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[ PC-OC (2005) 07 - Questionnaire Art 22 MLA]  
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**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

**Committee of Experts on the Operation of European Conventions**  
**in the penal field**  
**(PC-OC)**

50<sup>th</sup> meeting  
Strasbourg, 27-29 juin 2005

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***Replies to questionnaire on  
implementation of article 22 of the European Convention on  
mutual assistance***

Secretariat memorandum  
prepared by the  
Directorate General of Legal Affairs

## **BRIEF PRESENTATION**

The PC-OC has discussed the application of the Art 22. of the European convention on mutual assistance in criminal matters both in plenary and at its Bureau meeting in November 2004.

This provisions deals with the communication of data from criminal regards to the States of which the person is a national.

Having considered the developments in the European Union in this regard, the Committee decided to send a questionnaire to the Participants. The questionnaire (PC-OC (2005)01) was sent out in March 2005. The replies have been collected on 14 June 2005.

The national replies are collected in this document.<sup>1</sup> They are preceded by a charter presenting summaries of the national replies.

In general, the replies show that this Article is useful. Some questions are raised, dealing mostly with the modalities of transmission of data (use of electronic media, translation matters, data protection issues).

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<sup>1</sup> The replies from Albania, Andorra, Monaco, Slovakia, Turkey, United-Kingdom have reached the Secretariat after 14 June, they will be incorporated in a revised version of this document.

## QUESTIONNAIRE

1- In case your national authorities **send** to other States' authorities information on criminal convictions and subsequent measures against these States' nationals, entered in the criminal records:

- 1.1 Do they apply article 22 of the MLA convention or other legal bases (which ones)?
- 1.2 If they do not apply Art. 22 or if they apply it rarely, what is the reason for this?
- 1.3 Is it applied for all types of criminal convictions or only some convictions (in this case, specify)?
- 1.4 Is the information sent to each States party to the convention, whose national has been convicted in your country? Or only to some States (in this case, specify)
- 1.5 By which way is the information transmitted in practice: letter (by which channel), e-mail, fax, other?
- 1.6 In what language is the information transmitted?

2- In case your national authorities **receive** information on criminal convictions and subsequent measures against your State' nationals, entered in the criminal records

- 2.1 Does your country receive such information?
- 2.2 From which country and how regularly, approximately, is this information sent?
- 2.3 Do your national authorities find this information useful?
- 2.4 What use do they have of it?
- 2.5 How do they deal with the information transmitted in a foreign language?

In a general way, do you consider this provision of the convention useful?  
Would you have particular comments on the application of this specific provision?  
Would you have particular suggestions on the ways to improve the application of this provision?

**TABLE OF REPLIES****(SUMMARY)**

*The summary of the replies from :*

*ALBANIA, AUSTRIA, CZECH REPUBLIC, TURKEY, SLOVAKIA and UNITED KINGDOM have been added*

	<b>AZERBAIJAN</b>	<b>BULGARIA</b>	<b>CROATIA</b>	<b>CYPRUS</b>	<b>DENMARK</b>
<i>In case your national authorities send information on criminal convictions.</i>					
<b>1.1</b>	YES, Art 22 and bilateral treaties.	YES, Art 22 and bilateral treaties.	YES, Art 22 and bilateral treaties.	--	YES, Art 22
<b>1.2</b>	--	--	--	--	--
<b>1.3</b>	All criminal Convictions	Only enforced convictions	All criminal convictions	--	All criminal convictions
<b>1.4</b>	Only to some states	All states parties	All states parties	--	Only to some states
<b>1.5</b>	Letter via diplomatic channels	Letters through the post service	Notifications to Ministries of Justice	--	by regular mail
<b>1.6</b>	Mainly in English, sometimes in French and Russian (for CIS countries)	Bulgarian and sometimes relevant language for accompanying letters	Croatian	--	Guide text printed in Danish, German, French, and English
<i>In case your national authorities receive information on criminal convictions.</i>					
<b>2.1</b>	YES	YES	YES	Sporadically, YES	YES
<b>2.2</b>	Turkey, Russian Federation, France, Germany etc. No regular time for receipt of such information	Germany, France, Austria, Italy, Turkey, Sweden, Portugal, The Netherlands, Greece, etc...	Germany, Austria, Italy, France ( four times a year) Bosnia, Serbia and Montenegro, Slovenia (several times a year)	Mainly from the Netherlands, Germany and Italy, maybe once a year	Nordic countries, Germany
<b>2.3</b>	YES	YES	YES	Not really	YES
<b>2.4</b>	They enter them in our criminal records. Used for checking criminal background, initiating a request for transfer of the sentenced person etc.	A data base is built, which can be used by the competent Bulgarian authorities, if necessary.	Datas are made available to courts and public prosecutor's offices.	Only sentences given in other Nordic Countries are entered in the criminal records.	The court may regard a sentence imposed in a foreign country as equal to a sentence imposed within the Danish state.
<b>2.5</b>	It is translated and submitted to the appropriate authorities.	Received by the The Ministry of Interior and translated there.	--		The National Commissioner's Office translates the information into Danish.
<i>General opinion.</i>					
	Art 22 is useful.	Art 22 is useful.  All states parties to the MLA convention should fulfill their obligation.  We suggest monitoring of fulfillment of obligations under the provision on a regular basis.	--	--	--

	<b>FINLAND</b>	<b>GEORGIA</b>	<b>GERMANY</b>	<b>IRELAND</b>	<b>ITALY</b>
<i>In case your national authorities send information on criminal convictions.</i>					
<b>1.1</b>	The Ministry of Justice does not automatically release information on convicted foreigners, other than on nationals of other Nordic Countries.  However, the Judicial Registry sends information on convicted foreigners on a regular basis to their home countries.	NO, but we will.	YES, Art 22 and additional agreements	NO	YES, Art 22 and bilateral treaties
<b>1.2</b>		This information is sent as materials about foreign sentenced persons	--	Reservation on art 22	--
<b>1.3</b>		Convictions which provide imprisonment	All criminal convictions	--	Only for crimes
<b>1.4</b>		Each states parties	All states parties except Ireland and Hungary	--	--
<b>1.5</b>		By letter by post	Transmitted in paper form (on CDs to Italy).	--	Registered letter
<b>1.6</b>		In English and with appropriate states in Russian	German	--	English, French (mutual agreements) Italian
<i>In case your national authorities receive information on criminal convictions.</i>					
<b>2.1</b>	Sporadically, YES	YES	YES	YES, through Central Authority and Interpol	YES
<b>2.2</b>	Mainly from the Netherlands, Germany and Italy, maybe once a year	Germany, France, Austria, Check Republic, Portugal (once or twice per year)	Switzerland and Austria (every month). France, Luxembourg, Czech Republic, Poland, Italy, Spain, Greece (once or twice per year)	Austria, Belgium, Estonia, Finland, France, Italy, Luxembourg, Netherlands, Norway, Portugal... (once a year)	--
<b>2.3</b>	Not really	YES	YES	YES	YES
<b>2.4</b>	Only sentences given in other Nordic Countries are entered in the criminal records.	--	To the extent criminal penalties could also be imposed under German law based upon the facts that are the grounds for a foreign conviction, the conviction is recorded on the criminal register.	Receipt of such information is important from an intelligence perspective and for court purposes.	They deal with a recognition procedure by the competent Court of Appeal (depending on birth) and then they enter the recognized conviction in the criminal records.
<b>2.5</b>	--	--	¾ of all information comes from German-speaking states, the remaining information is translated.	Details of convictions provided by foreign jurisdictions are translated when required for court purposes.	The Office of the Department of Justice attends to translate the foreign convictions.
<i>General opinion</i>					
	Article 22 is only efficient on a smaller scale, (eg: Nordic Countries) The Member States of the Council of Europe form a far too large and disparate area for it to function properly.	--	Art. 22 is useful.  Permits to record important data for further criminal proceeding.		Art. 22 is useful.  The realisation of the European Register of Convicted Persons should be very useful. The information could be sent by e-mail and always in one of the official languages of the Union.

	<b>LATVIA</b>	<b>LIECHTENSTEIN</b>	<b>MACEDONIA</b>	<b>NETHERLANDS</b>	<b>NORWAY</b>
	<i>In case your national authorities send information on criminal convictions.</i>				
<b>1.1</b>	Mostly bilateral agreements	YES, Art 22	YES, Art 22	YES, Art 22	YES, Art 22
<b>1.2</b>	Burdensome procedure in Latvia	--	--	--	--
<b>1.3</b>	All criminal convictions	Crimes and misdemeanors relating to our Criminal Code.	All criminal convictions	Serious criminal offences	All criminal convictions
<b>1.4</b>	Only states with which Latvia has bilateral agreements.	All states parties.	Each state party	Each state party	Each state party
<b>1.5</b>	By letter	Diplomatic channel (written form)	by regular mail	by regular mail	by regular mail
<b>1.6</b>	Ministry of justice prepares translation of the judgement	German	Macedonian and one of the languages of the Council of Europe.	Dutch	English
	<i>In case your national authorities receive information on criminal convictions.</i>				
<b>2.1</b>	YES	YES	YES	YES	YES
<b>2.2</b>	Germany, France, Finland, Norway, Italy and Spain (once a year)	Mainly Switzerland and Austria. Twice a year.	From Federal Republic of Germany	Austria, Bulgaria, Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy... (20 states)	France, Italy, Spain, Switzerland, Sweden and Germany (1-2 times a year)
<b>2.3</b>	YES	YES	YES	YES	YES
<b>2.4</b>	Provides necessary information for courts and prosecution offices for accurate determination of the sentence.	Foreign condemnations, will be put down in the national register.	They obtain information as to the pronounced sentences, criminal offences and sanctions.	The information is entered in the judicial documentation register.	The information will be shown at the character reference of the person concerned.
<b>2.5</b>	Summarized and translated by the ministry of interior services.	The Princely Court has to translate the received information into German, if this is necessary.	Translated into Macedonian and dealt with.	A translation into the Dutch language will be made.	Translation into Norwegian at the National Criminal Investigation Service.
	<i>General opinion</i>				
	Art. 22 is useful. Would be more effective if its function was performed by the competent authority which is a holder of information on criminal convictions. Could be useful to examine what European Union is developing.	Art. 22 is useful.	--	The sending of this information should not be manually written.	--

