



Treaty Series No. 24 (1992)

European Convention on Mutual Assistance in Criminal Matters

Strasbourg, 20 April 1959

with Additional Protocol

Strasbourg, 17 March 1978

[The United Kingdom instruments of ratification were deposited on 29 August 1991 and
the Convention and Additional Protocol entered into force for the United Kingdom
on 27 November 1991]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 1992*

LONDON : HMSO

£6.25 net

**EUROPEAN CONVENTION ON MUTUAL ASSISTANCE
IN CRIMINAL MATTERS**

PREAMBLE

The Governments signatory hereto, being Members of the Council of Europe,

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

Believing that the adoption of common rules in the field of mutual assistance in criminal matters will contribute to the attainment of this aim;

Considering that such mutual assistance is related to the question of extradition, which has already formed the subject of a Convention signed on 13th December 1957¹.

Have agreed as follows:

CHAPTER I

General Provisions

ARTICLE 1

1. The Contracting Parties undertake to afford each other, in accordance with the provisions of this Convention, the widest measure of mutual assistance in proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting Party.
2. This Convention does not apply to arrests, the enforcement of verdicts or offences under military law which are not offences under ordinary criminal law.

ARTICLE 2

Assistance may be refused:

- (a) if the request concerns an offence which the requested Party considers a political offence, an offence connected with a political offence, or a fiscal offence;
- (b) if the requested Party considers that execution of the request is likely to prejudice the sovereignty, security, *ordre public* or other essential interests of its country.

CHAPTER II

Letters Rogatory

ARTICLE 3

1. The requested Party shall execute in the manner provided for by its law any letters rogatory relating to a criminal matter and addressed to it by the judicial authorities of the requesting Party for the purpose of procuring evidence or transmitting articles to be produced in evidence, records or documents.
2. If the requesting Party desires witnesses or experts to give evidence on oath, it shall expressly so request, and the requested Party shall comply with the request if the law of its country does not prohibit it.
3. The requested Party may transmit certified copies or certified photostat copies of records or documents requested, unless the requesting Party expressly requests the transmission of originals, in which case the requested Party shall make every effort to comply with the request.

¹Miscellaneous No. 8 (1990), Cm 999.

ARTICLE 4

On the express request of the requesting Party the requested Party shall state the date and place of execution of the letters rogatory. Officials and interested persons may be present if the requested Party consents.

ARTICLE 5

1. Any Contracting Party may, by a declaration addressed to the Secretary-General of the Council of Europe, when signing this Convention or depositing its instrument of ratification or accession, reserve the right to make the execution of letters rogatory for search or seizure of property dependent on one or more of the following conditions:

- (a) that the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the requested Party;
- (b) that the offence motivating the letters rogatory is an extraditable offence in the requested country;
- (c) that execution of the letters rogatory is consistent with the law of the requested Party.

2. Where a Contracting Party makes a declaration in accordance with paragraph 1 of this Article, any other Party may apply reciprocity.

ARTICLE 6

1. The requested Party may delay the handing over of any property, records or documents requested, if it requires the said property, records or documents in connection with pending criminal proceedings.

2. Any property, as well as original records or documents, handed over in execution of letters rogatory shall be returned by the requesting Party to the requested Party as soon as possible unless the latter Party waives the return thereof.

CHAPTER III

Service of Writs and Records of Judicial Verdicts—Appearance of Witnesses, Experts and Prosecuted Persons

ARTICLE 7

1. The requested Party shall effect service of writs and records of judicial verdicts which are transmitted to it for this purpose by the requesting Party.

Service may be effected by simple transmission of the writ or record to the person to be served. If the requesting Party expressly so requests, service shall be effected by the requested Party in the manner provided for the service of analogous documents under its own law or in a special manner consistent with such law.

2. Proof of service shall be given by means of a receipt dated and signed by the person served or by means of a declaration made by the requested Party that service has been effected and stating the form and date of such service. One or other of these documents shall be sent immediately to the requesting Party. The requested Party shall, if the requesting Party so requests, state whether service has been effected in accordance with the law of the requested Party. If service cannot be effected, the reasons shall be communicated immediately by the requested Party to the requesting Party.

3. Any Contracting Party may, by a declaration addressed to the Secretary-General of the Council of Europe, when signing this Convention or depositing its instrument of ratification or accession, request that service of a summons on an accused person who is in its territory be transmitted to its authorities by a certain time before the date set for appearance. This time shall be specified in the aforesaid declaration and shall not exceed 50 days.

This time shall be taken into account when the date of appearance is being fixed and when the summons is being transmitted.

ARTICLE 8

A witness or expert who has failed to answer a summons to appear, service of which has been requested, shall not, even if the summons contains a notice of penalty, be subjected to any punishment or measure of restraint, unless subsequently he voluntarily enters the territory of the requesting Party and is there again duly summoned.

ARTICLE 9

The allowances, including subsistence, to be paid and the travelling expenses to be refunded to a witness or expert by the requesting Party shall be calculated as from his place of residence and shall be at rates at least equal to those provided for in the scales and rules in force in the country where the hearing is intended to take place.

ARTICLE 10

1. If the requesting Party considers the personal appearance of a witness or expert before its judicial authorities especially necessary, it shall so mention in its request for service of the summons and the requested Party shall invite the witness or expert to appear.

The requested Party shall inform the requesting Party of the reply of the witness or expert.

2. In the case provided for under paragraph 1 of this Article the request or the summons shall indicate the approximate allowances payable and the travelling and subsistence expenses refundable.

3. If a specific request is made, the requested Party may grant the witness or expert an advance. The amount of the advance shall be endorsed on the summons and shall be refunded by the requesting Party.

ARTICLE 11

1. A person in custody whose personal appearance as a witness or for purposes of confrontation is applied for by the requesting Party, shall be temporarily transferred to the territory where the hearing is intended to take place, provided that he shall be sent back within the period stipulated by the requested Party and subject to the provisions of Article 12 in so far as these are applicable.

Transfer may be refused:

- (a) if the person in custody does not consent,
- (b) if his presence is necessary at criminal proceedings pending in the territory of the requested Party,
- (c) if transfer is liable to prolong his detention, or
- (d) if there are other overriding grounds for not transferring him to the territory of the requesting Party.

2. Subject to the provisions of Article 2, in a case coming within the immediately preceding paragraph, transit of the person in custody through the territory of a third State, Party to this Convention, shall be granted on application, accompanied by all necessary documents, addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the Party through whose territory transit is requested.

A Contracting Party may refuse to grant transit to its own nationals.

3. The transferred person shall remain in custody in the territory of the requesting Party and, where applicable, in the territory of the Party through which transit is requested, unless the Party from whom transfer is requested applies for his release.

ARTICLE 12

1. A witness or expert, whatever his nationality, appearing on a summons before the judicial authorities of the requesting Party shall not be prosecuted or detained or subjected to any other restriction of his personal liberty in the territory of that Party in respect of acts or convictions anterior to his departure from the territory of the requested Party.
2. A person, whatever his nationality, summoned before the judicial authorities of the requesting Party to answer for acts forming the subject of proceedings against him, shall not be prosecuted or detained or subjected to any other restriction of his personal liberty for acts or convictions anterior to his departure from the territory of the requested Party and not specified in the summons.
3. The immunity provided for in this article shall cease when the witness or expert or prosecuted person, having had for a period of 15 consecutive days from the date when his presence is no longer required by the judicial authorities an opportunity of leaving, has nevertheless remained in the territory, or having left it, has returned.

CHAPTER IV

Judicial Records

ARTICLE 13

1. A requested Party shall communicate extracts from and information relating to judicial records, requested from it by the judicial authorities of a Contracting Party and needed in a criminal matter, to the same extent that these may be made available to its own judicial authorities in like case.
2. In any case other than that provided for in paragraph 1 of this Article the request shall be complied with in accordance with the conditions provided for by the law, regulations or practice of the requested party.

CHAPTER V

Procedure

ARTICLE 14

1. Requests for mutual assistance shall indicate as follows:
 - (a) the authority making the request,
 - (b) the object of and the reason for the request,
 - (c) where possible, the identity and the nationality of the person concerned, and
 - (d) where necessary, the name and address of the person to be served.
2. Letters rogatory referred to in Articles 3, 4 and 5 shall, in addition, state the offence and contain a summary of the facts.

ARTICLE 15

1. Letters rogatory referred to in Articles 3, 4 and 5 as well as the applications referred to in Article 11 shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels.
2. In case of urgency, letters rogatory may be addressed directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party. They shall be returned together with the relevant documents through the channels stipulated in paragraph 1 of this article.
3. Requests provided for in paragraph 1 of Article 13 may be addressed directly by the judicial authorities concerned to the appropriate authorities of the requested Party, and the replies may be returned directly by those authorities. Requests provided for in paragraph 2 of Article 13 shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party.

4. Requests for mutual assistance, other than those provided for in paragraphs 1 and 3 of this article and, in particular, requests for investigation preliminary to prosecution, may be communicated directly between the judicial authorities.
5. In cases where direct transmission is permitted under this Convention, it may take place through the International Criminal Police Organisation (Interpol).
6. A Contracting Party may, when signing this Convention or depositing its instrument of ratification or accession, by a declaration addressed to the Secretary-General of the Council of Europe, give notice that some or all requests for assistance shall be sent to it through channels other than those provided for in this article, or require that, in a case provided for in paragraph 2 of this article, a copy of the letters rogatory shall be transmitted at the same time to its Ministry of Justice.
7. The provisions of this article are without prejudice to those of bilateral agreements or arrangements in force between Contracting Parties which provide for the direct transmission of requests for assistance between their respective authorities.

