

SUMMARIES OF THE COUNCIL OF EUROPE TREATIES

The summaries available hereunder are designed to meet a practical need, that of supplying the public at large with concise descriptions of the Council of Europe treaties. The summaries are necessarily short and can therefore only give a first introduction to the main features of each treaty.

Subject-matter: **LEGAL CO-OPERATION IN CRIMINAL MATTERS - I**

European Convention on Extradition ([ETS No. 24](#)), open for signature, in Paris, on 13 December 1957.

Entry into force: 18 April 1960.

The European Convention on Extradition provides for the extradition between Parties of persons wanted for criminal proceedings or for the carrying out of a sentence. The Convention does not apply to political or military offences and any Party may refuse to extradite its own citizens to a foreign country.

With regard to fiscal offences (taxes, duties, customs) extradition may only be granted if the Parties have decided so in respect of any such offence or category of offences. Extradition may also be refused if the person claimed risks the death penalty under the law of the requesting State

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European Convention on Mutual Assistance in Criminal Matters ([ETS No. 30](#)), open for signature, in Strasbourg, on 20 April 1959.

Entry into force: 12 June 1962.

Under this Convention, Parties agree to afford each other the widest measure of mutual assistance with a view to gathering evidence, hearing witnesses, experts and prosecuted persons, etc.

The Convention sets out rules for the enforcement of letters rogatory by the authorities of a Party ("requested Party") which aim to procure evidence (audition of witnesses, experts and prosecuted persons, service of writs and records of judicial verdicts) or to communicate the evidence (records or documents) in criminal proceedings undertaken by the judicial authorities of another Party ("requesting Party").

The Convention also specifies the requirements that requests for mutual assistance and letters rogatory have to meet (transmitting authorities, languages, refusal of mutual assistance).

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European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders ([ETS No. 51](#)), open for signature, in Strasbourg, on 30 November 1964.

Entry into force: 22 August 1975.

The Convention aims to allow offenders to leave the territory of a Party where a sentence was pronounced, or where the enforcement of a sentence has been conditionally suspended, to establish their ordinary residence in another Party under the supervision of its authorities.

The basic principles of the Convention require that Parties agree to assist each other in the social rehabilitation of offenders for facilitating their good conduct and the readaptation to social life of persons convicted abroad.

The Convention specifies conditions as regard the enforcement by the requested State of a sentence of which the enforcement has been conditionally suspended in another Party.

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European Convention on the Punishment of Road Traffic Offences ([ETS No. 52](#)), open for signature, in Strasbourg, on 30 November 1964.

Entry into force: 18 July 1972.

The Convention aims to address the increase in road traffic between Parties and the dangers consequent upon the violation of rules designed to protect road users. It sets out a framework of mutual co-operation for more effective punishment of road traffic offences in the territories of the Parties.

The Convention derogates from the principle of territoriality by empowering a Party in whose territory a road traffic offence has been committed to choose between instituting proceedings itself or requesting the State of residence of the offender to prosecute the offence.

A list of offences to which the Convention applies appears in Annex 1, named the "Common Schedule of Road Traffic Offences".

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European Convention on the International Validity of Criminal Judgments ([ETS No. 70](#)), open to signature, in The Hague, on 28 May 1970.

Entry into force: 26 July 1974.

Under the Convention, each Party acquires competence to enforce a sanction imposed in another Party, provided that the requesting State has submitted a request for enforcement, that under the law of the requested State the act for which the sanction was imposed would be an offence, and that the judgment delivered by a requesting State is final and enforceable.

One of the significant aims of the Convention is to promote the rehabilitation of the offender.

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European Convention on the Repatriation of Minors ([ETS No. 71](#)), open for signature, in The Hague, on 28 May 1970.

Entry into force: 28 July 2015.

This Convention shall apply to minors in the territory of a Contracting State whose repatriation is requested by another Contracting State for one of the following reasons:

- a. the presence of the minor in the territory of the requested State is against the will of the person or persons having parental authority in respect of him;
- b. the presence of the minor in the territory of the requested State is incompatible with a measure of protection or re-education taken in respect of him by the competent authorities of the requesting State;
- c. the presence of the minor is necessary in the territory of the requesting State because of the institution of proceedings there with a view to taking measures of protection and re-education in respect of him.