	<b>PORTUGAL</b>	<b>SLOVENIA</b>	<b>SPAIN</b>	<b>SWEDEN</b>	<b>SWITZERLAND</b>
<i>In case your national authorities send information on criminal convictions.</i>					
<b>1.1</b>	Yes, Art 22	YES, Art 22 and bilateral treaties.	YES, Art 22	Yes, Art 22	Oui, Art 22 + accords bilatéraux, dispositions légales...
<b>1.2</b>	--	--	--	--	Problèmes d'application: adresse de l'autorité inconnue, langue désirée...
<b>1.3</b>	All criminal convictions	All criminal convictions	All criminal convictions	All criminal convictions	Toutes les condamnations.
<b>1.4</b>	Each state party	Each state party	To some states	Each state party	19 Etats
<b>1.5</b>	by regular mail	By letter on a special form	by regular mail	by regular mail	Par courrier
<b>1.6</b>	Portuguese	Slovenian	Spanish	Cover letter in English, datas in Swedish	Allemand, Français, Italien.
<i>In case your national authorities receive information on criminal convictions.</i>					
<b>2.1</b>	YES	YES	YES	YES	OUI
<b>2.2</b>	Spain, France, Switzerland, Italy, and Germany	Germany, Austria, Italy and Croatia (at least three times a year)	France, Germany, Belgium, Switzerland, Holland, Portugal, Norway, Austria... (once a year)	Nordic countries, Switzerland, Germany, France, Italy, Austria	Liechtenstein (10x par an), Allemagne, France, Espagne (4x par an)
<b>2.3</b>	YES	YES	YES	YES	OUI
<b>2.4</b>	The information is transmitted to the courts and prosecution services.	The court take into account this information when determining the sentence.	It is attached to the legal proceedings so that it helps, if applicable, to take provisional measures or to determine the degree of the penalty to be imposed.	The prosecutors, the courts and sometimes the police uses the records.	Ces communications de l'étranger renforcent la pertinence des extraits du casier judiciaire, qui est utilisé par les autorités
<b>2.5</b>	It is a problem, we can not afford all translations.	Translation into Slovenian	Translated by official translators or by expert staff belonging to the Subdirección General de Cooperación Jurídica Internacional of the Ministry of Justice.	The National Police Board arranges the translation.	Traduites par le personnel du casier judiciaire (en cas d'avis en allemand, français, italien ou anglais) ou transmises pour traduction à la représentation suisse dans le pays concerné
<i>General opinion.</i>					
	--	Propose the application of the principle of reciprocity, information from criminal records would be accepted in the national languages.	Art 22 is useful.  Exchange of information by telematic data transmission.  An automatic translation system would be required, to connect and standardize both the definition of the crimes and the penalties.	--	L'art 22 est utile, il n'y a pas d'autre solution.  Pose un problème du point de vue de la protection des données de leur utilisation.  Chaque Etat partie intéressé à recevoir des communications de la Suisse devrait indiquer l'adresse de l'autorité où elles doivent être transmises et si l'utilisation de l'allemand, du français ou de l'italien est préférée.

	ALBANIA	AUSTRIA	CZECH REPUBLIC	SLOVAKIA	TURKEY
<i>In case your national authorities send information on criminal convictions.</i>					
1.1	YES, Art 22	Yes + bilateral agreements (for direct contacts)	YES, Art 22 + bilateral treaties	YES, Art 22 and bilateral treaties.	YES, Art
1.2	--	--	--	--	--
1.3	All criminal Convictions	All criminal Convictions	All criminal Convictions	All criminal convictions	All criminal Convictions
1.4	All states parties	All states parties	All states parties	Each contracting party concerned	All states parties
1.5	by regular mail	By regular mail	By regular mail	by regular mail	by regular mail or fax message (when urgent)
1.6	English or French	German	Courts fill the form in Czech language	Slovak, French and English	English, French and German
<i>In case your national authorities receive information on criminal convictions.</i>					
2.1	YES	YES	YES	YES	YES
2.2	From Germany, Greece, France, Denmark, Hungary, Sweden, Netherlands	Mostly from the countries with bilateral treaties (Germany, Hungary, Liechtenstein, Italy, Poland, Slovakia, Switzerland)	Mostly from Austria, Germany, Slovakia and occasionally from other	Mostly from Czech Republic, Austria and Germany (twice a year)	France, Switzerland, Germany, Austria, Sweden, Netherlands, Italy, Spain, Greece...
2.3	YES		YES	Not in principle	YES
2.4	The foreign judgments should be recognized by the court	Convictions of Austrians + citizens with permanent residence are registered	Procedure to register the foreign judgments in the national criminal register	Such information has no legal consequences under the current legislation. It is used as second hand information in the course of criminal prosecution.	The General Directorate of Judicial Registry evaluates these information in accordance with the internal law. Foreign Judicial records are taken into consideration.
2.5	Translated by the Albanian Ministry of Justice	Translated before registration.	Translated	Criminal Register enters the information into the system in Slovak language.	Translated in the DG for Judicial Registry.
<i>General opinion.</i>					
	Art 22 is useful.  The foreign judgments should be recognized by the court and in that case we cannot registered the criminal records immediately.  we are looking for the experience of the other countries with regard to this issue.	Direct channels of communication should be established. Transmission should be more frequent (as soon as available).	Art 22 is useful.  The direct transmission between national registers might be considered.	The added value of this provision is doubtful.  For the future the direct transmission between national registers could be considered. The modern means of communication might be considered as well.	Art 22 is useful.  If this information is sent only English and French, procedures may be speedier. This information should directly be sent to the General Directorate of Judicial Registry. This will prevent additional bureaucracy.



	TURKEY	UNITED KINGDOM			
<i>In case your national authorities send information on criminal convictions.</i>					
1.1	YES, Art	YES, Art 22 or a police to police basis.			
1.2		--			
1.3	All criminal Convictions	All criminal convictions			
1.4		All states parties			
1.5	by regular mail or fax message (when urgent)	by regular mail			
1.6	English, French and German	English			
<i>In case your national authorities receive information on criminal convictions</i>					
2.1	YES	YES			
2.2	France, Switzerland, Germany, Austria, Sweden, Netherlands, Italy, Spain, Greece...	France, Germany			
2.3	YES	Currently only of limited use because it does not generally include enough information to be inputted on our systems			
2.4	The General Directorate of Judicial Registry evaluates these information in accordance with the internal law. Foreign Judicial records are taken into consideration.	Information is sent to relevant Police Service, to be inserted into Police National Computer.			
2.5	Translated in the DG for Judicial Registry.	If not understandable, may be translated in some cases, but this is unlikely.			
<i>General opinion.</i>					
	<p>Art 22 is useful.</p> <p>If this information is sent only English and French, procedures may be speedier.</p> <p>This information should directly be sent to the General Directorate of Judicial Registry. This will prevent additional bureaucracy.</p>	<p>Art 22 is not very useful.</p> <p>The provision as it stands does not work in creating a comprehensive record of a person's European convictions in his State of nationality, because there is no obligation to record foreign information on national databases.</p> <p>Many states do not do so because either the information is in a form which cannot be used (in the UK if it is provided without fingerprints), or because domestic law prevents the recording of foreign information on a national record, or the country in question does not have a central database or any form of electronic database.</p> <p>The draft EU Council Decision on the exchange of information extracted from the criminal record goes some way to improving the application of Article 22</p>			--

## Answers to the questionnaire

### ALBANIA

3- In case your national authorities **send** to other States' authorities information on criminal convictions and subsequent measures against these States' nationals, entered in the criminal records:

1.7 Do they apply article 22 of the MLA convention or other legal bases (which ones?)? **We apply the article 22 of the MLA.**

1.8 If they do not apply Art. 22 or if they apply it rarely, what is the reason for this?-

1.9 Is it applied for all types of criminal convictions or only some convictions (in this case, specify)? **The article 22 of the MLA is applied for all types of criminal convictions.**

1.10 Is the information sent to each States party to the convention, whose national has been convicted in your country? **Usually the information is sent to each states party to the convention.** Or only to some States (in this case, specify)

1.11 By which way is the information transmitted in practice: letter (by which channel), e-mail, fax, other?, **Usually we send them directly by mail, we mean through the Albanian Ministry of Justice.**

1.12 In what language is the information transmitted? **English or French**

4- In case your national authorities **receive** information on criminal convictions and subsequent measures against your State' nationals, entered in the criminal records

2.1 Does your country receive such information? **On the base of the article 22 of the MLA we receive criminal records.**

2.2 From which country and how regularly, approximately, is this information sent? **From Germany, Greece, France, Denmark, Hungary, Sweden, Netherlands. The majority is sent from Germany and Greece.**

2.2 Do your national authorities find this information useful?  
**With regard to this topic we have some comments.**

**Actually we have a problem with the criminal records received by other countries, because in our Criminal Procedure Code it is foreseen that all the foreign judgments should be recognized by the court and in that case we cannot registered the criminal records immediately. Actually within the Ministry of Justice has been set up a working group for resolving the problem of the criminal records received from the other countries. At the moment, we are looking for the experience of the other countries with regard to this issue and how to they deal with those criminal records.**

2.3 What use do they have of it?

2.4 How do they deal with the information transmitted in a foreign language? **The informations are translated from the Albanian Ministry of Justice ( Office of the official translation, into the Department of the International Judicial Cooperation) and send to the competent judicial authority.**

In a general way, do you consider this provision of the convention useful? **We find very useful this provisions.**

Would you have particular comments on the application of this specific provision?

