty magistrates” courts).” “In accordance with Article 27(5) of the Convention, the Kingdom of Spain applies this Convention in its relations with other Member States which have made the same declaration.”

### **France**

Article 6(7): Pursuant to Article 6(7), France declares that it is not bound by the first sentence of Article 6(5), or by Article 6(6).

Article 10(9): France declares that it will not apply the first subparagraph of Article 10(9), to accused persons when appearing before the trial court.

Article 24(1): France declares that, in addition to those judicial authorities which the French Government previously indicated when it signed the European Mutual Assistance Convention, its competent authorities are as follows:

- for the application of Article 6(2) and (8)(a): the Ministry of Justice, Directorate for Criminal Matters and Pardons,

- for the application of Article 6(8)(b): the Ministry of Justice, Directorate for Criminal Matters and Pardons, National Criminal Records Department,
- for the application of Articles 18 and 19: the examining magistrate having territorial competence,
- for the application of Article 20(1) to (5): the Ministry of Justice, Directorate for Criminal Matters and Pardons.

France declares that, for the purposes of the European Convention on Mutual Assistance in Criminal Matters, enforcement judges and regional parole courts must also be considered to be French judicial authorities.

Article 27(5): France declares that, pursuant to Article 27(5), it will apply this Convention in its relations with Member States which have made the same declaration.

### **United Kingdom**

Article 6 As provided for by Article 6(3), the United Kingdom declares that requests for mutual assistance must be sent to one of the three authorities designated as central authorities by virtue of its declaration under Article 24(1)(b). In limitation of this declaration, requests for mutual assistance in revenue and customs matters (including direct and indirect tax offences and import and export offences) may alternatively be sent to H M Revenue and Customs. Communications relating to requests, including return of evidence, may subsequently be made directly between the requesting and executing authority.

Article 9 As provided for by Article 9(6), the United Kingdom requires the written consent of a person in custody in order to authorise temporary transfer.

Article 10 As provided for by Article 10(9), the United Kingdom will not apply the provisions of article 10 to hearings by videoconference involving an accused person.

Article 18 As provided for by Article 18(7), the United Kingdom will be bound by paragraph 6 only when it is unable to provide immediate transmission.

Article 20 The United Kingdom reaffirms the declaration it made upon signature of the Convention, which forms an agreed, integral part of the Convention, and which reads as follows:

“In the United Kingdom, Article 20 will apply in respect of interception warrants issued by the Secretary of State to the police service or HM Customs and Excise where, in accordance with national law on the interception of communications, the stated purpose of the warrant is the detection of serious crime. It will also apply to such warrants issued to the Security Service where, in accordance with national law, it is acting in support of an investigation presenting the characteristics described in Article 20(1)”.

The reference to HM Customs and Excise should now be read as the Commissioners for HM Revenue and Customs, as a result of changes made by the Commissioners of Revenue and Customs Act 2005.

Article 24 In accordance with Article 24(1), the United Kingdom declares that the authorities competent for the application of the Convention are those already indicated in the European Mutual Assistance Convention and in accordance with Article 24(1)(b), the following authorities are central authorities for the purposes of applying Article 6 and for requests referred to in Article 6(8):

The Home Office for England and Wales, The Crown Office for Scotland and The Northern Ireland Office for Northern Ireland. In accordance with Article 24(1), and in addition to the authorities already listed, the following authorities are also competent for the purpose of article 6(5): Scottish Drugs Enforcement Agency (SDEA), Chief Officers of Police in England and Wales and the Chief Constable of the Police Service of Northern Ireland.

In accordance with Article 6(4), the United Kingdom reaffirms that these requests may be transmitted via the National Central Bureau of Interpol. In accordance with Article 24(1)(e), for the purpose of the application of Articles 18, 19 and 20, the competent authority for England and Wales is the Secretary of State for the Home Department, for Northern Ireland is the Secretary of State for Northern Ireland and for Scotland is the Scottish Ministers. The contact point on duty twenty-four hours a day for the purposes of Article 20(4)(d) is the National Central Bureau of Interpol.

### **Hungary**

Declaration concerning the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union The Republic of Hungary makes the following declaration in accordance with Article 24 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union.

With regard to Article 3(1) of the Convention: the Chief Prosecutor receives and presents requests in accordance with this Article.

With regard to Article 6(5) and (6) of the Convention: the central authorities receive and present requests in accordance with this Article. The Chief Prosecutor and the Ministry of Justice are the central authorities.