This Convention shall also apply to the repatriation of minors whose presence in its territory a Contracting State deems to be incompatible with its own interests or with the interests of the minors concerned, provided that its legislation authorises removal of the minor from its territory.

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European Convention on the Transfer of Proceedings in Criminal Matters ([ETS No. 73](#)), open for signature, in Strasbourg, on 15 May 1972.

Entry into force: 30 March 1978.

Under this Convention any Party may request another Party to take proceedings against a suspected person in its stead.

Such a request may be made: if the suspected person is normally resident in the requested State or if he/she is a national of that State; if he/she is to serve a prison sentence or face other proceedings in that State; if the transfer of proceedings is warranted in the interests of a fair trial or if the enforcement in the requested State of a sentence, if one were passed, is likely to improve the prospects of his/her social rehabilitation.

The requested State may not refuse acceptance of the request except in specific cases and in particular if it considers that the offence is of a political nature or that the request is based on considerations of race, religion or nationality.

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European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes ([ETS No. 82](#)), open for signature, in Strasbourg, on 25 January 1974.

Entry into force: 27 June 2003.

The aim of this Convention is to ensure that the punishment of crimes against humanity and the most serious violations of the laws and customs of war is not prevented by statutory limitations whether in relation to prosecution or to the enforcement of the punishment of the following offences, or to the enforcement of the sentences imposed for such offences, in so far as they are punishable under its domestic law:

1. the crimes against humanity specified in the Convention on the Prevention and Punishment of the Crime of Genocide adopted on 9 December 1948 by the General Assembly of the United Nations;
2. a. the violations specified in Article 50 of the 1949 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Article 51 of the 1949 Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Article 130 of the 1949 Geneva Convention relative to the Treatment of Prisoners of War and Article 147 of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War,
b. any comparable violations of the laws of war having effect at the time when this Convention enters into force and of customs of war existing at that time, which are not already provided for in the above-mentioned provisions of the Geneva Conventions;
3. any other violation of a rule or custom of international law which may hereafter be established and which the Contracting State concerned considers according to a declaration under Article 6 as being of a comparable nature to those referred to in paragraphs 1 or 2 of this article.

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Additional Protocol to the European Convention on Extradition ([ETS No. 86](#)), open for signature, in Strasbourg, on 15 October 1975.

Entry into force: 20 August 1979

The European Convention on Extradition (ETS No. 24) bars extradition in respect of all political offences. While it does not define the notion of political offence, it excludes from the scope of such offences the taking of the life of a head of State. The Protocol further limits the scope of such offences by excluding also war crimes and crimes against humanity.

Moreover, the Protocol supplements the provisions of the Convention that deal with the principle *ne bis in idem*, namely its Article 9, by enlarging the number of instances in which the extradition of a person is barred where that person has already been tried for the offence in respect of which the extradition claim was made.

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European Convention on the International Effects of Deprivation of the Right to Drive a Motor Vehicle ([ETS No. 88](#)), open for signature, in Brussels, on 3 June 1976.

Entry into force: 28 April 1983.

Under the terms of this Convention, a Party which has ordered any final measure designed to restrict the right to drive of a driver who has committed a road traffic offence must notify without delay the Party which delivered the driving license and the Party in whose territory the offender is habitually resident. Consequently, any Party which has been thus notified may, in accordance with its law, execute the order.

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European Convention on the Suppression of Terrorism ([ETS No. 90](#)), open for signature, in Strasbourg, on 27 January 1977.

Entry into force: 4 August 1978.

The Convention is designed to facilitate the extradition of persons having committed acts of terrorism. To this end, it lists the offences that Parties undertake not to consider as political offences, or as offences connected with political offences, or as offences inspired by political motives, namely acts of particular gravity, hijacking of aircraft, kidnapping and taking of hostages, the use of bombs, grenades, rockets, letter or parcel bombs, if their use endangers persons. Moreover, the Convention empowers Parties not to consider as a political offence any act of violence against the life, physical integrity or liberty of a person.