Would you have particular suggestions on the ways to improve the application of this provision?

 **AUSTRIA**

*1. In case your national authorities send to other States' authorities information on criminal convictions and subsequent measures against these States' nationals, entered in the criminal records:*

*1.1. Do they apply Article 22 of the MLA Convention or other legal bases (which ones)?*

In relation to most countries which are parties to the MLA Convention the exchange of information from judicial records is based on Article 22.

However, in relation to some countries bilateral treaties supplementing the MLA Convention provide for direct contacts between the competent authorities (in Austria the Ministry of the Interior). The legal bases for direct exchange of information from judicial records:

In relation to Germany: Article XVI (1) of the bilateral treaty of 31 January 1972;  
 in relation to Hungary: Article XVII (4) of the bilateral treaty of 27 October 1993;  
 in relation to Italy: Article XIII (1) of the bilateral treaty of 20 February 1973;  
 in relation to Liechtenstein: Article XIV (1) of the bilateral treaty of 4 June 1982;  
 in relation to Poland: Article XVII (1) of the bilateral treaty of 2 June 2003;  
 in relation to Switzerland: Article XIV (1) of the bilateral treaty of 13 June 1972;  
 in relation to Slovakia: Article XVII (1) of the bilateral treaty of 20 June 1994.

*1.2. If they do not apply Article 22 or if they apply it rarely, what is the reason for this?*

See above.

*1.3. Is it applied for all types of criminal convictions or only some convictions (in this case, specify)?*

Yes.

*1.4. Is the information sent to each State party to the convention, whose national has been convicted in your country? Or only to some States (in this case, specify)?*

Yes.

*1.5. By which way is the information transmitted in practice: letter (by which channel), e-mail, fax, other?*

In practice the main channel remains the exchange by letter.

*1.6. In what language is the information transmitted?*

In German.

*2. In case your national authorities receive information on criminal convictions and subsequent measures against your State' nationals, entered in the criminal records:*

*2.1. Does your country receive such information?*

Yes.

*2.2. From which country and how regularly, approximately, is this information sent?*

Austria receives this information from States which are parties to the MLA Convention. However the exchange of information from criminal records in relation to Germany, Hungary, Liechtenstein, Italy, Poland, Slovakia and Switzerland is based on the above-mentioned bilateral treaties. All bilateral treaties, except the treaties concluded with Italy and Poland, provide for an exchange 4 times a year. In relation to Italy and Poland an exchange twice a year has been agreed upon. Some States which are parties to the MLA Convention send the information directly to the Ministry of the Interior, some countries send the information once a year, some 4 times a year and some on a regular basis.

*2.3. Do your national authorities find this information useful?*

According to Article 2 (1) of the Criminal Records Act all criminal convictions by foreign courts of Austria citizens and persons with permanent residence in Austria have to be registered (respecting time limits for erasion in the database of criminal records). In addition some international instruments oblige Member States to exchange information from criminal records with regard to specific crimes.

*2.4. What use do they have of it?*

See above.

*2.5. How do they deal with the information transmitted in a foreign language?*

Information transmitted in a foreign language is first translated into German before entering it into the database of criminal records.

In order to facilitate a faster exchange of information from criminal records direct channels between the competent authorities should be established. The information from criminal records should be forwarded on a regular basis (as soon as relevant information is available).

## AZERBAIJAN

- 1.1** Yes, our national authorities send to other States' authorities information on criminal convictions and subsequent measures against these States' nationals, entered in our criminal records
- 1.2** In this case they apply article 22 of MLA convention if the State, whose national has been convicted in our country, is a party to this convention. But sometimes they also apply bilateral treaties exist between our country and the country concerned.
- 1.3** –
- 1.4** It is applied for all types of criminal convictions.
- 1.5** Yes, it is foreseen to send this kind of information to each State party to the convention whose nationals have been convicted in our country. But since MLA entered in force in our country on 02/10/2003 (recently), in practice our national authorities sent this information only to some States whose nationals have been actually convicted in our country.
- 1.6** By which way is the information transmitted in practice: letter (by which channel), e-mail, fax, other?
- 1.7** This information is mainly transmitted by letter via diplomatic channels (but sometimes through other channels such as Interpol channels)
- 1.8** Mainly in English, sometimes in French and Russian (for CIS countries)
- 2.1** Yes, we receive such information on convictions against our State's nationals
- 2.2** We receive such information mainly from Turkey, Russian Federation, France, Germany etc. There's no regular time for receipt of such information (Sometimes we receive them upon the person has been convicted)
- 2.3** Yes, our national authorities find this information useful.
- 2.4** They enter them in our criminal records. This information can be used for checking criminal background when it is required in future including future criminal offences, also for initiating a request for transfer of the sentenced person etc.
- 2.5** It does not cause a serious problem as it is translated and submitted to the appropriate authorities.

In a general way, do you consider this provision of the convention useful?

Yes, we consider this provision of the convention useful

Would you have particular comments on the application of this specific provision?

-

Would you have particular suggestions on the ways to improve the application of this provision?

## BULGARIA

1.1. The national authorities of the Republic of Bulgaria **send** yearly to each country, with which it has concluded an agreement, information on convictions entered in criminal records registers and rendered against its citizens. National authorities apply article 22 of the European Convention on mutual assistance in criminal matters regarding all States parties to the Convention. Information concerning persons – foreign citizens, convicted in Bulgaria is also sent to other states on the basis of concluded bilateral agreements for legal assistance.

1.3. The Ministry of Justice of the Republic of Bulgaria in its capacity as a Central authority under MLA convention sends information on **enforced convictions**, pronounced against citizens of the States parties to the Convention and to the bilateral agreements for legal assistance

1.4 Information is sent to all states parties to the convention whose citizens have been convicted in Bulgaria.

1. 5. The information is sent by letters through the post service.

1.6. Bulletins for criminal record of the persons are made in Bulgarian language and accompanying letters – in the relevant language in accordance with declarations of the states parties to the MLA convention or subject to provisions of bilateral agreements for legal assistance.

2.1 Bulgarian national authorities **receive** information on criminal convictions rendered abroad against Bulgarian citizens entered in the criminal records. Information is received irregularly and not from all states parties to the MLA convention.

2.2 Germany, France, Austria, Italy, Turkey, Sweden, Portugal, The Netherlands, Greece, The Check Republic, Poland, etc, provide this information most regularly.

2.3 National authorities find this information useful, in particular to observe the Shengen regime.

The Ministry of Interior receives the information and the bulletins for criminal records are translated there. A data base is built, which can be used by the competent Bulgarian authorities, if necessary.

### **In a general way, do you consider this provision of the convention useful?**

With reference to the above we are in the opinion that the said provision of the convention is particularly useful for Bulgarian authorities in their work, which need that kind of information. This is also the only official data base of convictions of Bulgarian citizens abroad.

### **Would you have particular comments on the application of this specific provision?**

It would be useful if all states parties to the MLA convention fulfill their obligation for exchange of information under art. 22 of the convention.

**Would you have particular suggestions on the ways to improve the application of this provision?**

We suggest monitoring of fulfillment of obligations under the provision on a regular basis.



## CROATIA

- 1.1** The Ministry of Justice of the Republic of Croatia keeps the record for all persons on whom final sentences were passed for having committed criminal offences in the territory of the Republic of Croatia. The record is also kept for persons who were convicted for criminal offences by foreign courts, provided that such sentences were delivered to the authorities of the Republic of Croatia.

The Ministry of Justice of the Republic of Croatia notifies the country about sentences and subsequent measures passed by Croatian courts on foreign nationals of that country and that are entered in the penal record, by applying Art.22 of the Convention, or in case of a national of the country having signed a bilateral contract on legal aid with Croatia by applying that contract.

- 1.2** Answered under 1.1.
- 1.3** When notifying, the Republic of Croatia does not make a selection with regard to a type of the offence committed. Notifications on final sentences for all criminal offences are provided.
- 1.4** Notifications from this record are delivered to all countries that signed the Convention.
- 1.5** The Ministry of Justice of the Republic of Croatia delivers notifications to Ministries of Justice of States Parties to the Convention. Exceptionally, notifications are forwarded through diplomatic channels in cases where a State Party to the Convention has put such qualification, or where this is provided by the bilateral contract (when notifying countries having signed the bilateral contract governing these matters with the Republic of Croatia).
- 1.6** Notifications to be forwarded are in Croatian.

- 2.1** The Republic of Croatia receives from States Parties to the Convention notifications on condemning sentences imposed on Croatian nationals for having committed criminal offences in the territory of those states.

- 2.2** Notifications are mostly received from States Parties to the Convention.

Data from the record are made available to courts and public prosecutor's offices when criminal proceedings against a person for whom such data are requested are pending, or when pardon proceedings are in progress. Exceptionally, data can be given to governmental bodies, too, at their request, if a person is to be entrusted with jobs and assignments in the civil service.

Such data are useful in specific criminal or pardon proceedings because decisions to be made in such proceedings depend partly on them.

- 2.3** Data on previous convictions of a person influences specific criminal proceedings with regard to the choice of the type and duration of a penal sanction. It is also a fact to be considered whether a convicted person applying to be pardoned, had been convicted before or after the sentence, based on which the person serves his/her sentence.
- 2.4** With regard to the delivery statistics, the Federal Republic of Germany delivers most penal record lists with data on criminal offences committed by Croatian nationals on its territory. They are delivered four times a year (each quarter) on average. Such lists are also delivered by the Republic of Austria, the Republic of Italy and the Republic of France, who also send them each three months. Bosnia and Herzegovina, Serbia and Montenegro and the Republic of Slovenia deliver penal record lists several times during the year (sometimes during the month). Other countries send their lists once to twice a year, depending on their quantity.