With regard to Article 6(8) of the Convention: The Ministry of Justice receives and presents requests for the temporary transfer of persons held in custody. The Chief Prosecutor receives and presents requests for information concerning convictions.

With regard to Article 10(9): The hearing of an accused person may be conducted by videoconference only if consent is given in writing.

With regard to Articles 18, 19 and 20: The Chief Prosecutor shall receive and present requests in accordance with these Articles. The contact point on duty twenty-four hours a day in accordance with Article 20(4) is the NEBEK (International Centre for Cooperation in Criminal Matters).

### **Lithuania**

AND WHEREAS, pursuant to paragraph 7 of Article 6 of the Convention, the Seimas of the Republic of Lithuania declares that the Republic of Lithuania does not consider itself bound by the provisions of the first sentence of paragraph 5 and paragraph 6 of Article 6 of the Convention.

AND WHEREAS, pursuant to Article 24 of the Convention, the Seimas of the Republic of Lithuania declares that:

(1) the Ministry of Justice and the Prosecutor General's Office are designated as the central authorities to exercise the functions provided for in the Convention;

(2) the Territorial Regional Prosecutor's Offices, the Court of Appeals of Lithuania, Regional and District courts are the judicial authorities to exercise the functions provided for in the Convention. Ministry of Justice and the Prosecutor General's Office in every concrete case shall help to determine which judicial authority has territorial competence to provide mutual assistance;

(3) the Prosecutor's Office of the Republic of Lithuania has the competence to provide mutual assistance under Articles 12, 13, 14, 18, 19 and paragraphs 1 to 5 of Article 20 with the exception of subparagraph d of paragraph 4 of Article 20;

(4) the Police Department under the Ministry of Interior is designated as the competent authority to exercise the functions provided for in subparagraph d of paragraph 4 of Article 20 of the Convention.

Pursuant to paragraph 5 of Article 27 of the Convention the Seimas of the Republic of Lithuania declares that if the Convention is not yet in force by the accession of the Republic of Lithuania to the European Union the Convention shall apply to the relations between the Republic of Lithuania and the other Member States of the European Union that have made the same declaration.

### **Latvia**

In accordance with paragraph 6 of Article 9 of the Convention established by the Council in accordance with Article 34 of the Treaty on European Union on Mutual Assistance in Criminal Matters between the Member States of the European Union, Council Declaration on Article 10(9), Declaration by the United Kingdom on Article 20, the Republic of Latvia declares that, before an agreement is reached for temporarily transfer of person referred in paragraph 1 of Article 9, the consent to the transfer from the person concerned shall be requested in all cases;

In accordance with Article 24 of the Convention the Republic of Latvia declares that the designated central authorities competent for application of said Convention and application between the Member States of the provisions on mutual assistance in criminal matters are the same that are designated by declaration of the Republic of Latvia pursuant to the Convention on Mutual Assistance in Criminal Matters;

In accordance with part (e) of paragraph 1 Article 24 of the Convention the Republic of Latvia declares that the designated competent authority for purposes of the application of Article 18, 19 and 20(1) to (5) is: Central Criminal Police Brivibas Boulevard 61 Riga, LV-1010 Latvia Phone: + 371 7075031 Fax: + 371 7075053 E-mail: kanc@vp.gov.lv

### **Netherlands**

Reservation "In accordance with Article 10(9) the Kingdom of the Netherlands declares that the first subparagraph of Article 10(9) will not be applied".

Declarations "In accordance with Article 24(1) the Kingdom of the Netherlands declares that the authorities indicated in the European Mutual Assistance Convention and the Benelux Treaty are competent for the application of this Convention and the Protocol thereto and are in addition designated as:—administrative authorities within the meaning of Article 3(1): the public prosecutor and the Centraal Justitieel Incassobureau (Central Judicial Recovery Bureau);—competent central authority within the meaning of Article 6(2) and (8): the Bureau Internationale Rechtshulp (International Judicial Assistance Bureau) of the Ministry of Justice in The Hague;—competent authorities within the meaning of Article 6(5): the public prosecutor for incoming and outgoing requests and for the notification of a Member state for instituting proceedings before the courts in another Member State and the examining magistrate for outgoing requests;—administrative authorities within the meaning of Article 6(6): the Centraal Justitieel Incassobureau (Central Judicial Recovery Bureau) in Leeuwarden;—competent authorities within the meaning of Articles 18 and 19 and Article 20(1) to (5): the public prosecutor, and—competent authority to receive the notification referred to in Article 20(2): the Netherlands Sirene Bureau. In accordance with Article 27(5) the Kingdom of the Netherlands declares that until its entry into force the Convention will be applied in its relations with Member States which have made the same declaration."