ARTICLE 16

1. Subject to paragraph 2 of this article, translations of requests and annexed documents shall not be required.
2. Each Contracting Party may, when signing or depositing its instrument of ratification or accession, by means of a declaration addressed to the Secretary-General of the Council of Europe, reserve the right to stipulate that requests and annexed documents shall be addressed to it accompanied by a translation into its own language or into either of the official languages of the Council of Europe or into one of the latter languages, specified by it. The other Contracting Parties may apply reciprocity.
3. This article is without prejudice to the provisions concerning the translation of requests or annexed documents contained in the agreements or arrangements in force or to be made, between two or more Contracting Parties.

ARTICLE 17

Evidence or documents transmitted pursuant to this Convention shall not require any form of authentication.

ARTICLE 18

Where the authority which receives a request for mutual assistance has no jurisdiction to comply therewith, it shall, *ex officio*, transmit the request to the competent authority of its country and shall so inform the requesting Party through the direct channels, if the request has been addressed through such channels.

ARTICLE 19

Reasons shall be given for any refusal of mutual assistance.

ARTICLE 20

Subject to the provisions of Article 9, execution of requests for mutual assistance shall not entail refunding of expenses except those incurred by the attendance of experts in the territory of the requested Party or the transfer of a person in custody carried out under Article 11.

CHAPTER VI

Laying of Information in Connection with Proceedings

ARTICLE 21

1. Information laid by one Contracting Party with a view to proceedings in the courts of another Party shall be transmitted between the Ministries of Justice concerned unless a Contracting Party avails itself of the option provided for in paragraph 6 of Article 15.
2. The requested Party shall notify the requesting Party of any action taken on such information and shall forward a copy of the record of any verdict pronounced.
3. The provisions of Article 16 shall apply to information laid under paragraph 1 of this article.

CHAPTER VII

Exchange of Information from Judicial Records

ARTICLE 22

Each Contracting Party shall inform any other Party of all criminal convictions and subsequent measures in respect of nationals of the latter Party, entered in the judicial records. Ministries of Justice shall communicate such information to one another at least once a year. Where the person concerned is considered a national of two or more other Contracting Parties, the information shall be given to each of these Parties, unless the person is a national of the Party in the territory of which he was convicted.

CHAPTER VIII

Final Provisions

ARTICLE 23

1. Any Contracting Party may, when signing this Convention or when depositing its instrument of ratification or accession, make a reservation in respect of any provision or provisions of the Convention.
2. Any Contracting Party which has made a reservation shall withdraw it as soon as circumstances permit. Such withdrawal shall be made by notification to the Secretary-General of the Council of Europe.
3. A Contracting Party which has made a reservation in respect of a provision of the Convention may not claim application of the said provision by another Party save in so far as it has itself accepted the provision.

ARTICLE 24

A Contracting Party may, when signing the Convention or depositing its instrument of ratification or accession, by a declaration addressed to the Secretary-General of the Council of Europe, define what authorities it will, for the purposes of the Convention, deem judicial authorities.

ARTICLE 25

1. This Convention shall apply to the metropolitan territories of the Contracting Parties.
2. In respect of France, it shall also apply to Algeria and to the overseas Departments, and, in respect of Italy, it shall also apply to the territory of Somaliland under Italian administration.
3. The Federal Republic of Germany may extend the application of this Convention to the *Land* of Berlin by notice addressed to the Secretary-General of the Council of Europe.

4. In respect of the Kingdom of the Netherlands, the Convention shall apply to its European territory. The Netherlands may extend the application of this Convention to the Netherlands Antilles, Surinam and Netherlands New Guinea by notice addressed to the Secretary-General of the Council of Europe.

5. By direct arrangement between two or more Contracting Parties and subject to the conditions laid down in the arrangement, the application of this Convention may be extended to any territory, other than the territories mentioned in paragraphs 1, 2, 3 and 4 of this article, of one of these Parties, for the international relations of which any such Party is responsible.

ARTICLE 26

1. Subject to the provisions of Article 15, paragraph 7, and Article 16, paragraph 3, this Convention shall, in respect of those countries to which it applies, supersede the provisions of any treaties, conventions or bilateral agreements governing mutual assistance in criminal matters between any two Contracting Parties.

2. This Convention shall not affect obligations incurred under the terms of any other bilateral or multilateral international convention which contains or may contain clauses governing specific aspects of mutual assistance in a given field.

3. The Contracting Parties may conclude between themselves bilateral or multilateral agreements on mutual assistance in criminal matters only in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.

4. Where, as between two or more Contracting Parties, mutual assistance in criminal matters is practised on the basis of uniform legislation or of a special system providing for the reciprocal application in their respective territories of measures of mutual assistance, these Parties shall, notwithstanding the provisions of this Convention, be free to regulate their mutual relations in this field exclusively in accordance with such legislation or system. Contracting Parties which, in accordance with this paragraph, exclude as between themselves the application of this Convention shall notify the Secretary-General of the Council of Europe accordingly.

ARTICLE 27

1. This Convention shall be open to signature by the Members of the Council of Europe. It shall be ratified. The instruments of ratification shall be deposited with the Secretary-General of the Council.

2. The Convention shall come into force 90 days after the date of deposit of the third instrument of ratification.

3. As regards any signatory ratifying subsequently the Convention shall come into force 90 days after the date of the deposit of its instrument of ratification¹.

ARTICLE 28

1. The Committee of Ministers of the Council of Europe may invite any State not a Member of the Council to accede to this Convention, provided that the resolution containing such invitation obtains the unanimous agreement of the Members of the Council who have ratified the Convention.

2. Accession shall be by deposit with the Secretary-General of the Council of an instrument of accession which shall take effect 90 days after the date of its deposit.

¹ The Convention entered into force for the United Kingdom on 27 November 1991.

ARTICLE 29

Any Contracting Party may denounce this Convention in so far as it is concerned by giving notice to the Secretary-General of the Council of Europe. Denunciation shall take effect six months after the date when the Secretary-General of the Council received such notification.

ARTICLE 30

The Secretary-General of the Council of Europe shall notify the Members of the Council and the Government of any State which has acceded to this Convention of:

- (a) the names of the Signatories and the deposit of any instrument of ratification or accession;
- (b) the date of entry into force of this Convention;
- (c) any notification received in accordance with the provisions of Article 5—paragraph 1, Article 7—paragraph 3, Article 15—paragraph 6, Article 16—paragraph 2, Article 24, Article 25—paragraphs 3 and 4, or Article 26—paragraph 4;
- (d) any reservation made in accordance with Article 23, paragraph 1;
- (e) the withdrawal of any reservation in accordance with Article 23, paragraph 2;
- (f) any notification of denunciation received in accordance with the provisions of Article 29 and the date on which such denunciation will take effect.

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

Done at Strasbourg, this 20th day April 1959, in English and French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General of the Council of Europe shall transmit certified copies to the signatory and acceding Governments.

SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of Signature</i>	<i>Date of deposit of Instrument of Ratification,</i>
Austria*	20 Apr 1959	2 Oct 1968
Belgium*	20 Apr 1959	13 Aug 1975
Denmark*	20 Apr 1959	13 Sept 1962
France*	28 Apr 1961	23 May 1967
Germany, Federal Republic of*	20 Apr 1959	2 Oct 1976
Greece*	20 Apr 1959	23 Feb 1962
Iceland*	27 Sept 1982	20 June 1984
Italy*	20 Apr 1959	23 Aug 1961
Luxembourg*	20 Apr 1959	18 Nov 1976
Netherlands*	21 Jan 1965	14 Feb 1969
Norway*	21 Apr 1961	14 Mar 1962
Portugal	10 May 1979	
Spain*	24 July 1979	18 Aug 1982
Sweden*	20 Apr 1959	1 Feb 1968
Switzerland*	29 Nov 1965	20 Dec 1966
Turkey*	23 Oct 1959	24 June 1969
United Kingdom*	21 June 1991	29 Aug 1991

ACCESSIONS

<i>State</i>	<i>Date</i>
Finland*	29 Jan 1981
Israel*	27 Sept 1967
Liechtenstein*	28 Oct 1969

*For reservations and declarations see pages 11 to 27.

RESERVATIONS AND DECLARATIONS

AUSTRIA

Reservations and Declarations contained in the instrument of ratification deposited on 2 October 1968—Or. Engl.

Reservations

Article 1, paragraph 1

Austria will only grant assistance in proceedings in respect of offences also punishable under Austrian law and the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities.

Article 2(a)¹

The Republic of Austria withdraws the reservation made to Article 2, paragraph (a) of the European Convention on Mutual Assistance in Criminal Matters.

The cases where Chapter 1 of the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters is not applicable, the Republic of Austria will apply Article 2, paragraph (a) of the European Convention on Mutual Assistance in Criminal Matters in accordance with the relevant national legislation (Federal Act of 4 December 1979 on Extradition and Mutual Assistance in Criminal Matters, Federal Law Gazette No. 529/1979). According to Section 51, paragraph 1 of the said Act the performance of assistance is precluded in all cases where extradition would be inadmissible according to Sections 14 and 15 of the Act. The provisions read as follows:

Section 14. Extradition shall be inadmissible

1. for political offences;
2. for other offences based on political motivation or aims unless, taking into consideration all the circumstances of the individual case, in particular the method of committing the offence, the means employed or threatened, or the gravity of the consequences caused or intended, the criminal character of the offence supersedes its political character.

Section 15. Extradition shall be inadmissible for offences which under Austrian law exclusively

1. are of a military nature, or
2. consist in a violation of regulations on duties, monopolies, customs or exchange, or of rules on the rationing of goods or on foreign trade.