It is expressly provided that nothing in the Convention shall be interpreted as imposing an obligation upon a Party to extradite a person who might then be prosecuted or punished solely on the grounds of race, religion, nationality or political opinion.

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Additional Protocol to the European Convention on Information on Foreign Law ([ETS No. 97](#)), open for signature, in Strasbourg, on 15 March 1978.

Entry into force: 31 August 1979.

The Additional Protocol is designed to extend to the field of criminal law and procedure the system of international exchange of information established by the Convention (ETS No. 62).

Parties undertake to supply one another 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.

The Protocol aims at eliminating economic obstacles to legal proceedings (in the field of legal aid and advice in civil and commercial matters), and to permit persons in an economically weak position more easily to exercise their rights.

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Second Additional Protocol to the European Convention on Extradition ([ETS No. 98](#)), open for signature, in Strasbourg, on 17 March 1978.

Entry into force: 5 June 1983.

The Second Protocol is designed to facilitate the application of the Convention on several points and aims, in particular, to include fiscal offences among the category of offences for which a person may be extradited under the Convention. This Protocol also contains additional provisions on judgments *in absentia* and amnesty.

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Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters ([ETS No. 99](#)), open for signature, in Strasbourg, on 17 March 1978.

Entry into force: 12 April 1982.

The Protocol completes provisions contained in the Convention (ETS No. 30). It withdraws the possibility offered by the Convention to refuse assistance solely on the ground that the request concerns an offence which the requested Party considers a fiscal offence. It extends international co-operation to the service of documents concerning the enforcement of a sentence and similar measures (suspension of pronouncement of a sentence, conditional release, deferment of commencement of enforcement of a sentence or interruption of such enforcement). Finally, it adds provisions relating to the exchange of information on judicial records.

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European Convention on the Control of the Acquisition and Possession of Firearms by Individuals ([ETS No. 101](#)), open to signature, in Strasbourg, on 28 June 1978.

Entry into force: 1 July 1982.

The aim of the Convention is to set up a system for controlling the movements of firearms from one country to another. It applies in all cases where a firearm located in the territory of a Party is sold, transferred or otherwise disposed of to a person resident in the territory of another Party, or where it is transferred permanently and without change in the possession thereof to the territory of another Party.

The Convention offers two alternative methods of controlling the movement of firearms:

1. the "notification" system, with an obligation on the Party in which the firearm was originally located to notify the Party on the territory of which the person is resident of the sale, transfer or other transaction;
2. the "double authorization" system, whereby the transaction may not take place without the previous agreement of the two States concerned.

The Parties also undertake to afford each other mutual assistance in the suppression of illegal traffic and in the tracing and locating of firearms transferred from the territory of one State to the territory of another.

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Convention on the Transfer of Sentenced Persons ([ETS No. 112](#)), open for signature, in Strasbourg, on 21 March 1983.

Entry into force: 1 July 1985.

The Convention is primarily intended to facilitate the social rehabilitation of prisoners by giving foreigners convicted of a criminal offence the possibility of serving their sentences in their own countries. It is also rooted in humanitarian considerations, since difficulties in communication by reason of language barriers and the absence of contact with relatives may have detrimental effects on a person imprisoned in a foreign country.

Transfer may be requested by either the State in which the sentence was imposed (sentencing State) or the State of which the sentenced person is a national (administering State). It is subject to the consent of those two States as well as that of the sentenced person.

The Convention also lays down the procedure for enforcement of the sentence following the transfer. Whatever the procedure chosen by the administering State, a custodial sentence may not be converted into a fine, and any period of detention already served by the sentenced person must be taken into account by the administering State. The sentence in the administering State must not be longer or harsher than that imposed in the sentencing State.

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European Convention on the Compensation of Victims of Violent Crimes ([ETS No. 116](#)), open for signature, in Strasbourg, on 24 November 1983.

Entry into force: 1 February 1988.

This Convention puts upon States that become a Party to it the obligation to compensate the victims of intentional and violent offences resulting in bodily injury or death. The obligation to compensate is limited to offences committed on the territory of the State concerned, regardless of the nationality of the victim.