## Portugal

“In accordance with Article 24(1) of the Convention referred to in the preceding paragraph, the Portuguese Republic declares that “competent authorities” should be taken to mean:

- (a) for the purposes of Article 3(1) of the Convention, all administrative authorities whose powers are determined by Portuguese law;
- (b) for the purposes of applying Article 6 of the Convention, including paragraph 8 thereof, the Procuradoria Geral da República (Office of the Chief Public Prosecutor of the Republic) as central office, or the Polícia Judiciária (Criminal Police) for transmission of requests under Articles 12, 13 and 14 of the Convention;
- (c) for the purposes of applying Article 12 of the Convention, the Ministério Público (Public Prosecutor’s Office).

In accordance with Article 20(4)(d) of the Convention, the Portuguese Republic designates the Polícia Judiciária (Criminal Police), via its Departamento Central de Cooperação Internacional (DCCI—Central Department for International Cooperation), as contact point for the purposes of Articles 18, 19 and 20 of the Convention.

In accordance with Article 6(7) of the Convention, the Portuguese Republic declares that requests under paragraphs 5 and 6 of the same Article are to be forwarded to the Procuradoria Geral da República (Office of the Chief Public Prosecutor of the Republic) whenever the Portuguese Republic is the requested State; in accordance with the same provisions, it declares that, whenever the Portuguese Republic is the requesting State, requests may be made by the Portuguese administrative authorities which have powers conferred by Portuguese law.

In accordance with Article 18(7) of the Convention, the Portuguese Republic is bound by paragraph 6 of the same Article only when the Portuguese authorities are unable to provide immediate transmission.

In accordance with, and for the purposes of, Article 27(5) of the Convention, the Portuguese Republic applies this Convention in its relations with other Member States which have made the same declaration.”

## Poland

### Declarations

1. Pursuant to Article 24(1)(b),(c),(e) of the Convention, Poland declares that:—the central authority, for the purposes specified in Article 6(2) and (8), shall be the Ministry of Justice, Al. Ujazdowskie 11, 00-950 Warsaw, Poland;—the authorities competent for the purposes specified in Article 6(5) shall be: in the scope covered by Articles 12 and 14—the Chief Police Commander (‘Komendant Główny Policji’), while in the scope covered by Article 12, in respect of serious fiscal offences—also the Minister of Finance, and in the scope covered by Article 13—the Attorney-General;—the authorities competent for the purposes of the application of Articles 18, 19, 20(1) to (3) and (5) shall be the Circuit Prosecutors (‘Prokurator Okregowy’) having territorial jurisdiction; while the role of contact points, pursuant to Article 20(4), shall be fulfilled by the Voivodeship Police Commanders (‘Komendant Wojewódzki Policji’) having territorial jurisdiction. 2. Pursuant to Article 27(5) of the Convention, Poland declares that it shall apply this Convention before its entry into force, in the relations with other Member States which have made the same declaration. Reservations 1. Pursuant to Article 9(6) of the Convention, Poland declares that before an agreement referred to in Article 9(1) is reached, it will—as the requested state—require the prior consent from the person to be temporarily transferred.

2. Pursuant to Article 10(9) of the Convention, Poland declares that it shall neither request hearings of the accused persons by videoconference, nor shall it execute such requests.

## Sweden

Statements:

- (a) The authorities (public prosecutors and courts) designated by Sweden as competent judicial authorities under Article 24 of the 1959 European Convention on Mutual Assistance in Criminal Matters are competent for the application of the EU Convention of 29 May 2000 on Mutual Assistance in Criminal Matters and the Protocol of 16 October 2001 to that Convention.
- (b) In addition: (1) under Article 24(1)(b) of the Convention, the Ministry of Justice is the competent central authority; (2) under Article 24(1)(c) of the Convention, the following police and customs authorities are competent:
  - (i) the National Police Board, the police authorities, the Customs Board and the Coast Guard for controlled deliveries (Article 12);
  - (ii) the National Police Board, the police authorities, the Customs Board and the Coast Guard for joint investigation teams (Article 13), and
  - (iii) the National Police Board and the police authorities for covert investigations (Article 14);
- (3) under Article 24(1)(e) of the Convention, public prosecutors are competent.