Article 2(b)

In "other essential interests of its country" Austria will include maintaining the secrecy stipulated by Austrian legislation.

Article 4²

Article 11

In the cases mentioned in Article 11, paragraph 1.a, b and c, the transfer of a person in custody as a witness or for purposes of confrontation will not be authorised.

Declarations

Article 5, paragraph 1

Austria will make the execution of letters rogatory for search or seizure of property subject to the condition laid down in sub-paragraph c.

Article 7, paragraph 3

Austria will not serve a summons on an accused person who is in Austrian territory, unless the summons is transmitted to the competent Austrian judicial authority at least 30 days before the date set for appearance.

Article 16, paragraph 2

Subject to the provisions of paragraph 3 of Article 16, requests and annexed documents, which are not drawn up in the German, French or English language, must be accompanied by a translation into one of these languages. A translation of information mentioned in paragraph 2 of Article 21 is not required.

¹ Declaration made by the Minister for Foreign Affairs and registered at the Secretariat General on 2 May 1983—or. Engl. The reservation read as follows: "Austria will not lend assistance in the case of offences referred to under a)."

² Reservation withdrawn by letter from the Permanent Representative of Austria dated 13 August 1976 registered at the Secretariat General on 13 August 1976. The reservation read as follows: "The presence of persons interested in the criminal procedure as parties to that procedure at the interrogation of witnesses, experts or accused persons will not be authorised."

Article 24

For the purposes of the Convention, Austria will regard as judicial authorities the Criminal Courts, the Department of Public Prosecution and the Federal Ministry of Justice.

BELGIUM

Reservations and Declarations made at the time of signature on 20 April 1959.

On signing the European Convention on Mutual Assistance in Criminal Matters, the Belgian Government declares:

1. that it will avail itself of the option provided for under Article 5(1)(b) of the Convention and will not allow execution of letters rogatory for search or seizure except for extraditable offences;
2. that it makes the following reservations:
 - (a) the temporary transfer of prisoners provided for in Article 11 will not be authorised;
 - (b) the "subsequent measures" referred to in Article 22 will not be notified automatically: but the possibility of such notification will not be ruled out in particular cases and at the request of the authorities concerned;
 - (c) the Belgian Government, notwithstanding the provisions of Article 26, reserves the right to maintain or to conclude with adjacent countries bilateral or multilateral agreements offering wider scope for mutual assistance in criminal matters.

Reservations and Declarations made at the time of deposit of the instrument of ratification on 13 August 1975—*or. Fr.*

The declaration made by the Belgian Government on signing the Convention shall be replaced by the following reservations and declarations.

Reservations (under Article 23)

Article 2

The Government of the Kingdom of Belgium reserves the right not to comply with a request for assistance:

- (a) if there are good grounds for believing that it concerns an inquiry instituted with a view to prosecuting, punishing or otherwise interfering with an accused person because of his political convictions or religion, his nationality, his race or the population group to which he belongs;
- (b) is so far as it concerns a prosecution or proceedings incompatible with the principle *non bis in idem*;
- (c) in so far as it concerns an inquiry into acts for which the accused person is being prosecuted in Belgium.

Article 11

The Government of the Kingdom of Belgium will not grant temporary transit as provided for in Article 11, save where the person concerned is serving a sentence in its territory and where there are not special considerations opposed thereto.

Article 22

The Government of the Kingdom of Belgium will not notify the subsequent measures referred to in Article 22 except in so far as the organisations of its judicial records allows of so doing.

Article 26

By reason of the special arrangements between the Benelux countries, the Government of the Kingdom of Belgium does not accept Article 26, paragraphs 1 and 3 in respect of its relations with the Netherlands and Luxembourg.

The Government of the Kingdom of Belgium reserves the right to derogate from these provisions in respect of its relations with other member States of the European Economic Community.

Declarations

Article 5

The Government of the Kingdom of Belgium declares that letters rogatory for search or seizure within Belgium will not be executed save for extraditable offences within the meaning of the European Convention on Extradition, and provided that the Belgian court has authorised execution in accordance with its municipal law.

As long as Belgium has not ratified the European Convention on Extradition, letters rogatory will only be executed where they relate to facts capable of giving rise to extradition under Belgian law.

Article 24

The Government of the Kingdom of Belgium declares that, as regards Belgium, judicial authorities for the purposes of the Convention are to be understood as meaning members of the judiciary responsible for administering the law, examining magistrates and members of the Department of Public Prosecution.

DENMARK

Reservations and Declarations contained in a letter from the Ministry of Foreign Affairs, dated 30 August 1962 handed to the Secretary General at the time of deposit of the instrument of ratification on 13 September 1962—*or. Fr.*

Reservations

Article 2

Assistance may be refused if the judicial authorities of Denmark or those of a third State have instituted legal proceedings against the accused for the offence which gave rise to proceedings in the requesting State; or if the accused has been convicted or acquitted by a final judgement given by the judicial authorities of Denmark or by those of a third State in respect of the offence which gave rise to proceedings in the requesting State; or if the said authorities have decided to waive or to discontinue proceedings in respect of the same offence.

Article 3, paragraph 2

A request for evidence to be taken on oath from a witness or expert may be refused if the competent Danish court does not consider the oath to be necessary.

Article 7, paragraph 1

A request for service to be effected otherwise than by a simple transmission of the writ to the person to be served may be refused.

Article 11, paragraph 2

The Danish Government reserves its position on the whole of this clause.

Article 13, paragraph 1

The obligation to communicate extracts from judicial records under this provision shall apply only to the criminal record of a person charged with an offence.

Article 13, paragraph 2

The Danish Government reserves its position on the whole of this clause.

Declarations

Article 5, paragraph 1

A request for search or seizure may be refused if the conditions laid down in sub-paragraph a and c of Article 5, paragraph 1, are not fulfilled.

Article 7, paragraph 3

A summons to be served on a person charged with an offence who is in Danish territory must be transmitted to the competent Danish authority at least 30 days before the date set for appearance.

Article 16, paragraph 2

Requests and annexed documents from countries other than Austria, France, the Federal Republic of Germany, Ireland, Norway, Sweden or the United Kingdom must be accompanied by a translation into either Danish or one of the official languages of the Council of Europe. With regard to longer documents, the Danish Government reserves the right, in any specific case, to require a Danish translation or to have one made at the expense of the requesting State.

Article 24

The term "judicial authorities" in Denmark means the Courts of Law and the Department of Public Prosecutions which itself, according to the Danish judicature and procedural code, includes the Ministry of Justice, the Attorney-General, the prosecutors, the Copenhagen Prefect of Police and the Police Commissioners.

Article 26

The Protocol on mutual legal assistance concluded on 26 June 1957 between Denmark, Norway and Sweden will remain in force.

FINLAND

Reservations and Declarations contained in the instrument of accession deposited on 29 January 1981.

Reservations

Article 2

Finland declares that judicial assistance may be refused:

- (a) when the offence in respect of which the request is made, is perpetuated in corresponding circumstances in Finland, would not be punishable under Finnish law;
- (b) when the offence is one which is already the subject of investigation in Finland or a third State;
- (c) when the person who has been charged in the requesting State is on trial, or has been definitively convicted or acquitted either in Finland or in a third State;
- (d) when the competent authorities in Finland or in a third State have decided to abandon the investigation or proceedings, or not to initiate them for the offence in question;
- (e) where the prosecution or enforcement of sentence is time-barred under Finnish law.

Article 11

Finland declares that the assistance referred to in that article cannot be given in Finland.

Article 13

Finland declares that extracts or information from judicial records will be made available only in respect of an individual who has been charged or brought to trial.

Article 15, paragraph 7

Finland declares that it will with regard to the other Nordic countries adhere to the agreement between Finland, Denmark, Iceland, Norway and Sweden on mutual judicial assistance in serving documents and taking of evidence.

Article 20

Finland declares that it will with regard to the other Nordic countries adhere to the Agreement referred to in paragraph 4.

Article 22

Finland declares that it will not inform other Contracting Parties of criminal convictions and subsequent measures referred to in that Article.

Article 26, paragraph 1

Finland declares that it will with regard to the other Nordic countries adhere to the Agreement referred to in paragraph 4 in serving documents and taking of evidence.

Declarations

Article 5

Finland declares that it will make the execution of letters rogatory for search or seizure of property referred to in Article 5 dependent on the conditions mentioned in sub-paragraphs a-c of the said Article.

Article 7, paragraph 3

Finland declares that it requires that service of a summons on a person who is in Finland be transmitted to the competent Finnish authorities not less than 30 days prior to the date set for appearance.

Article 15, paragraph 6

Finland declares that it requires that requests for judicial assistance addressed to Finland in all cases be transmitted to the Ministry of Justice.

Article 16, paragraph 1

Finland declares that it requires that requests and annexed documents not drawn up in Finnish, Swedish or English be accompanied by a translation into one of these languages. By accepting requests in the aforesaid languages, Finland does not undertake to have translated the reply and annexed documents. Swedish is the second official language of Finland.

Article 24

Finland declares that as regards Finland, the judicial authorities are deemed to mean, for the application of Articles 3, 4 and 6, the courts and investigating judges and in other cases, the courts, investigating judges and the public prosecutors.

Article 25

Finland notes that the Federal Republic of Germany has on 2 October 1976 given a declaration in accordance with Article 25, paragraph 3 concerning Berlin (West). Furthermore, Finland takes note that the other paragraphs of Article 25, for the time being, have not practical application.