 **CZECH REPUBLIC**

5- In case your national authorities **send** to other States' authorities information on criminal convictions and subsequent measures against these States' nationals, entered in the criminal records:

1.13 Do they apply article 22 of the MLA convention or other legal bases (which ones)?

Yes, Article 22 of the MLA convention is applied predominantly. Bilateral treaties constitute other legal basis.

1.14 If they do not apply Art. 22 or if they apply it rarely, what is the reason for this?

—

1.15 Is it applied for all types of criminal convictions or only some convictions (in this case, specify)?

All criminal convictions.

1.16 Is the information sent to each States party to the convention, whose national has been convicted in your country? Or only to some States (in this case, specify)

All States parties.

1.17 By which way is the information transmitted in practice: letter (by which channel), e-mail, fax, other?

Letter of the Ministry of Justice of the Czech Republic sent by regular mail.

1.18 In what language is the information transmitted?

**The multilingual printed form (Czech, French and Russian) is used, but filled in (by the courts) in Czech language.**

6- In case your national authorities **receive** information on criminal convictions and subsequent measures against your State' nationals, entered in the criminal records

2.1 Does your country receive such information?

Yes.

2.2 From which country and how regularly, approximately, is this information sent?

**From Austria, Germany and Slovakia several times a year. On irregular basis are information received also from the Netherlands, Italy, France, Poland, Hungary, Portugal and some other European States.**

2.2 Do your national authorities find this information useful?

**Yes.**

2.3 What use do they have of it?

**If the information indicates that the sentence of imprisonment of more than 1 year had been imposed, the Ministry of Justice initiates a mutual legal assistance request to the competent authority of the sentencing State in order to obtain a certified copy of the judgment. After obtaining such a copy the judgment is translated and reviewed in order to find out whether formal requirements for entry of the conviction into the Czech Criminal Register (i.e. double criminality and gravity of the offence) are met. If so, the Ministry of Justice submits a motion to the Supreme Court to enter the conviction into the Czech Criminal Register.**

2.4 How do they deal with the information transmitted in a foreign language?

**See above sub 2.3**

In a general way, do you consider this provision of the convention useful?

**Article 22 is useful.**

Would you have particular comments on the application of this specific provision?  
Would you have particular suggestions on the ways to improve the application of this provision?

**The direct transmission between national registers might be considered.**

**🇨🇵 CYPRUS**

**1.** No Answers can be provided for Part 1 of the Questionnaire at this stage. It is expected that we will be able to send the relevant information to the other State's authorities by the end of this year.

**2.**

**2.1** Yes

**2.2** From the following countries: Germany, Austria, United Kingdom, France, Netherlands, Sweden, Luxembourg  
Most of the countries respond once a year, and some other report every new case.

**2.3** Yes

**2.4** This information is forwarded to the Chief of the Police and is considered very useful for the opening of a criminal record of the convicted national.

**2.5** The information received in a foreign language is translated into Greek.

## DENMARK

**1.1.** The Danish authorities apply article 22 of the MLA convention. The National Commissioner's Office, which is the authority responsible for the handling of data in the Danish Central Crime Register, have thus far informed especially the Nordic countries and also Germany and Greece of criminal decisions, convictions etc. regarding their nationals according to article 22 of the MLA convention. The National Commissioner's Office has recently taken an initiative to ensure that all member states to the MLA convention are informed of criminal convictions according to article 22.

**1.2.** See question 1.1.

**1.3.** The Danish Central Crime Register is divided into a section regarding criminal decisions and a section containing information gathered through criminal investigations. However, only information contained in the former, cf. annex 1 of Order No. 218 of 27 March 2001 on the handling of personal data in the Central Crime Register (only available in Danish), can be shared with foreign authorities according to article 22 of the MLA convention. The information includes (not exhaustive):

- convictions (including penalties consisting of a fine) for violating the Danish Criminal Code,
- convictions (excluding penalties consisting of a fine) for violating other legislation,
- decisions in military criminal cases in which imprisonment is imposed without conviction,
- withdrawals of charge, unless the withdrawal is unconditioned,
- pardons, etc.

Decisions deriving from private prosecution are not obtained in the Danish Central Crime Register and are accordingly not subject to exchange between national authorities according to article 22 of the MLA convention.

**1.4.** See question 1.1.

**1.5.** Information is sent by normal post on a standard form. The guide text on the form is printed in Danish, German, French, and English. The decision itself is only printed in Danish, but the most common expressions are translated into the four languages on the back of the form.

- 1.6.** See question 1.5.
- 2.1.** See question 1.5.
- 2.2.** (1) The number of countries providing information on criminal convictions and the frequency in which they provide it vary. However, information from the Nordic countries and Germany is received on a regular basis.
- 2.3** (2) The information is very useful for Danish criminal courts and the prosecution service. In connection with recidivism, cf. Section 84, Subsection 2, of the Danish Criminal Code the court may regard a sentence imposed in a foreign country as equal to a sentence imposed within the Danish state.
- 2.4** See question 2.2.
- 2.5** The Danish authorities have mainly received information about criminal decisions, convictions, etc. in other Nordic languages, English, German, French, and Italian. The National Commissioner's Office translates the information into Danish in order to consider if the information should be obtained in the Danish Central Crime Register. Recently, Danish authorities have received information in Polish and Dutch, and the National Commissioner's Office is currently considering how to handle the translation of this information.

**🇫🇮 FINLAND****Questions 1.1-1.6:**

Finland does not automatically release information on convicted foreigners, other than on nationals of other Nordic Countries, but is prepared to do so upon request.

**2.1:** Sporadically, yes

**2.2:** Mainly from the Netherlands, Germany and Italy, maybe once a year

**2.3:** Not really, since only sentences given in other Nordic Countries are entered in the criminal records. Although there is a legal obligation to take foreign sentences into account when meting out a punishment, it is not followed in every-day court practise. The reason is the randomness with which foreign sentences come into the knowledge of the court and the ensuing non-uniform treatment of the defendants.

Generally speaking, a provision like Article 22 is very useful on a smaller scale, for example between the Nordic Countries or the Member States of the EU where conformity and compliance can be guaranteed. However, from Finland's point of view, the Member States of the Council of Europe form a far too large and disparate area for it to function propely.


**GEORGIA**

FROM :

PHONE NO. :

FEB/ 11 1997 06:31PM P2

1- in case your national authorities send to other States' authorities information on criminal convictions and subsequent measures against these States' nationals, entered in the criminal records:

1.1 Do they apply article 22 of the MLA convention or other legal bases (which ones)?

*No, we do not apply article 22 of the MLA Convention, but in future we will*

1.2 If they do not apply Art. 22 or if they apply it rarely, what is the reason for this?

*Because this information is sent as materials about foreign sentenced persons*

1.3 Is it applied for all types of criminal convictions or only some convictions (in this case, specify)?

*They apply for convictions which provides imprisonment*

1.4 Is the information sent to each States party to the convention, whose national has been convicted in your country? Or only some States (in this case, specify)

*The information is sent to each States party*

1.5 By which way is the information transmitted in practice: letter (by which channel), e-mail, fax, other?

*The information is transmitted by Letter by post*

1.6 In what language is the information transmitted?

*In English and with appropriate States in Russian*

2- In case your national authorities receive information on criminal convictions and subsequent measures against your State' nationals, entered in the criminal records:

2.1 Does your country receive such information?

*Yes, we have received such information*

2.2 From which country and how regularly, approximately, this information is sent?

*From Germany, France, Austria, Czech Republic, Portugal (approximately once or twice per year).*

2.3 Do your national authorities find this information useful?

*Yes they do*

2.4 What use do they have of it?



FROM :

PHONE NO. :

FEB. 11 1997 06:31PM P3

2.5 How do they deal with the information transmitted in a foreign language?

In a general way, do you consider this provision of the convention useful?

Would you have particular comments on the application of this specific provision?

Would you have particular suggestions on the ways to improve the application of this provision?

## GERMANY

### 1.

**Re: 1.1** The exchange of information on criminal convictions and subsequent measures takes place with those states that have signed the European Convention on Mutual Assistance in Criminal Matters on the basis of Article 22 of the Convention and, when applicable, on the basis of additional agreements.

The exchange of information on criminal convictions and subsequent measures with Bosnia-Herzegovina, Monaco, and Tunisia (these countries have not signed the Convention) takes place on the basis of the following agreements:

- Bosnia-Herzegovina: Agreement of 1 October 1971 Concerning Mutual Assistance in Criminal Matters (BGBl. 1974 II p. 1167; 1975 II p. 228; 1992 II p. 1196)
- Monaco: Agreement of 21 May 1962 Concerning Mutual Assistance in Criminal Matters (BGBl. 1964 II p. 1297; 1965 II p. 405)
- Tunisia: Agreement of 19 July 1966 Concerning Extradition and Mutual Assistance in Criminal Matters (BGBl. 1969 II p. 1157; 1970 II p. 127)

**Re: 1.2** See answer to 1.1.

**Re: 1.3** The information that is exchanged contains all criminal convictions that are recorded in the central register.

**Re: 1.4** The exchange of information takes place with all states that have signed the Convention with the exception of Ireland and Hungary. These states have stated their reservations regarding an exchange of information on criminal convictions and subsequent measures in the following notices:

- Ireland: Notice of 9 May 1977 (BGBl. 1977 II p. 1323)
- Hungary: Notice of 20 December 1993 (BGBl. 1994 II p. 297).