## Finland

“Article 9(6) of the Convention Before an agreement is reached under paragraph 1 of this Article, the consent referred to in paragraph 3 will be required if the person to be transferred is a Finnish national.” “Article 24 of the Convention For the application of Article 6 of the Convention, including Article 6(8), the central authority is the Ministry of Justice. For the purposes of Article 6(5) of the Convention, the competent police and customs authorities are the police authorities, the customs authorities and border guard officials when acting as preliminary investigating authorities in criminal matters under the law on preliminary investigations.

The competent authorities for the purposes of Articles 18, 19 and 20 are the police authorities and, within their own sphere of competence, the customs authorities when acting as preliminary investigating authorities in criminal matters under the law on preliminary investigations.

As regards police authorities, requests in accordance with Articles 18, 19 and 20 are received and forwarded via the National Bureau of Investigation. The National Bureau of Investigation also acts as the contact point in accordance with Article 20(4)(d). “Article 27(5) of the Convention Before the Convention enters into force between States, Finland will apply the Convention in its relations with Member States which have made the same declaration”.

## Slovenia

In accordance with Article 24 of the Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union, the Republic of Slovenia declares the following:

1. With reference to Article 24(1)(a) of the Convention, the Republic of Slovenia declares that the authorities competent for the purposes of Article 6(6) of the Convention shall be the authorities that, in accordance with the national legislation of the Republic of Slovenia, carry out supervisory tasks over the implementation of regulations and are in this regard competent to make decisions about minor offences.
2. With reference to Article 24(1)(b) of the Convention, the Republic of Slovenia declares that the competent judicial authorities in the Republic of Slovenia pursuant to Article 6(1) of the Convention shall be the courts with territorial competence and district state prosecutor's offices.

3. With reference to Article 24(1)(c) of the Convention, the Republic of Slovenia declares that the central authority in the Republic of Slovenia for the purposes of applying Article 6(8) of the Convention shall be the Ministry of Justice, the Directorate for international cooperation and international legal assistance. The Ministry of Justice of the Republic of Slovenia also gives explanations on judicial authorities with territorial competence for receiving requests and providing international legal assistance.

4. With reference to Article 24(1)(e) of the Convention, the Republic of Slovenia declares that the authority competent for the purposes of the application of Articles 18 and 19 and Article 20(1) to (5) of the Convention shall be The Ministry of the Interior of the Republic of Slovenia—the Police; interception of telecommunications on the territory of the Republic of Slovenia shall be ordered by the competent court.

### **Slovakia**

Statements and Reservation of the Slovak Republic according to the Article 24 and Article 25 of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union.

In accordance with the Article 24 paragraph 1, in addition to the authorities already indicated in the Declaration of the Slovak Republic to the European Convention on Mutual Assistance in Criminal Matters, the Slovak Republic declares that for the application of this convention are competent the following authorities:

the Ministry of Justice of the Slovak Republic is the competent central authority for the transmission of the request for the mutual assistance, within the meaning of Article 6 paragraph 2—the prosecutor is considered as a competent authority within the meaning of Article 6 paragraph 5 in the proceedings according the Articles 12 and 14,

the General Prosecutor's Office of the Slovak Republic is considered a competent authority within the meaning of Article 6 paragraph 5 in the proceedings according to the Article 13,

the Ministry of Justice of the Slovak Republic is the competent central authority within the meaning of Article 6 paragraph 8 letter a),

the General Prosecutors Office of the Slovak Republic is the competent central authority within the meaning of Article 6 paragraph 8 letter b),

the Presidium of the Police Forces, International Police Cooperation Office, National Central Bureau of Interpol, Racianska 45, 812 72 Bratislava, Slovak Republic, Tel. +421- (0)9610 50318, Fax: +421-(0) 9610 59002), is the contact point within the meaning of Article 20 paragraph 4 letter d).

In accordance with Article 9 paragraph 6 the Slovak Republic declares that it shall require the consent of the person with a transfer before an agreement on temporary transfer of the person held in custody or serving the imprisonment sentence for the purpose of investigation is reached.

In accordance with Article 6 paragraph 7 the Slovak Republic reserves its right not to be bound by the first sentence of paragraph 5 and by paragraph 6 of the Article 6.

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