

No. 6841

**AUSTRIA, BELGIUM, DENMARK, FRANCE,
FEDERAL REPUBLIC OF GERMANY, etc.**

**European Convention on Mutual Assistance in Criminal
Matters. Done at Strasbourg, on 20 April 1959**

Official texts: English and French.

Registered on 30 July 1963 by the Council of Europe acting on behalf of the Contracting Parties, in accordance with Resolution 54 (6) of the Committee of Ministers on the Council of Europe adopted on 3 April 1954.

**AUTRICHE, BELGIQUE, DANEMARK, FRANCE,
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE, etc.**

**Convention européenne d'entraide judiciaire en matière
pénale. Faite à Strasbourg, le 20 avril 1959**

Textes officiels anglais et français.

Enregistrée le 30 juillet 1963 par le Conseil de l'Europe agissant au nom des Parties contractantes, conformément à la résolution 54 (6) adoptée le 3 avril 1954 par le Comité des ministres du Conseil de l'Europe.

No. 6841. EUROPEAN CONVENTION¹ ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS. DONE AT STRASBOURG, ON 20 APRIL 1959

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 1957,²

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;

(Continued on p. 192)

¹ See footnote 1 on p. 188.

² United Nations, *Treaty Series*, vol. 359, p. 273; vol. 404, p. 373, and vol. 444, p. 348.

(Footnote 1 of p. 186)

¹ In accordance with article 27, the Convention came into force in respect of Italy, Greece and Norway on 12 June 1962, ninety days after the date of deposit of the third instrument of ratification, and in respect of Denmark on 12 December 1962, ninety days after the date of deposit of its instrument of ratification. The instruments of ratification were deposited with the Secretary-General of the Council of Europe on the dates indicated :

Italy (with declaration*)		23 August	1961
Greece		23 February	1962
Norway		14 March	1962
Denmark (with reservations and declarations*)		13 September	1962

*DECLARATIONS AND RESERVATIONS

Declaration made by Italy

[TRANSLATION — TRADUCTION **]

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.

1. Reservations made by Denmark

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 simple transmission of the writ to the person to be served may be refused.

(Footnote 1 continued on p. 190)

**Translation by the Secretariat-General of the Council of Europe.
Traduction du Secrétariat général du Conseil de l'Europe.

(Footnote 1 continued from p. 188)

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.

2. Declarations made by Denmark

Article 5, paragraph 1

A request for search or seizure may be refused if the conditions laid down in sub-paragraphs (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 26th June 1957* between Denmark, Norway and Sweden will remain in force.

* United Nations, *Treaty Series*, Vol. 324, p. 97.

(Continued from p. 186)

- (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.

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.