**Re: 1.5** The information is transmitted to all states in paper form with the exception of Italy. Information is transmitted to Italy on CDs.

**Re: 1.6** The information is prepared in German.

## 2.

- Re: 2.1** The Federal Republic of Germany regularly receives information on criminal convictions and subsequent measures regarding convictions of German nationals by foreign courts.
- Re: 2.2** A large amount of the information comes from Germany's neighboring states. This is particularly so in regard to Switzerland and Austria where a large number of information exchanges take place (almost 74% of all information exchanged) on a regular basis (every month). In addition, France, Luxembourg, the Czech Republic, Poland, and those states to which Germans often travel (Italy, Spain, Greece) regularly transmit information on criminal matters and subsequent measures, usually once or twice per year.
- Re: 2.2** The Federal Republic of Germany finds this information useful.
- Re: 2.3** To the extent criminal penalties could also be imposed under German law based upon the facts that are the grounds for a foreign conviction, the conviction is recorded in the criminal register. The person affected is given the opportunity to be heard on the matter.
- Re: 2.4** The information exchanged generally is received in the official language of the transmitting state. Approximately  $\frac{3}{4}$  of all information on criminal convictions and subsequent measures comes from German-speaking states (Switzerland, Austria) and the remaining information is translated.

In general, the rule provided for in Art. 22 of the Convention has proven successful in practice. In the vast majority of cases the data contained in the information on criminal convictions and subsequent measures is sufficient to record the criminal law decision reached against a German citizen in a foreign state in the criminal register and, when applicable, to be able to take account of it in a further criminal proceeding.

## IRELAND

1. Ireland has a reservation on Article 22 of the 1959 Convention as follows:  
 “The Government of Ireland will not notify criminal convictions or subsequent measures under Article 22 except insofar as the organisation of its judicial records allow of so doing.” In the absence of a centralised database of all convictions we maintain our reservation.
  - 1.1 N/A
  - 1.2 See 1 above.
  - 1.3. N/A
  - 1.4 N/A
  - 1.5 N/A
  - 1.6 N/A
2. Ireland receives information on criminal convictions on nationals through two channels, through the Central Authority and through Interpol.
  - 2.1 Yes
  - 2.2. Information was received under Article 22 through the Central Authority (2003–end April 2005) from the following countries:  
 Austria, Belgium, Estonia, Finland, France, Italy, Luxembourg, Netherlands, Norway, Portugal, Republic of Belarus, Spain, Sweden and the US. Ireland receives approximately 1 notification a year under Article 22 from each of these countries.  
  
 Interpol receives information from 182 States (including E.U. member states) regarding criminal convictions. This information is dealt with on a police to police basis through the National Central Bureau. There are no statistics available.
    - 2.3. Yes.
    - 2.4. All information received is obviously of interest from an intelligence perspective. Details of these convictions may be given in an Irish court when requested by the presiding judge.
    - 2.5. Details of convictions provided by foreign jurisdictions are translated when required for court purposes.

Receipt of such information is important from an intelligence perspective and for court purposes.

 ITALY

**1.1** Yes, they do together with possible bilateral agreements between States.  
The list of these States is on [www.Giustizia.it](http://www.Giustizia.it).

**1.2** They always apply it and there are not obstacles.

**1.3** It is applied only for crimes.

**1.4** See the answer to the question 1.1

**1.5** The information is transmitted by registered letter from Department to Department, according to convention's provisions, at least four times in the year.

**1.6** In English or in French, according to mutual agreements, otherwise in Italian.

**2.1** Yes, regularly.

**2.2** From countries included on the above-mentioned list.

**2.3** Yes, very useful.

**2.4**

**2.5** They deal with a recognition procedure by the competent Court of Appeal (depending on birth) and then they enter the recognized conviction in the criminal records.

**2.6** The Translations Office of the Department of Justice attends to translate the foreign convictions.

In a general way, do you consider this provision of the convention useful?

Yes, very useful.

Would you have particular comments on the application of this specific provision?  
the realization of the European Register of Convicted Persons should be very useful.

Would you have particular suggestions on the ways to improve the application of this provision?

The information could be sent by e-mail and always in one of the official languages of the Union.

LIST OF BILATERAL AGREEMENTS IN THIS MATTER BETWEEN ITALY AND AN OTHER COUNTRY IN EUROPE (from general list in WWW. Giustizia.it)

- AUSTRIA . Additional agreement to European Convention on Mutual Assistance in Criminal Matters 20-04-1959, to improve its application. (Vienna, 1973).
- GERMANY . Additional agreement to European Convention on Mutual Assistance in Criminal Matters 20-04-1959, to improve its application. (Rome, 1979).
- MONACO. Convention for criminals' extradition. (Rome, 1939).
- S. MARINO. Convention of friendship and good neighbourhood. (Rome, 1939).
- SWISS Agreement between Italy and Swiss in addition to European Convention on Mutual Assistance in Criminal Matters 20-04-1959, to improve its application. (Rome, 1998)

**Implementation of Article 22 of the European Convention on Mutual Assistance  
in Criminal Matters**

**Questionnaire**

**1. In case your national authorities send to the other States' authorities information on criminal convictions and subsequent measures against these States' nationals, entered in the criminal records:**

**1.1 Do they apply Article 22 of the MLA convention or other legal bases? If they do not apply Article 22 or if they apply it rarely, what is the reason for this?**

Latvia has concluded number of bilateral agreements on mutual assistance: with the Russian Federation, Ukraine, Belarus, Uzbekistan, Kyrgyz Republic, Moldova, Lithuania, Estonia, and Poland. In accordance with these agreements, Latvian courts inform the Ministry of Justice of the Republic of Latvia, when the citizens of those States are convicted in Latvia. Therefore, the Ministry of Justice provides copies of judgments to the States, with which Latvia has bilateral agreements, when they citizens are convicted in Latvia.

Generally, Latvian courts inform the Ministry of Interior, when national of other Contracting State is convicted by Latvian courts. The Information centre of the Ministry of Interior is entering, processing and maintaining the information of such convictions in the special Register. Therefore, the Ministry of Justice does not have fullest information about other Contracting State's nationals convictions in Latvia and there are difficulties arising from the exercise of the function provided by the Article 22, because the Ministry of Justice is only an intermediary between the Information centre of the Ministry of Interior and the Ministries of Justice of the Contracting States. As a result of this burdensome procedure the Ministry of Justice does not send information on criminal convictions and subsequent measures to Contracting States, which are parties to the MLA convention, except to those States, with which Latvia has concluded bilateral agreements.

**1.2 Is it applied for all types of criminal convictions or only some convictions (in this case, specify)**

Latvia provides information to the States, with which Latvia has concluded bilateral agreements on all types of criminal convictions. In accordance with the provisions of the bilateral agreements, the Ministry of Justice sends copies of judgments; this includes information on criminal convictions and subsequent measures.

The Law on Criminal Convictions Register provides a list of information that is necessary to include in the records and that information is very broad. In accordance with the Law on Criminal Convictions Register the information entered in the criminal records includes all types of criminal convictions. Nevertheless, the Ministry of Interior, under which subordination is the Information center, is not directly connected to the performance of functions under Article 22 of the MLA convention.



**1.3 Is the information sent to each States party to the convention, whose national has been convicted in your country? Or only to some States (in this case, specify)**

The information is sent to the States with which Latvia has bilateral agreements. (see question 1.1).

**1.4 By which way is the information transmitted in practice: letter, e-mail, fax, other?**

The copies of judgments are transmitted to the States, with which Latvia has bilateral agreements, in accordance with provisions of the bilateral agreements, which is by letter.

**1.5 In what language is the information transmitted?**

The Ministry of Justice always prepares translation of the judgments; for example, to Ukraine, Russian Federation and Belarus the language of translation is Russian, to Poland – English.

**2. In case your national authorities receive information on criminal conviction and subsequent measures against your State' nationals, entered in the criminal records**

**2.1 Does your country receive such information?**

Latvia receives information on criminal convictions and subsequent measures.

**2.2 From which country and how regularly, approximately, is this information sent?**

The information is received from Germany, France, Finland, Norway, Italy, and Spain. Generally information on criminal convictions and subsequent measures is received once a year. However, Germany sends information more often, because it also includes administrative offences.

**2.3 Do your national authorities find this information useful?**

National authorities, namely, the Latvian courts and prosecution office find this information useful.

**2.4 What use do they have of it?**

The Article 24 of the Latvian Criminal law provides multiplicity of criminal offences, which means the commission by one person of two or more separate criminal offences which correspond to the constituent elements of several criminal offences, or to the constituent elements of only one criminal offence, but which are not encompassed by the unitary purpose of the offender, and also is the commission by a person of one criminal offence which corresponds to the constituent elements of at least two different criminal offences. Multiplicity of criminal offences is constituted by repetition, aggregation and recidivism of criminal offences.



The information on previous convictions and subsequent measures provides necessary information for courts and prosecution office for accurate determination of the sentence. Therefore, the information provided by other states is useful.

**2.5 How do they deal with the information transmitted in a foreign language?**

Although other Contracting Parties generally send information in their own language, the main information, namely, name, surname, description of the offence etc. is provided in English. When the Ministry of Justice receives the information from other States, it sends the information to the Information center of the Ministry of Interior, which summarizes, processes and stores the information on convictions of Latvian citizens in the Contracting States.

**In a general way, do you consider this provision of the convention useful?**

The Ministry of Justice finds that this provision of the convention is useful.

**Would you have particular comments on the application of this specific provision?**

In our opinion the functions provided by Article 22 would be performed more effectively, if the Article 22 function would be performed by the competent authority that is a holder of information on criminal convictions. Latvia is considering the possibility of making a declaration addressed to the Secretary General of the Council of Europe in accordance with Article 4 of the Second Additional Protocol to the European Council Convention on Mutual Assistance in Criminal Matters.