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European Convention on Offences relating to Cultural Property ([ETS No. 119](#)), open for signature, in Delphi, on 23 June 1985.

Entry into force: The Convention will enter into force following the third ratification.

Based on the concept of common responsibility and solidarity in the protection of European cultural heritage, the Convention aims to protect cultural property against criminal activities. To achieve this objective the Parties undertake to enhance public awareness of the need for protection, to co-operate in the prevention of offences against cultural property, to acknowledge the seriousness of such offences and to provide for adequate sanctions or measures with a view to co-operating in the prevention of offences relating to cultural property and in the discovery of cultural property removed.

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Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime ([ETS No. 141](#)), open for signature, in Strasbourg, on 8 November 1990.

Entry into force: 1 September 1993.

The aim of this Convention is to facilitate international co-operation and mutual assistance in investigating crime and tracking down, seizing and confiscating the proceeds thereof. The Convention is intended to assist States in attaining a similar degree of efficiency even in the absence of full legislative harmony.

Parties undertake in particular:

- to criminalise the laundering of the proceeds of crime;
- to confiscate instrumentalities and proceeds (or property the value of which corresponds to such proceeds).

For the purposes of international co-operation, the Convention provides for:

- forms of investigative assistance (for example, assistance in procuring evidence, transfer of information to another State without a request, adoption of common investigative techniques, lifting of bank secrecy etc.),
- provisional measures: freezing of bank accounts, seizure of property to prevent its removal,
- measures to confiscate the proceeds of crime: enforcement by the requested State of a confiscation order made abroad, institution by the requested State, of domestic proceedings leading to confiscation at the request of another State.

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Agreement on Illicit Traffic by Sea, implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances ([ETS No. 156](#)), open for signature, in Strasbourg, on 31 January 1995.

Entry into force: 1 May 2000

The Agreement is based on Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Vienna on 20 December 1988. It sets up a basis for international co-operation between Parties, defines rules as regard competent authorities, rules governing the exercise of jurisdiction, proceedings, authorised measures, responsibilities for enforcement measures, and other general rules.

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Additional Protocol to the Convention on the Transfer of Sentenced Persons ([ETS No. 167](#)), open for signature, in Strasbourg, on 18 December 1997.

Entry into force: 1 June 2000.

This instrument sets out the rules applicable to transfer of the execution of sentences, firstly where sentenced persons have absconded from the sentencing State to their State of nationality, and secondly where they are subject to an expulsion or deportation order as a consequence of their sentence.

It supplements the 1983 Convention on the Transfer of Sentenced Persons (ETS No. 112), whose main aim is to further the social rehabilitation of sentenced foreign nationals by allowing the sentence to be served in the country of origin. This Convention is founded to a great extent on humanitarian principles, being based on the consideration that communication difficulties, language barriers and deprivation of contact with the family can have adverse effects on foreign prisoners.

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Council of Europe Convention on Offences relating to Cultural Property ([CETS No. 221](#)), open for signature, in Nicosia, on 19 May 2017.

Entry into force: 1 April 2022.

The Convention on Offences relating to Cultural Property aims to prevent and combat the illicit trafficking and destruction of cultural property, in the framework of the Organisation's action to fight terrorism and organised crime.

The Convention, which will be open for signature to any country in the world, also aims to foster international co-operation to fight these crimes, which are destroying the world's cultural heritage.

The Convention, which will be the only international treaty specifically dealing with the criminalisation of the illicit trafficking of cultural property, establishes a number of criminal offences, including theft; unlawful excavation, importation and exportation; and illegal acquisition and placing on the market. It also criminalises the falsification of documents and the destruction or damage of cultural property when committed intentionally.

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Protocol amending the Additional Protocol to the Convention on the Transfer of Sentenced Persons ([CETS No. 222](#)), open for signature, in Strasbourg, on 22 November 2017.

Entry into force: The Protocol will enter into force following its ratification by all the Parties to the Additional Protocol.

The aim of the Protocol of amendment is to modernise and improve the Additional Protocol (ETS No. 167), taking into account the evolution in international co-operation on the transfer of sentenced persons since its entry into force in June 2000.