Article 26, paragraph 4

Finland declares that notwithstanding the provisions of the Convention, Finland will with regard to the other Nordic countries, apply the law on the duty to appear as witness in court in another Nordic country.

FRANCE

Reservations and Declarations made at the time of signature on 28 April 1961—*or. Fr.*

The French Government declares that, by reason of the internal organisation and functioning of the judicial records department in France, the authorities responsible are unable to inform automatically the Contracting Parties to the present Convention, under Article 22 thereof, of measures taken subsequently to the conviction of their nationals—such as measures of clemency, rehabilitation or amnesty—which are entered in the judicial records.

The French Government gives, however, an assurance that the responsible authorities, if requested to do so in particular cases, will as far as possible supply the said Contracting Parties with details of the position of their nationals as regards the criminal law.

The French Government declares that the authorities to be considered for the purposes of this Convention as French judicial authorities are the following:

- first presidents, presidents, counsellors and judges (*conseillers*) of criminal courts;
- examining magistrates (*juges d'instruction*) of these courts;
- members of the Department of Public Prosecution (*Ministère public*) acting in those courts, namely:
 - *Directors of Public Prosecution;
 - *Deputy Directors of Public Prosecution;
 - *Assistant Public Prosecutors;
 - *Heads of the Prosecution Department in courts of first instance and their assistants;
 - *Representatives of the Department of Public Prosecution in Police courts;
 - *Judge-advocates in courts martial.

Declaration made at the time of signature on 28 April 1961—*or. Fr.*

As regards the field of application of the Convention, the term "Algeria" mentioned in Article 25.2. must be interpreted as meaning the Algerian and Saharan Departments and consequently as applying to the Departments of Oasis and Saoura.

Declarations contained in the instrument of ratification deposited on 23 May 1967—*or. Fr.*

At the time of depositing this instrument of ratification, the Government of the French Republic declares:

1. That it confirms the reservation and the declaration which it made at the time of signature of the said Convention on 28 April 1961 and which concern, as to the former, the exchange of judicial records (Article 22) and, so to the latter, the judicial authorities to be considered as such for the purposes of the Convention (Article 24);
2. That it avails itself of:
 - (a) the option provided for in Article 7, paragraph 3, and accordingly specifies that service of summonses on accused persons who are in French territory shall be transmitted to the French authorities not less than 30 days before the date set for the appearance of such persons;
 - (b) the option provided for in Article 15, paragraph 6, in relation to paragraphs 2 and 4 of Article 15, so that the provisions of those two paragraphs shall apply as follows:
 - Article 15, paragraph 2: in case of urgency, when the letters rogatory referred to in Articles 3, 4 and 5 are addressed directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party, a copy thereof shall at the same time be communicated to the Ministry of Justice of the requested Party;
 - Article 15, paragraph 4: requests for mutual assistance other than those provided for in paragraphs 1 and 3 of Article 15, and in particular, requests for investigation preliminary to prosecution shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and returned by the same channel;
3. That, notwithstanding the provisions of Article 25, paragraph 2, the European Convention on Mutual Assistance in Criminal Matters shall not apply to Algeria as that country acceded to independence after signature of the Convention by the French Government.

FEDERAL REPUBLIC OF GERMANY

Declarations and Reservations made by the Permanent Representative of the Federal Republic of Germany at the time of deposit of the instrument of ratification on 2 October 1976—*or. Engl.*

Article 5

Search and seizure of property is permitted only if the conditions of Article 5, paragraph 1.a and c of the European Convention on Mutual Assistance in Criminal Matters have been met.

Article 7

A request for the service of the summons on an accused person who is in the territory of the Federal Republic of Germany will, on principle, be executed only if it is received by the German authorities, at the latest one month before the date set for the appearance of the accused person.

Article 11

Transfer of a witness will be refused in all the cases enumerated in paragraph 1, sub-paragraph 2.

Article 16

Where the request for mutual assistance and the annexed documents are not in the German language they must be accompanied by translations of the request and the supporting documents into the German language or into one of the official languages of the Council of Europe.

Article 24

Judicial authorities for the purposes of this Convention are:

- der Bundesminister der Justiz, Bonn-Bad-Godeberg (the Federal Minister of Justice);
- der Bundesgerichtshof, Karlsruhe (the Federal Court of Justice);
- der Generalbundesanwalt bei dem Bundesgerichtshof, Karlsruhe (the Federal Prosecutor-General at the Federal Court of Justice);
- das Justizministerium Baden-Württemberg, Stuttgart (the Ministry of Justice of Baden-Württemberg);
- das Bayerische Staatsministerium der Justiz, München (the Bavarian State Ministry of Justice);
- der Senator für Justiz, Berlin (the Senator of Justice);
- der Senator für Rechtspflege und Strafvollzug, Bremen (the Senator for Judicial and Penal Affairs);
- die Justizbehörde der Freien und Hansestadt Hamburg, Hamburg (the Judicial Authority of the Free and Hanseatic City of Hamburg);
- der Hessische Minister der Justiz, Wiesbaden (the Hessian Minister of Justice);
- der Niedersächsische Minister der Justiz, Hannover (the Minister of Justice of Lower Saxony);
- der Justizminister des Landes Nordrhein-Westfalen, Düsseldorf (the Minister of Justice of Land Northrhine/Westphalia);
- das Ministerium der Justiz des Landes Rheinland-Pfalz, Mainz (the Ministry of Justice of Land Rhineland-Palatinate);
- der Minister für Rechtspflege des Saarlandes, Saarbrücken (the Minister for Judicial Affairs of the Saarland);
- der Justizminister des Landes Schleswig-Holstein, Kiel (the Minister of Justice of Land Schleswig-Holstein);
- das Bayerische Oberste Landesgericht, München (the Bavarian Supreme Court);
- die Oberlandesgerichte (the Regional Courts);
- die Amtsgerichte (the Local Courts);
- die Staatsanwaltschaft bei dem Bayerischen Obersten Landesgerichts, München (the Directorate of Prosecutions at the Bavarian Supreme Court);
- die Staatsanwaltschaften bei den Oberlandesgerichten (the Directorates of Prosecutions at the Regional Courts);
- die Zentrale Stelle der Landesjustizverwaltungen zur Aufklärung Nationalsozialistischer Verbrechen, Ludwigsburg (Central Office of the Land Judicial Administrations for the Investigation of National Socialist Crimes).

Article 25

The European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 shall also apply to Land Berlin with effect from the date on which it will enter into force for the Federal Republic of Germany.

GREECE

Reservations made at the time of signature on 20 April 1959—*or. Fr.*

Articles 4 and 11

The Greek Government formulates reservations with regard to Articles 4 and 11 of the Convention, which are incompatible with Articles 97 and 459 of the Greek Code of Criminal Procedure.

ICELAND

Reservations contained in the instrument of ratification deposited on 20 June 1984—*or. Engl.*

Article 1, paragraph 1

Iceland will only afford assistance in proceedings in respect of offences also punishable under Icelandic law.

Assistance may be refused:

- (a) if the judicial authorities of Iceland or of a third State have instituted legal proceedings against the accused for the offence which gave rise to proceedings in the requesting State; or
- (b) if the accused has been convicted or acquitted by a final judgement given by the judicial authorities of Iceland or of a third State in respect of the offence which gave rise to proceedings in the requesting State; or
- (c) if the judicial authorities of Iceland or of a third State have decided to discontinue proceedings or not to initiate them in respect of the offence which gave rise to proceedings in the requesting State.

Article 13, paragraph 1

The obligation to communicate extracts from and information relating to judicial records under this provision applies only to the criminal record of the person charged with an offence in the requesting State.

Declarations contained in a letter from the Permanent Representative of Iceland, handed at the time of deposit of the instrument of ratification—*or. Engl.*

Article 5, paragraph 1

A request for search or seizure of property may be refused if the conditions laid down in Article 5, paragraph 1, sub-paragraphs a, b and c are not fulfilled.

Article 7, paragraph 3

A summons to be served on an accused person who is in Iceland must be transmitted to the competent Icelandic authorities at least 50 days before the date set for appearance.

Article 15, paragraph 6

All requests for assistance in Iceland under the Convention must be addressed to the Ministry of Justice.

Article 16, paragraph 2

Requests and annexed documents not drawn up in Icelandic, Danish, English, Norwegian or Swedish shall be accompanied by a translation into Icelandic or English.

Article 24

For the purposes of the Convention, the terms "judicial authorities" in Iceland means the Ministry of Justice, the Courts, the State Prosecutor and Chiefs of Police.

ISRAEL

Declarations and Reservations contained in the instrument of accession deposited on 27 September 1967—*or. Engl.*

Declarations

Article 7, paragraph 3

A summons to be served on an accused person who is in its territory shall be transmitted to its authorities not later than 40 days before the date set for appearance.

Article 15, paragraph 6

All requests and other communications under the Convention shall be sent to it through the Ministry for Foreign Affairs.

Article 24¹

For the purposes of the Convention, any competent court or tribunal, and the Attorney-General of the State of Israel, shall be considered a judicial authority.

Reservations

Article 3, paragraph 1

Article 5, paragraph 1²

Article 16

Israel will require request an annexed documents addressed to it to be accompanied by a translation into Hebrew, English or French.

Article 17²

Article 22

Israel will not undertake to notify automatically the "subsequent measures" referred to in Article 22, but will use its best efforts to do so.