We are aware that there are problems in Latvia to perform effectively the Article 22 of the MLA convention. Therefore, we already initiated necessary actions to resolve the internal cooperation problem of sending the information to other Contracting Parties.

**Would you have particular suggestions on the ways to improve the application of this provision?**

The exchange of information on convictions is developing in the European Union. Several proposals have been introduced: Council decision on the exchange of information extracted from the criminal records; Commission White paper on exchanges of information on convictions and the effect of such convictions in the European Union. These instruments are intended to fasten and increase frequency of transmission of information on criminal convictions. As a result, it would be necessary to examine the possibility also at the level of the Council of Europe, enhancing exchange of information on conviction, to ensure exchange of information more frequently than once in a year.

## LIECHTENSTEIN

- 1.1** Liechtenstein authorities apply article 22 of the MLA convention.
- 1.2** -
- 1.3** Liechtenstein authorities apply it for crimes and misdemeanors relating to the Liechtenstein Criminal Code.
- 1.4** Liechtenstein authorities send this information to each State, which is party of the MLA convention.
- 1.5** Liechtenstein authorities (in practice: the Liechtenstein Princely Court via the Chancellory of Government) send the information via the diplomatic channel (in written form) to the foreign authorities.
- 1.6** Liechtenstein authorities transmit this information in German.
- 2.1** Yes.
- 2.2** Liechtenstein authorities received e.g. in 2004 such information from various member States (mainly from Switzerland and Austria), and in 16 cases the Princely Court put this information down in the national register (of sentenced persons). Usually we receive these information two times a year.
- 2.3** Of course.
- 2.4** Foreign condemnations, which constitute a crime or misdemeanor under Liechtenstein Law, will be put down in the national register (of sentenced persons).
- 2.5** Princely Court has to translate the received information into German, if this is necessary.

In a general way, do you consider this provision of the convention useful?

Yes.

Would you have particular comments on the application of this specific provision?

No.

Would you have particular suggestions on the ways to improve the application of this provision?

No.

## MACEDONIA

In connection with the Questionnaire on Article 22 of the European Convention on Mutual Legal Assistance in Criminal Matters, the Ministry of Justice of the Republic of Macedonia applies Article 22, that is, communicates the criminal judgments to the competent bodies of the states whose nationals they are.

At the same time it communicates the reports on pronounced sentences referring to sentenced persons, as well as amnesties of foreign nationals.

Foreign states communicate to the Ministry of Justice criminal sentences and reports on pronounced sentences for sentenced persons.

**1.1** Article 22 applies.

**1.2** /

**1.3** It is applied to all pronounced sanctions.

**1.4** It is transmitted to all States Parties to the Convention, while bilateral agreements apply to the others.

**1.5** Letter.

**1.6** It is transmitted in Macedonian and in one of the languages of the Council of Europe.

**2.1** Yes.

**2.2** From Federal Republic of Germany.

**2.3** We find the information useful.

**2.4** They obtain information as to the pronounced sentences, criminal offences and sanctions.

**2.5** If the information is in a foreign language it is translated into Macedonian and dealt with.

We find this provision useful, that is, the new incriminating offences committed by our nationals abroad are registered.

There are no particular comments as to the application of this Article of the Convention.

There are no particular suggestions as regards the application of this Article of the Convention.

## NORWAY

**1.1** Norwegian authorities apply article 22 of the MLA convention when they send information on criminal convictions against other States' nationals.

**1.2** Information is sent approximately 2-4 times a year.

**1.3** It is applied for all types of criminal convictions.

**1.4** The information is sent to each States party to the convention whose national has been convicted in Norway. (in 2003: 23 countries, in 2004: 27 countries and 2005 (so far): 24 countries)

**1.5** The information is transmitted by regular mail from the Norwegian Ministry of Justice and the Police to the central authority in the State concerned.

**1.6** The information is transmitted in English.

**2.1** Yes, Norway receives such information.

**2.2** In 2003, information was sent from Switzerland and Germany. In 2004, information was sent from France, Italy, Spain, Switzerland, Sweden and Germany. So far in 2005 we have received information from France, Switzerland and Germany. The information is sent approximately 1 – 2 times a year.

**2.3** Yes, Norwegian authorities find this information useful.

**2.4** The information is entered into the Norwegian criminal records. The information will be shown at the character reference of the person concerned.

**2.5** Information transmitted in a foreign language is translated into Norwegian by the translators at the National Criminal Investigation Service (Kripos)

## NETHERLANDS

**1.1** the sending of the information to several ministries of Justice is based on art. 22 of the MLA convention.

**1.2** see answer under 1.1

**1.3** all penal acts which are according to Dutch law considered as serious criminal offences.

**1.4** to all Parties of the MLA convention.

**1.5** In a letter which will be sent by post.

**1.6** In Dutch.

**2.1** Yes.

**2.2** The following Parties of the Convention has sent us regularly the information mentioned in art. 22 MLA Convention: Austria, Bulgaria, Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy, Liechtenstein, Luxembourg, Norway, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom.

**2.3** Yes.

**2.4** The information is entered in the judicial documentation register.

**2.5** A translation into the Dutch language will be made.

In a general way, do you consider this provision of the convention useful?

Answer: Yes.

Would you have particular comments on the application of this specific provision?

Answer: No.

Would you have particular suggestions on the ways to improve the application of this provision?

Answer: Yes. The sending of this information should not be manually written.

**🇵🇹 PORTUGAL**

- 1.1 Oui, l'article 22 de la Convention Européenne est appliqué.
- 1.2 Oui, elle concerne toutes les décisions de condamnation aussi bien que celles, rendues postérieurement, mais qui font objet d'inscription dans le casier judiciaire.
- 1.3 L'information concernée n'est envoyée qu'aux États parties de la Convention.
- 1.4 L'information est transmise par lettre, qui envoie une copie de la décision judiciaire.
- 1.5 Elle est transmise en langue portugaise.
- 2.1 Le Portugal reçoit ce type d'information d'un certain nombre d'États, dont l'Espagne, l'Allemagne, l'Italie, la Suisse et la France.
- 2.2 Oui.
- 2.3 L'information provenant du casier judiciaire est transmise aux tribunaux pour des fins d'investigation criminelle, d'instruction de procédures pénales ou d'exécution de peines.
- 2.4 En fait la traduction des informations concernant le casier judiciaire, qui arrivent toujours en langue étrangère, pose des problèmes une fois qu'il n'y a pas assez de moyens (traducteurs) disponibles pour assurer une traductions systématique des informations reçues.

## SLOVAKIA

7- In case your national authorities **send** to other States' authorities information on criminal convictions and subsequent measures against these States' nationals, entered in the criminal records:

1.19 Do they apply article 22 of the MLA convention or other legal bases (which ones)?

In most cases Article 22 of the MLA convention is applied. Other legal basis can be found in various bilateral treaties.

1.20 If they do not apply Art. 22 or if they apply it rarely, what is the reason for this?  
**See answer to the question 1.1.**

1.21 Is it applied for all types of criminal convictions or only some convictions (in this case, specify)?

It is applied for all types of criminal convictions.

1.22 Is the information sent to each States party to the convention, whose national has been convicted in your country? Or only to some States (in this case, specify)

The information is sent to each Contracting Party concerned.

1.23 By which way is the information transmitted in practice: letter (by which channel), e-mail, fax, other?

The information from the Slovak Republic is usually transmitted by a regular mail, in rare cases by fax. The same applies to the incoming information from the foreign criminal registers. The information is forwarded by the Ministry of Justice of the Slovak republic. The foreign authorities send their information either to the Ministry of Justice or the General Prosecutor's Office. Occasionally the information is received via diplomatic channels.

1.24 In what language is the information transmitted?

**The Slovak Republic transmits the information on multilingual forms (Slovak, French and English), but the information is filled in by the court in Slovak.**

8- In case your national authorities **receive** information on criminal convictions and subsequent measures against your State' nationals, entered in the criminal records

2.1 Does your country receive such information?

Yes, the Slovak Republic receives such information from certain States on a regular basis.

2.2 From which country and how regularly, approximately, is this information sent?

**No precise statistical data available, in general, but most incoming information are from the Czech Republic, Austria and Germany, usually at least twice a year. Occasionally, we receive information also from Italy, France, Poland, Hungary, Sweden and some other European States.**

2.2 Do your national authorities find this information useful?

**Not in principle, since such information has no legal consequences under the current legislation. According to it, a foreign criminal judgment cannot have any legal consequences in the Slovak Republic, unless it was enforced in Slovakia i.e. the sentenced person served his sentence fully or partially in Slovakia. Consequently, such information cannot, in itself, be used for purposes of evidence in criminal proceedings, sentencing (repeat offences) or ne bis in idem effects. In some cases this information, however, can be used (indirectly) as basis for further examination of the case and it can lead to the termination of criminal proceedings for the same offence.**

2.3 What use do they have of it?

**See also answer to 2.2. This kind of information is used as a second hand information in the course of criminal prosecution, as well as evidence of integrity and reliability in some other areas outside criminal law.**

2.4 How do they deal with the information transmitted in a foreign language?

**The Criminal Register enters the information into the system in Slovak language (having translated into from the incoming language) and consequently other Slovak authorities have access to the information in Slovak.**

In a general way, do you consider this provision of the convention useful?

Currently, the use of the information only helps to complete the information about the Slovak national. In general we could argue, that without any legal consequences of the foreign judgments, the added value of this provision is doubtful.

Would you have particular comments on the application of this specific provision?  
Would you have particular suggestions on the ways to improve the application of this provision?

