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Additional Protocol to the European Convention on Information on Foreign Law

Strasbourg, 15 March 1978

[The United Kingdom instrument of ratification was deposited on 2 September 1981 and the Additional Protocol entered into force for the United Kingdom on 3 December 1981]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
December 1981*

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**ADDITIONAL PROTOCOL
TO THE EUROPEAN CONVENTION ON INFORMATION
ON FOREIGN LAW**

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

Having regard to the provisions of the European Convention on Information on Foreign Law, opened for signature in London on 7 June 1968⁽¹⁾ (hereinafter referred to as "the Convention");

Considering that it is desirable to extend the system of international mutual assistance established by that Convention in the field of criminal law and procedure, in a multilateral framework open to all the Contracting Parties to the Convention;

Considering that, with a view to eliminating economic obstacles to legal proceedings and permitting persons in an economically weak position more easily to exercise their rights in member States, it is also desirable to extend the system established by the Convention to the field of legal aid and advice in civil and commercial matters;

Noting that Article 1, paragraph 2, of the Convention provides that two or more Contracting Parties may decide to extend as between themselves the scope of the Convention to fields other than those referred to in the Convention;

Noting that Article 3, paragraph 3, of the Convention provides that two or more Contracting Parties may decide to extend as between themselves the Convention to requests from authorities other than judicial authorities,

Have agreed as follows :

CHAPTER I

ARTICLE 1

The Contracting Parties undertake to supply one another, in accordance with the provisions of the Convention, with information on their substantive and procedural law and judicial organisation in the criminal field, including prosecuting authorities, as well as on the law concerning the enforcement of penal measures. This undertaking applies to all proceedings in respect of offences the prosecution of which, at the time of the request for information, falls within the jurisdiction of the judicial authorities of the requesting Party.

ARTICLE 2

A request for information on questions in the field referred to in Article 1 may :

- (a) emanate not only from a court but from any judicial authority having jurisdiction to prosecute offences or execute sentences that have been imposed with final and binding effect; and

⁽¹⁾ Treaty Series No. 117 (1969), Cmnd. 4229.

- (b) be made not only where proceedings have actually been instituted but also when the institution of proceedings is envisaged.

CHAPTER II

ARTICLE 3

Within the framework of the undertaking contained in Article 1, paragraph 1 of the Convention, the Contracting Parties agree that requests for information may :

- (a) emanate not only from a judicial authority but also from any authority or person acting within official systems of legal aid or legal advice on behalf of persons in an economically weak position; and
- (b) be made not only where proceedings have actually been instituted but also when the institution of proceedings is envisaged.

ARTICLE 4

1. Each Contracting Party which has not set up or appointed one or more bodies to act as a transmitting agency as provided for in Article 2, paragraph 2 of the Convention, shall set up or appoint such an agency or agencies for the purpose of transmitting any request for information in accordance with Article 3 of this Protocol to the competent foreign receiving agency.

2. Each Contracting Party shall communicate to the Secretary General of the Council of Europe the name and address of the transmitting agency or agencies set up or appointed in accordance with the preceding paragraph.

CHAPTER III

ARTICLE 5

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it will only be bound by one or the other of Chapters I and II of this Protocol.

2. Any State having made such a declaration may, at any subsequent time, declare by means of a notification addressed to the Secretary General of the Council of Europe that it will be bound by the provisions of both Chapters I and II. Such notification shall take effect from the date of its reception.

3. Any Contracting Party which is bound by the provisions of both Chapters I and II may at any time declare by means of a notification addressed to the Secretary General of the Council of Europe that it will only be bound by one or the other of Chapters I and II. Such notification shall take effect six months after the date of the receipt of such notification.

4. The provisions of Chapter I or II, as the case may be, shall be applicable only between Contracting Parties which are bound by the Chapter in question.

ARTICLE 6

1. This Protocol shall be open to signature by the member States of the Council of Europe, signatory to the Convention, who may become Parties to it either by :

- (a) signature without reservation in respect of ratification, acceptance or approval;
- (b) signature with reservation in respect of ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. A member State of the Council of Europe may not sign this Protocol without reservation in respect of ratification, acceptance or approval, nor ratify, accept or approve it, unless it has, simultaneously or previously, ratified or accepted the Convention.

ARTICLE 7

1. This Protocol shall enter into force three months after the date on which three member States of the Council of Europe shall have become Parties to the Protocol in accordance with the provisions of Article 6⁽²⁾.

2. In the case of any member State which shall subsequently sign the Protocol *without reservation in respect of ratification, acceptance or approval* or which shall ratify, accept or approve it, the Protocol shall enter into force three months after the date of such signature or after the date of deposit of the instrument of ratification, acceptance or approval.

ARTICLE 8

1. After the entry into force of this Protocol, any State which has acceded, or has been invited to accede, to the Convention, may be invited by the Committee of Ministers to accede also to this Protocol.

2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

(²) The Protocol entered into force on 31 August 1979.

ARTICLE 9

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, 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 10

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 the Council of Europe of such notification.

3. Denunciation of the Convention shall automatically entail denunciation of this Protocol.

ARTICLE 11

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 without reservation in respect of ratification, acceptance or approval;
- (b) any signature with reservation in respect of ratification, acceptance or approval;
- (c) any deposit of an instrument of ratification, acceptance or approval or accession;
- (d) any date of entry into force of this Protocol in accordance with Article 7 thereof;
- (e) any notification received in pursuance of the provisions of Article 4;
- (f) any declaration or notification received in pursuance of the provisions of Article 5;

(g) any declaration received in pursuance of the provisions of Article 9 and any withdrawal of any such declaration;

(h) any notification received in pursuance of the provisions of Article 10 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 15th day of March 1978, in English and in French⁽²⁾, 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

<i>State</i>	<i>Date of signature</i>	<i>Date of deposit of ratification, acceptance (AC) or approval (AP)</i>
Austria*	17 Mar. 1978	25 Feb. 1980
Belgium*	15 Mar. 1978	30 May 1979
Cyprus*	1 Dec. 1978	31 Aug. 1979 † 3.4 1979
Denmark*	15 Mar. 1978	11 Oct. 1979
France*	15 Mar. 1978	
Germany, Federal Republic of*	21 Apr. 1978	
Greece*	20 Dec. 1978	
Iceland*	26 Apr. 1978	
Italy*	31 May 1979	
Luxembourg*	12 Apr. 1978	
Netherlands (Kingdom in Europe)	2 Oct. 1979	3 June 1980(AP)†
Norway*	15 Mar. 1978	2 Nov. 1978
Portugal*	22 Nov. 1979	
Sweden	2 Mar. 1981	Not required
Turkey*	1 Sept. 1980	
United Kingdom*	2 Dec. 1980	2 Sept. 1981†

* Subject to ratification or acceptance.

† Bound only by Chapter I of the Protocol.

(²) The French language text is included in European Treaty Series No. 97, published by the Council of Europe and available through Agency Section, Her Majesty's Stationery Office, P.O. Box 569, London SE1 9NY (Tel. 01-928 6977, ext. 410).

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