ITALY

Declaration made at the time of deposit of the instrument of ratification on 23 August 1961—*or. Fr.*

The Italian Government declares that:

In accordance with Article 24 and for the purposes of the Convention the following authorities are to be considered Italian judicial authorities:

- Directors of Public Prosecution,
- Assistant Public Prosecutors,
- Ordinary Courts of Justice,
- Military Courts,
- Offices of the Public Prosecutor attached to the Military Courts,
- Examining Magistrates,
- Superior Magistrates,
- Praetors.

Having regard to the provisions of Articles 16 and 21, paragraph 3, Italy will require, subject to reciprocity, that requests for legal assistance, together with supporting documents, and denunciations as provided for in Article 21 of the Convention, shall be accompanied by a translation in French or English.

The Italian Government requests that:

Having regard to the provisions of Article 15, paragraph 6, of the Convention, where a request for legal assistance is addressed directly to the Italian judicial authorities, a copy of the relevant letters rogatory shall be communicated to the Ministry of Justice.

Declaration contained in a letter from the Permanent Representative of Italy dated 25 August 1977, registered at the Secretariat General on 29 August 1977—*or. It.*

With a view to completing the declaration made on 23 August 1961 when depositing the instrument of ratification of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959, the Italian Government declares that with reference to Article 24 of the Convention the following authorities shall be deemed judicial authorities in addition to those already mentioned in the above-mentioned declaration which in all other respects shall remain unaltered:

- the Constitutional Court,
- the Parliamentary Commission of Enquiry.

¹ Declaration as amended by letter from the Ministry for Foreign Affairs of Israel dated 11 September 1974 and registered at the Secretariat General on 28 October 1974—*or. Fr.*

² Reservations withdrawn by letter from the Ministry for Foreign Affairs of Israel dated 5 July 1974, registered at the Secretariat General on 30 September 1974—*or. Engl.*

The reservations read as follows:

Article 3, paragraph 1 and Article 5, paragraph 1:

Israel will not permit the execution of letters rogatory for transmission of articles to be produced in evidence, or for search and seizure of property, except in the case of extradition offences.

Article 17:

Israel will require all evidence or documents transmitted to it pursuant to the Convention to be authenticated by a certificate of an Israel diplomatic or consular representative.

The Italian Government wishes to point out in this connection that the two above-mentioned authorities only acquired their full jurisdiction at a date subsequent to the deposit by Italy of the instrument ratifying the Convention.

The Constitutional Court in fact issued the necessary supplementary rules for the exercise of its jurisdiction in relation to prosecutions within the meaning of Article 134 of the Constitution in the regulations of 27.11.1962 published in Official Gazette No. 320 of 15 December 1962.

The jurisdiction of the Parliamentary Commission of Enquiry was specified in Act No. 20 of 25 January 1962 dealing with "Rules relating to proceedings and prosecutions".

LIECHTENSTEIN

Declarations and Reservations contained in the instrument of accession deposited on 28 October 1969—*or. Fr.*

Article 5, paragraph 1

The Government of the Principality of Liechtenstein declares that the Principality of Liechtenstein will make the execution of letters rogatory for the application of any coercive measure dependent on the condition mentioned under Article 5, paragraph 1.a of the Convention.

Article 16, paragraph 2

The Principality of Liechtenstein stipulates that letters rogatory and annexed documents addressed to the Liechtenstein authorities in a language other than German—with the exception of requests for service of summons—shall be accompanied by a translation into that language.

LUXEMBOURG

Reservations and Declarations contained in a letter from the Permanent Representative to the Council of Europe, dated 16 November 1976 handed to the Secretary General at the time of deposit of the instrument of ratification on 18 November 1976—*or. Fr.*

Reservations

Article 2

The Government of the Grand Duchy of Luxembourg reserves the right not to comply with a request for assistance:

- (a) if there are good grounds for believing that it concerns an inquiry instituted with a view to prosecuting, punishing or otherwise interfering with an accused person because of his political convictions or religion, his nationality, his race or the population group to which he belongs;
- (b) in so far as it concerns a prosecution or proceedings incompatible with the principle *non bis in idem*;
- (c) in so far as it concerns an inquiry into acts for which the accused person is being prosecuted in the Grand Duchy of Luxembourg.

Article 11

The Government of the Grand Duchy of Luxembourg will not grant temporary transit as provided for in Article 11, save where the person concerned is serving a sentence in its territory and where there are no special considerations opposed thereto.

Article 16

The Government of the Grand Duchy of Luxembourg will require requests and annexed documents addressed to it to be accompanied by a translation into French, German or English.

Article 22

The Government of the Grand Duchy of Luxembourg will not notify the subsequent measures referred to in Article 22 except in so far as the organisation of its judicial records allows of doing so.

Article 26

By reason of the special arrangements between the Benelux countries, the Government of the Grand Duchy of Luxembourg does not accept Article 26, paragraphs 1 and 3 in respect of its relations with the Netherlands and Belgium.

The Government of the Grand Duchy of Luxembourg reserves the right to derogate from these provisions in respect of its relations with other member States of the European Economic Community.

Declarations

Article 5

The Government of the Grand Duchy of Luxembourg declares that letters rogatory for search or seizure within the Grand Duchy of Luxembourg will not be executed save for extraditable offences within the meaning of the European Convention on Extradition, and provided that the court has authorised execution in accordance with its municipal law.

Article 24

The Government of the Grand Duchy of Luxembourg declares that, as regards the Grand Duchy of Luxembourg, judicial authorities for the purposes of the Convention are to be understood as meaning members of the judiciary responsible for administering the law, examining magistrates and members of the Department of Public Prosecution.

NETHERLANDS

Declaration made at the time of signature on 21 January 1965—*or. Fr.*

Having regard to the equality existing in public law between the Netherlands, Surinam and the Netherlands Antilles, the term "metropolitan territories", used in paragraph 21 of Article 25 of the present Convention, no longer has its original sense in relation to the Kingdom of the Netherlands and consequently shall be deemed to signify, so far as concerns the Kingdom, "European Territory". As to paragraph 4 of Article 25 of this Convention, it should be pointed out that the Government of the Kingdom of the Netherlands ceased to be responsible for the international relations of Western Guinea on 1 October 1962.

Reservations contained in the instrument of ratification deposited on 14 February 1969—*or. Fr.*

Article 2

The Netherlands Government reserves the right not to comply with a request for assistance:

- (a) if there are good grounds for believing that it concerns an inquiry instituted with a view to prosecuting, punishing or otherwise interfering with an accused person because of his religion or political convictions, his nationality, his race or the population group to which he belongs;
- (b) in so far as it concerns a prosecution or proceedings incompatible with the principle *non bis in idem*;
- (c) in so far as it concerns an inquiry into acts for which the accused person is being prosecuted in the Netherlands.

Article 11

The Netherlands Government will not grant temporary transit, as provided for in Article 11, save where the person concerned is serving a sentence in its territory and where there are no special considerations opposed thereto.

Article 22

The Netherlands Government will not notify the subsequent measures referred to in Article 22 except in so far as the organisation of its judicial records allows of so doing.

Article 26

By reason of the special arrangement between the Benelux countries, the Netherlands Government does not accept Article 26, paragraphs 1 and 3 in respect of its relations with the Kingdom of Belgium and the Grand Duchy of Luxembourg.

The Netherlands Government reserves the right to derogate from these provisions in respect of its relations with other member States of the European Economic Community.

Declaration contained in the instrument of ratification deposited on 14 February 1969—*or. Fr.*

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

Declarations contained in a letter from the Permanent Representative of the Netherlands dated 13 February 1969 handed to the Secretary General at the time of deposit of the instrument of ratification on 14 February 1969—*or. Fr.*

Article 5

The Netherlands Government declares that letters rogatory for search or seizure within the Netherlands will not be executed save for extraditable offences within the meaning of the European Convention on Extradition, and provided that the Netherlands court has authorised execution in accordance with its municipal law.

Article 24

The Netherlands Government declares that, as regards the Netherlands, judicial authorities for the purposes of the Convention are to be understood as meaning members of the judiciary responsible for administering the law, examining magistrates and members of the Department of Public Prosecution.

Article 25, paragraph 4

In the event of the Netherlands Government making a declaration extending the application of the Convention to Surinam and/or the Netherlands Antilles, it may qualify such declarations by conditions relating to local and, in particular, may declare that the Convention can be denounced separately in respect of those countries.

Declaration contained in a letter from the Permanent Representative of the Netherlands, dated 20 February 1986, registered at the Secretariat General on 21 February 1986—*or. Engl.*

In addition to the letter of the Netherlands Permanent Representative No. 1799 of 24 December 1985, I have the honour to bring the following to your attention in your capacity of depositary of the treaties listed in the annex.

The treaties referred to in the annex, to which the Kingdom of the Netherlands is a Party (for the Kingdom in Europe) apply as of 1 January 1986 equally to Aruba.

List of Treaties

30. European Convention on Mutual Assistance in Criminal Matters (1959).

As the changes being made on 1 January 1986 concern a shift only in the internal constitutional relations within the Kingdom of the Netherlands, and as the Kingdom as such will remain the subject under international law with which treaties are concluded, the said changes will have no consequences in international law regarding to treaties concluded by the Kingdom which already apply to the Netherlands Antilles, including Aruba. These treaties will remain in force for Aruba in its new capacity of country within the Kingdom. Therefore these treaties will as of 1 January 1986, as concerns the Kingdom of the Netherlands, apply to the Netherlands Antilles (without Aruba) *and* Aruba¹.

Consequently the treaties referred to in the annex, to which the Kingdom of the Netherlands is a Party and which apply to the Netherlands Antilles, will as of 1 January 1986 as concerns the Kingdom of the Netherlands apply to the Netherlands Antilles *and* Aruba.