**For the future the direct transmission between national registers could be considered. The modern means of communication might be considered as well.**



## SLOVENIA

**1.1** The authority in charge of keeping information on criminal convictions and other measures both for nationals of Slovenia and for nationals of other states is Ministry of Justice (Department for criminal record and record on educational measures), which keeps the criminal records on the basis of information sent by courts.

The information to other states regarding the convictions of foreign nationals is therefore sent to states whose national the convicted person is either on the basis of 1959 MLA convention or on the basis of bilateral agreement with that state.

**1.2** Art. 22 is applied.

**1.3** Art. 22 of the 1959 MLA convention is applied for all convictions that are entered in criminal records in accordance with domestic legislation.

According to Art. 105 of the Penal Code of the RS, the criminal record contains the following information: personal data on perpetrators of criminal offences; information on the sentences, safety measures, suspended sentences and judicial admonitions imposed; the remitted sentences referring to the perpetrators of which a record is being kept, as well as the legal consequences incident to such sentences and measures; later alterations of convictions contained in the criminal record; information on the serving of sentences and on the annulment of records of wrongful convictions.

A special record is kept with respect to educational measures. This includes personal data on juvenile offenders, information on the educational measures applied and carried out, as well as all other information relating to the implementation of educational measures.

**1.4** In general, information is sent to each state party to the convention.

**1.5** In practice, information is sent on a special form (in letter), to the Ministry of Justice of respected country.

**1.6** As the form for criminal record is in Slovene language, the Ministry of Justice does not translate this form to all languages of other state parties, but sends it in Slovene language.

**2.1** Yes

**2.2** Most regularly we receive information from Germany, Austria, Italy and Croatia (at least three times a year), from other countries more rarely.

**2.3** Yes

- 2.4** According to Art. 105 of the Penal Code of the Republic of Slovenia, when determining the sentence for a person who has already been convicted before (for a different offence), the court has to consider among other circumstances also the perpetrator's past behaviour (fact that the person has been convicted before) and the nature of previous offence.
- 2.5** As Slovenia sends information from criminal records on the forms provided for by its national legislation and in Slovene language, we also accept information from other states in their national languages and we have it translated in Slovenian.

In a general way, do you consider this provision of the convention useful?  
Yes.

Would you have particular comments on the application of this specific provision?

In practice there seem to be no special difficulties in application of Art. 22. The only problem arises from the fact that some countries do not accept information from criminal records in Slovenian language (they send it back), whereas at the same time they send information from criminal records in their language (not translated). We would propose the application of the principle of reciprocity, meaning that information from criminal records would be accepted in the national languages.

## SPAIN

- 1.1. The exchange of information is made based on the above mentioned Art 22
  - 1.2. Our authorities send, at least once a year (generally twice), the list of criminal records derived from sentences imposed to nationals of the States party to the Convention.
  - 1.3. All criminal convictions, no matter the type.
  - 1.4. The exchange of this criminal information is made with the following contracting States: France, Germany, Belgium, Switzerland, Holland, Portugal, Norway, Austria, Italy, Luxemburg, Liechtenstein.
  - 1.5. By post letter including a breakdown of the criminal details corresponding to the convicted persons.
  - 1.6. In Spanish language.
- 2.
  - 2.1. Yes, our country receives similar information.
  - 2.2. Once a year and from the countries already mentioned.
  - 2.3. Yes, our judicial authorities use that information in the Proceedings related to it.
  - 2.4. It is attached to the legal proceedings so that it helps, if applicable, to take provisional measures or to determine the degree of the penalty to be imposed.
  - 2.5. It is translated by official translators or by expert staff belonging to the *Subdirección General de Cooperación Jurídica Internacional* of the Ministry of Justice.

### COMMENTS TO ARTICLE 22

We find it useful in general terms.

It would be convenient that the exchange of information is made by telematic data transmission, subject to the development of adequate means. Besides, an automatic translation system would be required.

It would be necessary to connect and standardize both the definition of the crimes and the penalties, so that they are as uniform as possible and can be adapted to the exchange of information established. Some infringements are considered crimes in one country whereas in others they are minor offences. It is essential to define such aspects and their further registration process.

## SWEDEN

- 1.1 The extracts from the Swedish judicial records are, on a systematic basis, forwarded once a year to the states members of the MLA convention. The procedure is made with regard to article 22 of the convention.
- 1.2 See above.
- 1.3 It is applied for all criminal convictions and summary impositions of a fine pronounced against foreign nationals and entered into the register of the Swedish judicial records.
- 1.4 The records are sent to each State party to the convention and whose national has been convicted in Sweden.
- 1.5 The records are sent together with a letter from this Ministry of Justice to the Central Authorities designated in the other member states, mostly to the Ministries of Justice or Prosecutor General's Authorities.
- 1.6 The cover letter is written in English. The information in the records is provided in Swedish.
- 2.1 Yes records are received from some countries. During the year 2003 the following number of extracts were received: 402 extracts from the judicial records in the Nordic countries, 56 extracts from Switzerland, 49 from Germany, 6 from France, 5 from Italy and 2 from Austria. From the other member states records may be received on an irregular basis and on few occasions.
- 2.2 See above
- 2.3 Yes. The National Police Board arranges that the information received is entered in the register of the Swedish judicial records. The Swedish authorities especially authorized by law may take part of the information in the records.
- 2.4 The prosecutors uses the records when a decision of deprivation of liberty is to be taken. The courts uses the records in order to form an opinion when a sanction is to be imposed in a particular case. The Police may, in certain cases, use the information in their activities of surveillance.
- 2.5 Before entering the information in the judicial records, the National Police Board arranges that the information received is translated into Swedish. The information in the extracts received from Norway and Denmark is not translated. The information in the extracts from Finland is received in Swedish.

## ✚ SWITZERLAND

**1.1** L'article 22 de la convention constitue une base légale importante en matière de transmission à l'étranger des données du casier judiciaire. Cette dernière fait aussi l'objet des dispositions légales suivantes:

- Etats qui n'ont pas conclu de convention avec la Suisse: art. 363 du code pénal (CP; RS 311.0) en relation avec les art. 13 et 24 de l'ordonnance sur le casier judiciaire informatisé (O-VOSTRA; RS 331) ainsi que l'art. 6 de la loi fédérale sur la protection des données (LPD; RS 235.1).
- Etats parties à la Convention européenne sur l'entraide judiciaire en matière pénale: art. 13 ch. 1 et 2 de la convention.
- Transmission des données via Interpol: art. 360<sup>bis</sup>, al. 2, let. c, CP (RS 311.0) en relation avec l'art. 3, al. 3, let. a, O-VOSTRA (RS 331).
- Plusieurs accords bilatéraux contiennent des clauses qui ressemblent à l'art. 22 de la convention.

**1.2** Nous avons constaté en pratique certains problèmes d'application. En ceci qu'aujourd'hui l'art. 22 n'est pas toujours appliqué envers tous les Etats parties. Il semble que le casier judiciaire suisse n'ait jusqu'à présent pas été suffisamment informé de la nécessité de ces transmissions. Parfois l'adresse de l'autorité est inconnue de même que la question de savoir si l'utilisation de l'allemand, du français ou de l'italien est préférée.

**1.3** En application de l'art. 22, sont en principe communiquées toutes les condamnations qui sont inscrites au casier judiciaire suisse.

Selon l'art. 360 al. 2 let. a et b CP (RS 311.0) et l'art. 9 O-VOSTRA (RS 331) font l'objet d'une inscription systématique les crimes (art. 9, al. 1, et 35 CP) et les délits (art. 9, al. 2, et 36 CP); quant aux contraventions (art. 39 ch. 1 et 101 CP), elles ne sont inscrites en général que si une peine privative de liberté a été prononcée.

### Exceptions:

- Il existe des dispositions spéciales en matière d'inscription des crimes et délits commis par des adolescents (voir art. 11 O-VOSTRA).
  - Ne doivent pas être transmises à l'étranger les inscriptions suivantes:
    - Violations de dispositions pénales purement militaires (art. 1 ch. 2 convention)
    - Délits fiscaux (art. 2 let. a convention)
    - "Délits politiques" (art. 2 let. a convention)
  - Selon l'art. 2 de la convention la Suisse refuse d'accorder l'entraide judiciaire dans les cas où l'ordre public suisse pourrait être atteint. En application de ce principe, les inscriptions concernant des étrangers originaires de pays désignés par le Conseil fédéral en tant que "non safe countries", ne sont transmises à l'Etat d'origine qu'avec l'accord de l'Office fédéral des migrations (ODM). Ceci afin d'éviter de créer au détriment des réfugiés et des demandeurs d'asile une menace de persécution susceptible d'avoir des conséquences en matière de droit d'asile et dans le but de protéger leurs proches.

**1.4** Selon la pratique du casier judiciaire suisse les inscriptions ne sont pas transmises à tous les Etats parties. A ce jour, les Etats suivants reçoivent les avis du casier judiciaire:

Etats parties qui reçoivent les avis du casier judiciaire	Langue utilisée (question 1.6)	Moyens utilisés pour la transmission (question 1.5)
Belgique	français	via l'ambassade belge à Berne
Danemark	allemand	via l'ambassade danoise à Berne
Allemagne	allemand	Au Ministère de la justice à Bonn
Finlande	allemand	via l'ambassade finnoise à Berne
France	français	via l'ambassade française à Berne
Grèce	français	via l'ambassade grecque à Berne
Israel	allemand	via l'ambassade israélienne à Berne
Italie	italien	Au Ministère de la justice à Rome
Liechtenstein	allemand	Au "Fürstliche Landgericht" à Vaduz
Luxemburg	français	via l'ambassade luxembourgeoise à Berne
Pays-bas	allemand	au Service de la documentation judiciaire à Ah Almelo
Norvège	allemand	via l'ambassade norvégienne à Berne
Autriche	allemand	au Ministère de l'intérieur à Vienne
Pologne	allemand	via l'ambassade polonaise à Berne
Portugal	français	via l'ambassade portugaise à Berne
Suède	allemand	via l'ambassade suédoise à Berne
Espagne	français	via l'ambassade espagnole à Berne
Turquie	français	via l'ambassade turque à Berne
Royaume Uni (Angleterre, Grande Bretagne)	français	À la Central Authority for Mutual Legal Assistance in Criminal Matters à Londres

**1.5** Les avis sont transmis par courrier à l'ambassade du pays concerné ou directement au Ministère de la justice étranger ou à une autorité centrale. Pour les détails, il faut se référer à la table de la réponse à la question 1.4. Une transmission par fax ou courriel n'est pas prévue, car ces moyens de communication ne sont pas suffisamment sûrs.

**1.6** Comme le casier judiciaire est régi en trois langues, les communications sont faites en allemand, en français ou en italien. Pour les détails, voir la table de la réponse à la question 1.4.

**2.1** Oui. Nous recevons de certains Etats membres de la convention des communications, mais de loin pas de tous (à ce sujet voir la table de la réponse à la question 2.2).

De temps en temps, nous recevons des représentations suisses à l'étranger aussi des jugements concernant des Suisses qui ont commis des infractions à l'étranger et qui ne font pas l'objet d'une obligation de transmission.

**2.2** Cette réponse ne tient compte que des Etats parties à la convention européenne :

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Etats parties qui nous transmettent cesA quelle fréquence?  
informations:

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Belgique	1 x par an
Danemark	1 x par an
Allemagne	4 x par an
France	4 x par an
Italie	1 x par an
Liechtenstein	Plus de 10 x par an
Pays-Bas	1 x par an
Autriche	4 x par an
Espagne	1 x par an

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**2.3** Oui. Ces communications de l'étranger renforcent la pertinence des extraits du casier judiciaire. Toutes les autorités qui utilisent le casier judiciaire en profitent.

**2.4** Le casier judiciaire suisse est utilisé par les autorités et - avec l'accord de l'intéressé - par les privés. Plus le casier judiciaire prend en considération de jugements (suisse et étrangers), plus sa pertinence est importante pour l'examen d'une personne. Souvent on n'a aucune indication qu'une personne se trouvait à l'étranger ni qu'elle y a commis une infraction. De telles demandes à l'étranger entraînent des dépenses importantes en temps et en argent. En plus, les standards de l'élimination des jugements dans les registres étrangers ne sont pas identiques aux standards suisses.

**2.5** Les communications du casier judiciaire étranger sont bien entendu traduites par le personnel du casier judiciaire (en cas d'avis en allemand, français, italien ou anglais) ou transmises pour traduction à la représentation suisse dans le pays concerné (en cas d'avis dans d'autres langues).

Après traduction, il faut encore décider si le jugement répond aux exigences du droit suisse en matière d'inscription. Cet exercice de transposition peut aussi être très coûteux.

De manière générale, considérez-vous cette disposition utile?

Oui, il n'y a pas d'autre solution.

Du point de vue de la protection des données de telles communications à l'étranger ne sont pas tout à fait sans poser de problèmes. Même si de manière interne il est parfois débattu vivement sur la question de savoir quelle autorité peut obtenir des informations du casier judiciaire et pour quelle utilisation, on ferme souvent les yeux lorsque les renseignements sont communiqués à l'étranger. Ceci signifie que les données sont transmises sans que l'autorité étrangère n'ait l'obligation de communiquer comment elles seront utilisées.

Auriez-vous des suggestions pour améliorer l'application de cet article ?

Non.

Auriez-vous d'autres commentaires particuliers sur l'application de cet article ?

Le casier judiciaire suisse apprécierait si chaque Etat partie intéressé à recevoir des communications de la Suisse, pouvait indiquer l'adresse de l'autorité où elles doivent être transmises et si l'utilisation de l'allemand, du français ou de l'italien est préférée.



## ✚ TURKEY

9- In case your national authorities **send** to other States' authorities information on criminal convictions and subsequent measures against these States' nationals, entered in the criminal records:

1.25 Do they apply article 22 of the MLA convention or other legal bases (which ones)?

**Answer 1.1: Our authorities apply article 22 of the MLA convention.**

1.26 If they do not apply Art. 22 or if they apply it rarely, what is the reason for this?

**Answer 1.2: They apply it often.**

1.27 Is it applied for all types of criminal convictions or only some convictions (in this case, specify)?

**Answer 1.3: It applies for all types of criminal convictions.**

1.28 Is the information sent to each States party to the convention, whose national has been convicted in your country? Or only to some States (in this case, specify)

**Answer 1.4: It is sent to any States party to the Convention.**

1.29 By which way is the information transmitted in practice: letter (by which channel), e-mail, fax, other?

**Answer 1.5: It is sent via International Law and Foreign Relations Department to the concerned country by letter. In case the information is requested urgently it might be sent via fax message.**

1.30 In what language is the information transmitted?

**Answer 1.6: It is sent in English, French and German.**

10- In case your national authorities **receive** information on criminal convictions and subsequent measures against your State' nationals, entered in the criminal records

2.1 Does your country receive such information?

**Answer 2.1: Yes.**

2.2 From which country and how regularly, approximately, is this information sent?

**Answer 2.2: France, Switzerland, Germany, Austria, Sweden, Netherlands, Italy, Spain, Greece, Denmark, Hungary and Portugal.**

2.2 Do your national authorities find this information useful?

**Answer 2.2: Yes they find the information useful.**

2.3 What use do they have of it?

**Answer 2.3: When the General Directorate of Judicial Registry receives such information it evaluates them in accordance with the internal law. Foreign Judicial records are taken into consideration.**

2.4 How do they deal with the information transmitted in a foreign language?

**Answer 2.4: If the information is in German, French and English it is translated in the DG for Judicial Registry. For the rest languages they are sent to the translation offices.**

In a general way, do you consider this provision of the convention useful?

**Answer : Yes.**

Would you have particular comments on the application of this specific provision?

Would you have particular suggestions on the ways to improve the application of this provision?

**Answer : If this information is sent only English and French, procedures may be speedier.**

**This information should directly be sent to the General Directorate of Judicial Registry. This will prevent additional bureaucracy.**

 **UNITED KINGDOM**

11-In case your national authorities **send** to other States' authorities information on criminal convictions and subsequent measures against these States' nationals, entered in the criminal records:

1.31 Do they apply article 22 of the MLA convention or other legal bases (which ones)?

Article 22 is the only current legal base under which we exchange criminal record information, but it can also be exchanged on a police to police basis.

1.32 If they do not apply Art. 22 or if they apply it rarely, what is the reason for this?

N/A

1.33 Is it applied for all types of criminal convictions or only some convictions (in this case, specify)?

All

1.34 Is the information sent to each States party to the convention, whose national has been convicted in your country? Or only to some States (in this case, specify)

All states party

1.35 By which way is the information transmitted in practice: letter (by which channel), e-mail, fax, other?

Letter

1.36 In what language is the information transmitted?

English

12-In case your national authorities **receive** information on criminal convictions and subsequent measures against your State' nationals, entered in the criminal records

2.1 Does your country receive such information?

Yes, but not regularly.

2.2 From which country and how regularly, approximately, is this information sent?

Little data is available and information is also received on a police to police basis. The main countries providing this information are France and Germany.

### 2.3 Do your national authorities find this information useful?

It is currently only of limited use because it does not generally include enough information to be inputted on our systems. Important factors include the language of the information and whether all relevant information is included such as UK addresses, parents' names, passport numbers and fingerprints. Fingerprints are particularly important.

### 2.4 What use do they have of it?

When received, information is sent onto relevant Police force (the force covering the area that the person is believed to have lived in, if appropriate) to be inputted onto Police National Computer.

### 2.5 How do they deal with the information transmitted in a foreign language?

Some information is understandable, despite the fact that it is in a foreign language. In such situations, it would simply be passed onto the relevant Police force who would undertake inputting the information onto the Police National Computer. Information received from other Member States may be translated in some cases, but this is unlikely.

In a general way, do you consider this provision of the convention useful?

It is not very useful in its current form and is ineffective as a means of exchanging information on criminal records.

Would you have particular comments on the application of this specific provision?

The provision as it stands does not work in creating a comprehensive record of a person's European convictions in his State of nationality, because there is no obligation to record foreign information on national databases and many states do not do so because either the information is in a form which cannot be used (in the UK if it is provided without fingerprints), or because domestic law prevents the recording of foreign information on a national record, or the country in question does not have a central database or any form of electronic database.

Would you have particular suggestions on the ways to improve the application of this provision?

The draft EU Council Decision on the exchange of information extracted from the criminal record goes some way to improving the application of Article 22 by requiring information to be exchanged upon conviction rather than annually and setting time limits to respond to requests for information

from other states. The PC-OC could examine the application of these solutions to the Council of Europe.

The EU is also looking at quicker ways of exchanging information, through linking up Member States national registers electronically to exchange information. Exchange of information is still unhelpful if a complete record is not sent to a requesting state. The emphasis in the EU is on ensuring that a complete record is held in the Member State of nationality and that requests are made to the Member State of nationality alone for criminal record information.

Given the problems set out in the previous question, this means that there is a need for an obligation to record information and a common format for exchanging information so that all information can be understood and recorded by all Member States. This will ensure a complete record is held by the State of Nationality and available for future requests. In order to deal with those who are not nationals of EU Member States, a central register based on information held in the state of conviction is necessary.

The EU will commence negotiations on enshrining these principles in legislation later in 2005. It is important that the same principles are followed so far as is possible, because it would not be helpful to have two different or separate systems for exchanging information.