NORWAY

Reservations and Declarations made at the time of signature of Convention on 21 April 1961 and confirmed at the time of deposit of the instrument of ratification on 14 March 1962—*or. Engl.*

Reservations

Article 2

Assistance can be refused:

- (a) if the accused person is being prosecuted by the public prosecutor of Norway or by the judicial authorities of a third State for the criminal offence or offences which have given rise to the proceedings in the requesting State; or
- (b) if the accused person has been convicted or acquitted by final judgement of a Norwegian court or the judicial authorities of a third State in respect of the criminal offence or offences which have given rise to the proceedings in the requesting State, or if the public prosecutor of Norway or the judicial authorities of a third State have decided either not to institute proceedings or to terminate proceedings in respect of a said offence or offences.

Article 3, paragraph 2

A request for witnesses to give evidence on oath can be refused if in the opinion of the Norwegian Court concerned on oath should not be exacted.

Article 7, paragraph 1

A request for service of writs etc., otherwise than by the informal handing over of the document to the person in question, can always be refused.

¹ *Note by the Secretariat*

The island of Aruba, which is at present still part of the Netherlands Antilles, will obtain internal autonomy as a country within the Kingdom of the Netherlands as of 1 January 1986. Consequently the Kingdom will from then on no longer consist of two countries, namely the Netherlands (the Kingdom in Europe) and the Netherlands Antilles (situated in the Caribbean region), but will consist of three countries, namely the said two countries and the country Aruba.

Article 11, paragraph 2

Reservation is made to the provision in its entirety.

Article 13, paragraph 1

The obligation to communicate extracts from and information relating to judicial records applies exclusively to the penal record of persons who are being prosecuted for a criminal offence.

Article 13, paragraph 2

Reservation is made to the provision in its entirety.

Declarations

In addition the Government of Norway makes the following declarations:

Article 5, paragraph 1

A request for search or seizure can be refused if the conditions laid down in Article 5, paragraph 1(a), (b) and (c) are not fulfilled.

Article 7, paragraph 3

A summons which is to be served on an accused person who is staying in Norway must be transmitted to the competent Norwegian authority at least 30 days prior to the date set for his appearance in court.

Article 16, paragraph 2

Requests and annexed documents not drawn up in Norwegian, Danish, English or Swedish, should be accompanied by a translation into Norwegian. If not, the right is reserved for a translation into Norwegian to be made for the account of the requesting State.

Article 24

For the purpose of this Convention, the term "judicial authorities" applies in Norway to the courts and the office of the Public Prosecutor, including Chiefs of Police.

Article 26

The Protocol of 26 June 1957 between Norway, Denmark and Sweden on reciprocal assistance in legal matters shall remain in force.

SPAIN

Reservations and Declarations contained in the instrument of ratification deposited on 18 August 1982—*or. Fr.*

Reservations

Article 5, paragraph 1

Spain reserves the right to make the execution of letters rogatory for search or seizure of property dependent on the following conditions:

- (a) that the offence motivating the letters rogatory is punishable under Spanish law;
- (b) that the offence motivating the letters rogatory is an extraditable offence under Spanish law;
- (c) that execution of the letters rogatory is consistent with Spanish law.

Article 16, paragraph 2

Spain reserves the right to stipulate that requests and annexed documents shall be addressed to it accompanied by a duly authenticated translation into Spanish.

Article 22

Spain reserves the right not to inform other Parties of deleted entries in the criminal records of Spanish nationals.

Declarations

Article 7, paragraph 3

Spain declares that for the purpose of Article 7(3) of the Convention, the time mentioned in this provision shall be not less than 30 days.

Article 15, paragraph 6

Spain declares that when in case of urgency letters rogatory are addressed by the judicial authorities of the requesting Party directly to its judicial authorities, a copy of the letters rogatory must also be sent to the Spanish Ministry of Justice.

Article 24

Spain declares that for purposes of the Convention, the following shall be deemed judicial authorities:

- (a) ordinary judges and courts;
- (b) public prosecutors;
- (c) military judicial authorities.

Declaration contained in a letter from the Permanent Representative of Spain dated 5 June 1987—*or. Fr.*

With reference to the provisions of Article 15.6 of the European Convention on Mutual Assistance in Criminal Matters, I have the honour to inform you that the Spanish Central Authority will be from now on: Secretario General Técnico—Ministerio de Justicia—San Bernardo 47—28015 MADRID Espagne.

SWEDEN

Reservations and Declarations contained in the instrument of ratification deposited on 1 February 1968—*or. Fr.*

Reservations

Article 2

Judicial assistance may be refused:

- (a) when the offence in respect of which the request is made is not punishable under Swedish law;
- (b) when the offence is one which is already the subject of judicial investigation in Sweden or in a third State;
- (c) when the person who has been charged in the requesting State is on trial or has been definitively convicted or acquitted, either in Sweden or in a third State;
- (d) when the competent authorities in Sweden or in a third State have decided to abandon the judicial investigation or proceedings or not to initiate them for the offence in question;
- (e) where the prosecution or enforcement of sentence is time-barred in Swedish law.

Article 5¹

“Sweden withdraws its general reservation in regard to Article 5 of the European Convention on Mutual Assistance in Criminal Matters and will be prepared to afford, to the following extent, such assistance as is referred to in this Article.

If anyone is suspected or accused of, or sentenced for, having committed in a Contracting State an offence, which is punishable according to the criminal law of that State, any property as well as records and documents located in Sweden may be seized and handed over to the foreign State, if there are reasonable grounds to believe that the property, records or documents may be of importance for the investigation of the offence or that someone may have been deprived of them in consequence of the offence. For the searching of property, in respect of which a decision of seizure has been pronounced, house-visitation may be carried out.

For the execution of letters rogatory relating to seizure or house-visitation, Sweden will require:

- (a) that the offence motivating the letters rogatory is an extraditable offence according to Swedish law;
- (b) that the execution of the letters rogatory is consistent with Swedish law.

Mention should in this connection be made of the reservations, which Sweden has made in regard to Article 2 of the Convention.

The request for assistance should indicate the name, nationality and residence of the person concerned, the property sought, the nature of offence, the time and place of the commission of the offence as well as the relevant legal provisions in the requesting State. The text of these provisions shall also be submitted.

If a sentence has been pronounced in the requesting State, a copy of that sentence shall be attached to the request. Otherwise, particulars shall be given of the circumstances invoked in support of the suspicion or the charge and, if such has been preferred, the private claim.

The Swedish authorities may, if necessary, request additional information from the requesting State.”

¹ Declaration contained in a letter from the Minister for Foreign Affairs of Sweden dated 16 January 1976—*or. Engl.* The reservation read as follows: “The judicial assistance for which this Article provides cannot be obtained in Sweden.”

Article 10, paragraph 3

This clause will not be applied to a witness or expert summoned by the person concerned only.

Article 11

The assistance referred to by this article cannot be given by Sweden.

Article 13, paragraph 1

Extracts from or information in the judicial records will be made available only in respect of an individual who has been charged or brought to trial.

Article 13, paragraph 2

The assistance referred to cannot be given in Sweden.

Article 15, paragraph 7

The Protocol of 26 June 1957 concerning judicial assistance as between Sweden, Denmark and Norway will remain in force.

Article 16

No compulsory notification or summons will be served unless translated into Swedish.

Article 20

The reservation stated with regard to Article 15, paragraph 7, applies.

Article 22

Sweden will not notify measures taken subsequent to the conviction. Other Swedish notifications will be communicated by the Ministry for Foreign Affairs, to which corresponding notifications must likewise be communicated.

Declarations

Article 7, paragraph 3

Service of a summons on a person who is in Sweden must be transmitted to the Swedish authorities at least 30 days before the date fixed for appearance.

Article 15, paragraph 6

Requests for assistance addressed to Sweden under this Convention must be transmitted by diplomatic channels. In case of urgency, such requests may be addressed directly to the Legal Affairs Directorate of the Royal Ministry for Foreign Affairs. Requests coming from Sweden will be sent through diplomatic channels or Swedish consulates.

Article 16, paragraph 2

Requests and annexed documents, such as those mentioned in Articles 3 and 21, must be accompanied by a translation in Swedish, Danish or Norwegian.

Article 21, paragraph 1

Information laid by one or other Party must be transmitted through diplomatic channels.

Article 24

Judicial authorities are deemed to mean, for the application of Articles 3, 4 and 6, the courts and investigating judges and, in other cases, the courts, investigating judges and prosecuting officials attached to courts.

SWITZERLAND

Declarations and Reservations contained in the instrument of notification deposited on 20 December 1966—*or. Fr.*

Article 1¹

The Swiss Federal Council declares that the following authorities shall be regarded as Swiss judicial authorities for the purposes of the Convention:

- the Tribunals, their courts, chambers or sections;
- the Public Prosecutor (*Ministère public*) of the Confederation;

¹ Declaration as amended by letter from the Permanent Representative of Switzerland dated 11 December 1985—original registered at the Secretariat General on 12 December 1985—*or. Fr.*

The original declaration read as follows: "The Swiss Federal Council declares that the following authorities are to be regarded as Swiss judicial authorities for the purposes of the Convention:

- the Tribunals, their courts, chambers and sections;
- the Office of the Public Prosecutor (*Ministère Public*) of the Confederation;
- the Police Division of the Federal Department of Justice and Police;
- the authorities empowered by cantonal law to hold an enquiry in criminal cases or to issue warrants or summonses in criminal proceedings (*mandats de répression*). Since the descriptions of the functions conferred on such authorities vary considerably from one cantonal judicial system to another, the authority which is competent under Article 15 of the Convention will, whenever necessary and at the time of transmitting a request for assistance, expressly confirm that the request emanates from a judicial authority within the meaning of the Convention."

—the Federal Office of Police;

—the authorities empowered by cantonal or federal law to hold an enquiry in criminal cases, to issue warrants or summonses (mandats de répressions) and to take decisions in a procedure connected with a criminal case. Since the denominations of the function of such authorities vary, the competent authority will, whenever necessary at the time of transmitting a request for assistance, expressly confirm that it is a judicial authority within the meaning of the Convention.

Article 2

- (a) Switzerland also reserves the right to refuse assistance if the act motivating the request is the subject, in Switzerland, of criminal proceedings against the same person or if a criminal judgement on the merits has been delivered in Switzerland in respect of the act and of the guilt of the accused.
- (b) in addition, Switzerland reserves the right, in specific cases, to afford mutual assistance under the Convention only on the express condition that the results of investigations made in Switzerland and the information contained in documents or files transmitted are used solely for the purpose of examining and trying the offences in respect of which mutual assistance is provided.

Article 5, paragraph 1

The Swiss Federal Council declares that Switzerland will make the execution of all letters rogatory requiring the application of any coercive measure dependent on the condition stated in Article 5, paragraph 1(a) of the Convention.

Article 7, paragraph 3

Switzerland demands that all requests for the service of a summons on an accused person who is in Switzerland should reach the Swiss Authority which is competent under Article 15, paragraph 4, not later than 30 days before the date set for appearance.

Article 11, paragraph 3

Article 13, paragraph 1

Article 15, paragraphs 1 and 3

The Swiss Federal Council declares that, under these provisions, the competent authorities in Switzerland are:

1. the Police Division of the Federal Department of Justice and Police in Berne
 - (a) for the issue of warrants for the arrest of persons in custody who are transferred to the Swiss authorities under Article 11, paragraphs 1 and 2 of the Convention;
 - (b) for the receipt or transmission of all requests for mutual assistance emanating from abroad or from Switzerland which Article 15 requires to be transmitted by the Ministry of Justice of the requesting Party of the Ministry of Justice of the requested Party.
2. the Swiss Central Police Office in Berne,
 - for the submission and receipt of requests for extracts from judicial records, in accordance with the first sentence of Article 15, paragraph 3.

Article 12, paragraph 3

The Swiss Federal Council declares that, for the Swiss authorities, the condition contained in Article 12, paragraph 3, for the cessation of immunity is—unlike the condition laid down in Article 14 of the European Convention on Extradition—only fulfilled when the witness, expert or accused person at liberty is not prevented by any legal or practical obstacle from freely leaving the territory of the requesting State.

Article 13, paragraph 2

Since anybody may obtain extracts from his own judicial record, Switzerland reserves the right not to comply with requests made under Article 13, paragraph 2, unless it is established that it is necessary to obtain such extract through official channels.

Article 16, paragraph 2

Switzerland demands that all requests for mutual assistance and annexes thereto addressed to its authorities, with the exception of requests for the service of summonses, be accompanied by a translation into French, German or Italian, if they are not drawn up in one of these languages.

TURKEY

Declarations made at the time of signature on 23 October 1959 and confirmed at the time of deposit of the instrument of ratification on 24 June 1969—*or. Fr.*

Article 5

The execution of letters rogatory for search or seizure of property shall be dependent on the conditions stipulated in paragraph 1(a), (b) and (c).

Article 7, paragraph 3

Service of summons on an accused person who is in the territory of the Turkish Republic shall be effected by transmission to the proper Turkish authorities at least 40 days before the date set for appearance.

UNITED KINGDOM

Reservations and Declarations handed over at the time of the deposit of the instrument of ratification on 29 August 1991—*Or. Engl.*

Reservations

1. *Article 2*

In respect of Article 2, the Government of the United Kingdom of Great Britain and Northern Ireland reserves the right to refuse assistance if the person who is the subject of a request for assistance has been convicted or acquitted in the United Kingdom or in the third State of an offence which arises from the same conduct as that giving rise to proceedings in the requesting State in respect of that Person.

2. *Article 3*

In respect of Article 3, the Government of the United Kingdom of Great Britain and Northern Ireland reserves the right not to take the evidence of witnesses or require the production of records or other documents where its law recognises in relation thereto privilege, non-compellability or other exemption from giving evidence.

3. *Article 5(1)*

In accordance with Article 5, paragraph 1, the Government of the United Kingdom of Great Britain and Northern Ireland reserves the right to make the execution of letters rogatory for search and seizure of property dependent on the following conditions:

- (a) that the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the United Kingdom; and
- (b) that execution of the letters rogatory is consistent with the law of the United Kingdom.

4. *Article 11(2)*

The Government of the United Kingdom of Great Britain and Northern Ireland is unable to grant requests made under Article 11, paragraph 2, for a person in custody to transit through its territory.

5. *Article 12*

The Government of the United Kingdom of Great Britain and Northern Ireland will only consider the granting of immunity under Article 12 where this is specifically requested by the person to whom the immunity would apply or by the appropriate authorities of the party from whom assistance is requested. A request for immunity will not be granted where the judicial authorities of the United Kingdom consider that granting it would not be in the public interest.

6. *Article 21*

The Government of the United Kingdom reserves the right not to apply Article 21.

Declarations

Declaration 1

Article 15(1)

In respect of the Government of the United Kingdom of Great Britain and Northern Ireland, references to the "Ministry of Justice" for the purposes of Article 11, paragraph 2, Article 15, paragraphs 1, 3 and 6 and Article 21, paragraph 1 and Article 22 are to the Home Office.

Declaration 2

Article 16(2)

In accordance with Article 16, paragraph 2, the Government of the United Kingdom reserves the right to stipulate that requests and annexed documents shall be addressed to it accompanied by translations into English.

Declaration 3

Article 24

In accordance with Article 24 for the purposes of the Convention, the Government of the United Kingdom deems the following to be judicial authorities:

- Magistrates' courts, the Crown Court and the High Court;
- the Attorney General for England and Wales;
- the Director of Public Prosecutions and any Crown Prosecutor;
- the Director and any designated member of the Serious Fraud Office;
- the Secretary of State for Trade and Industry in respect of his function of investigating and prosecuting offences;
- any Assistant Secretary (Legal) in charge of Prosecution Division of HM Customs and Excise;
- District Courts and Sheriff Courts and the High Court of Justiciary;
- the Lord Advocate;
- any Procurator Fiscal;
- the Attorney General for Northern Ireland;
- the Director of Public Prosecutions in Northern Ireland.

**ADDITIONAL PROTOCOL
TO THE EUROPEAN CONVENTION ON
MUTUAL ASSISTANCE IN CRIMINAL MATTERS**

The member States of the Council of Europe, signatory to this Protocol,

Desirous of facilitating the application of the European Convention on Mutual Assistance in Criminal Matters opened for signature in Strasbourg on 20 April 1959 (hereinafter referred to as "the Convention") in the field of fiscal offences;

Considering it also desirable to supplement the Convention in certain other respects,

Have agreed as follows:

Chapter I

ARTICLE 1

The Contracting Parties shall not exercise the right provided for in Article 2(a) of the Convention to refuse assistance solely on the ground that the request concerns an offence which the requested Party considers a fiscal offence.

ARTICLE 2

1. In the case where a Contracting Party has made the execution of letters rogatory for search or seizure of property dependent on the condition that the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the requested Party, this condition shall be fulfilled, as regards fiscal offences, if the offence is punishable under the law of the requesting Party and corresponds to an offence of the same nature under the law of the requested Party.

2. The request may not be refused on the ground that the law of the requested Party does not impose the same kind of tax or duty or does not contain a tax, duty, customs and exchange regulation of the same kind as the law of the requesting Party.

Chapter II

ARTICLE 3

The Convention shall also apply to:

- (a) the service of documents concerning the enforcement of a sentence, the recovery of a fine or the payment of costs of proceedings;
- (b) measures relating to the suspension of pronouncement of a sentence or of its enforcement, to conditional release, to deferment of the commencement of the enforcement of a sentence or to the interruption of such enforcement.

Chapter III

ARTICLE 4

Article 22 of the Convention shall be supplemented by the following text, the original Article 22 of the Convention becoming paragraph 1 and the below-mentioned provisions becoming paragraph 2:

"2. Furthermore, any Contracting Party which has supplied the above-mentioned information shall communicate to the Party concerned, on the latter's request in individual cases, a copy of the convictions and measures in question as well as any other information relevant thereto in order to enable it to consider whether they necessitate any measures at national level. This communication shall take place between the Ministries of Justice concerned."

Chapter IV

ARTICLE 5

1. This Protocol shall be open to signature by the member States of the Council of Europe which have signed the Convention. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
2. The Protocol shall enter into force 90 days after the date of the deposit of the third instrument of ratification, acceptance or approval.
3. In respect of the signatory State ratifying, accepting or approving subsequently, the Protocol shall enter into force 90 days after the date of the deposit of its instrument of ratification, acceptance or approval¹.
4. A member State of the Council of Europe may not ratify, accept or approve this Protocol without having, simultaneously or previously, ratified the Convention.

ARTICLE 6

1. Any State which has acceded to the Convention may accede to this Protocol after the Protocol has entered into force.
2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect 90 days after the date of its deposit.

ARTICLE 7

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.
2. Any State may, when depositing its instrument of ratification, acceptance or approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Protocol to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.
3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect six months after the date of receipt by the Secretary General of the Council of Europe of the notification.

ARTICLE 8

1. Reservations made by a Contracting Party to a provision of the Convention shall be applicable also to this Protocol, unless that Party otherwise declares at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession. The same shall apply to the declarations made by virtue of Article 24 of the Convention.
2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it reserves the right:
 - (a) not to accept Chapter I, or to accept it only in respect of certain offences or certain categories of the offences referred to in Article 1, or not to comply with letters rogatory for search or seizure of property in respect of fiscal offences;
 - (b) not to accept Chapter II;
 - (c) not to accept Chapter III.
3. Any Contracting Party may withdraw a declaration it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.

¹ The Protocol entered into force for the United Kingdom on 27 November 1991.

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

5. No other reservation may be made to the provisions of this Protocol.

ARTICLE 9

The provisions of this Protocol are without prejudice to more extensive regulations in bilateral or multilateral agreements concluded between Contracting Parties in application of Article 26, paragraph 3, of the Convention.

ARTICLE 10

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

ARTICLE 11

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

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

3. Denunciation of the Convention entails automatically denunciation of this Protocol.

ARTICLE 12

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to the Convention of:

- (a) any signature of this Protocol;
- (b) any deposit of an instrument of ratification, acceptance, approval or accession;
- (c) any date of entry into force of this Protocol in accordance with Articles 5 and 6;
- (d) any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 7;
- (e) any declaration received in pursuance of the provisions of paragraph 1 of Article 8;
- (f) any reservation made in pursuance of the provisions of paragraph 2 of Article 8;
- (g) the withdrawal of any reservation carried out in pursuance of the provisions of paragraph 3 of Article 8;
- (h) any notification received in pursuance of the provisions of Article 11 and the date on which denunciation takes effect.

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

Done at Strasbourg, this 17th day of March 1978, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of Signature</i>	<i>Date of deposit of Instrument of Ratification,</i>
Austria*	17 Mar 1978	2 May 1983
Belgium	11 Jul 1978	
Denmark	25 Oct 1982	7 Mar 1983
France*	28 Mar 1990	1 Feb 1991
Germany, Federal Republic of*	8 Nov 1985	8 Mar 1991
Greece	18 Jun 1980	24 Jul 1981
Iceland	27 Sept 1982	20 Jun 1984
Italy*	30 Oct 1980	26 Nov 1985
Netherlands*	13 Jul 1979	12 Jan 1982
Norway	11 Dec 1986	11 Dec 1986
Portugal	12 Aug 1980	
Spain*	12 Apr 1985	13 Jun 1991
Sweden	6 Apr 1989	13 Jun 1979
Switzerland*	17 Nov 1981	
Turkey	4 Feb 1986	29 Mar 1990
United Kingdom*	21 Jun 1991	29 Aug 1991

ACCESSIONS

<i>State</i>	<i>Date</i>
Finland*	30 Jan 1985

* For reservations and declarations see pages 32 to 34.

DECLARATIONS AND RESERVATIONS

AUSTRIA

Reservation and Declaration contained in the instrument of ratification, deposited on 2 May 1983—Or. Engl.

According to Article 8, paragraph 2 of the Protocol, the Republic of Austria declares to accept Chapter I only in respect of offences in connection with taxes duties and customs.

On the grounds of the Austria reservation to Article 2, paragraph b. of the Convention and with a view to Article 8, paragraph 1, of the Protocol, the Republic of Austria declares that mutual assistance according to Chapter I of the Protocol will be granted only under the condition that—in conformity with Austrian legislation on secrecy—information and evidence received by way of mutual assistance will only be used in the criminal proceedings for which mutual assistance was requested and in directly related proceedings in respect of offences in connection with taxes, duties and customs.

FRANCE

Declaration made at the time of signature on 28 March 1990—Or. Fr.

The Government of the French Republic declares that the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters shall apply to European and Overseas Departments of the French Republic.

Declaration contained in the instrument of approval deposited on 1 February 1991—Or. Fr.

The Government of the French Republic declares that the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters shall apply to European and Overseas Departments of the French Republic.

GERMANY

Reservations and Declaration contained in a letter from the Permanent Representative dated 8 March 1991, handed to the Secretary General at the time of deposit of the instrument of ratification on 8 March 1991—Or. Engl./Fr./Germ.

Reservations

In accordance with Chapter IV, Article 8 (2), the Federal Republic of Germany avails itself of the following reservations:

Regarding Article 2 of the Additional Protocol, the Federal Republic of Germany, in accordance with Article 8(2)(a), reserve the right to make

- (a) the execution of letters rogatory of any kind in proceedings concerning contraventions of regulations governing international transfer of capital and payments, and
- (b) the execution of letters rogatory for search or seizure of property in respect of other fiscal offences

dependant on the condition that the offence motivating the letters rogatory is punishable under German law as well, or would be so punishable after analogous conversion of the facts.

Declaration

Moreover, regarding Article 8 of the Additional Protocol, the Federal Republic of Germany proceeds on the understanding that even under the scope of application of the Convention, as extended by the Additional Protocol, there is no obligation to render assistance in the event that the effort and expenses to be expected in executing the letters rogatory are disproportionate to the subject-matter and execution could thus prejudice essential German interests.

ITALY

Declaration made at the time of deposit of the instrument of ratification, on 26 November 1985—Or. It.

In accordance with Article 8 of the Protocol, Italy confirms the declaration made by virtue of Article 24 of the Convention and requests to integrate to the list of the Italian judicial authorities:

- the post-sentencing judge;
- the post-sentencing section.

Note by the Secretariat:

The following authorities are henceforth to be considered as "judicial authorities" for the purposes of the Convention:

- Directors of Public Prosecution,
- Assistant Public Prosecutors,
- Ordinary Courts of Justice,
- Military Courts,
- Offices of the Public Prosecutor attached to the Military Courts,
- Examining Magistrates,
- Superior Magistrates,
- Praetors,
- the Constitutional Court,
- the Parliamentary Commission of Enquiry,
- the post-sentencing judge,
- the post-sentencing section.

NETHERLANDS

Declaration and Reservation contained in the instrument of acceptance, deposited on 12 January 1982—Or. Engl.

Declaration

The Government of the Kingdom of the Netherlands accepts the said Protocol for the Kingdom in Europe.

Reservation

The provisions so accepted shall be observed subject to the reservation stated below:

The Government of the Kingdom of the Netherlands declares, in accordance with Article 8, paragraph 2a of the aforementioned Protocol, that it reserves the right not to comply with letters rogatory for search or seizure of property in respect of fiscal offences.

Declaration contained in a letter from the Permanent Representation of the Netherlands, dated 20 February 1986, registered at the Secretariat General on 21 February 1986—Or. Engl.

In addition to the letter of the Netherlands Permanent Representative No. 1799 of 24 December 1985, I have the honour to bring the following to your attention in your capacity of depositary of the treaties listed in the annex.

The treaties referred to in the annex, to which the Kingdom of the Netherlands is a Party (for the Kingdom in Europe) apply as of 1 January equally to Aruba.

List of Treaties

...
99. Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (1978)

Note by the Secretariat:

The letter No. 1799 of 24 December 1985 reads as follows:

The Island of Aruba, which is at present still part of the Netherlands Antilles, will obtain internal autonomy as a country within the Kingdom of the Netherlands as of 1 January 1986. Consequently the Kingdom will from then on no longer consist of two countries, namely the Netherlands (the Kingdom in Europe) and the Netherlands Antilles (situated in the Caribbean region), but will consist of three countries, namely the said two countries and the country Aruba.

As the changes being made on 1 January 1986 concern a shift only in the internal constitutional relations within the Kingdom of the Netherlands, and as the Kingdom as such will remain the subject under international law with which treaties are concluded, the said changes will have no consequences in international law regarding to treaties concluded by the Kingdom which already apply to the Netherlands Antilles, including Aruba. These treaties will remain in force for Aruba in its new capacity of country within the Kingdom. Therefore these treaties will as of 1 January 1986, as concerns the Kingdom of the Netherlands, apply to the Netherlands Antilles (without Aruba) and Aruba.

Consequently the treaties referred to in the annex, to which the Kingdom of the Netherlands is a Party and which apply to the Netherlands Antilles, will as of 1 January 1986 as concerns the Kingdom of the Netherlands apply to the Netherlands Antilles and Aruba.

Reservation withdrawn by declaration of the Minister for Foreign Affairs dated 22 June 1990, registered at the Secretariat General on 6 July 1990—Or. Engl.

In conformity with Article 8, paragraph 3 of the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, done at Strasbourg, 17 March 1978, the Kingdom of the Netherlands withdraws, for the Kingdom in Europe and for Aruba, the following declaration made at the moment of ratification of the Additional Protocol:

“The Government of the Kingdom of the Netherlands declares, in accordance with Article 8, paragraph 2a of the aforementioned Protocol, that it reserves the right not to comply with letters rogatory for search or seizure of property in respect of fiscal offences.”

SPAIN

Reservation contained in the instrument of ratification deposited on 13 June 1991—Or. Span.

The Spanish Government declares in accordance with Article 8, paragraph 2 that it reserves the right not to comply with letters rogatory for search or seizure of property in respect of fiscal offences.

SWITZERLAND

Reservation made at the time of signature, on 17 November 1981—Or. Fr.

In accordance with the provisions of Article 8.2a, Switzerland reserves the right to accept Chapter I of the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters only to the extent that the fiscal offence constitutes a fraud with regard to taxes.

UNITED KINGDOM

Declaration handed over at the time of the deposit of the instrument of ratification, on 29 August 1991—Or. Engl.

Article 8(2)

In accordance with Article 8, paragraph 2, the United Kingdom of Great Britain and Northern Ireland reserves the right not to accept Chapters II and III.