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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMMITTEE OF EXPERTS
ON THE OPERATION OF EUROPEAN CONVENTIONS
ON CO-OPERATION IN CRIMINAL MATTERS
(PC-OC)

COMPILATION OF THE REPLIES
TO THE QUESTIONNAIRE ON THE APPLICATION OF ARTICLES 13 AND 22
OF THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

COMITÉ EUROPÉEN POUR LES PROBLÈMES CRIMINELS
(CDPC)

COMITÉ D'EXPERTS
SUR LE FONCTIONNEMENT DES CONVENTIONS EUROPÉENNES
SUR LA COOPÉRATION DANS LE DOMAINE PÉNAL (PC-OC)

COMPILATION DES RÉPONSES
SUR L'APPLICATION DES ARTICLES 13 ET 22
DE LA CONVENTION EUROPÉENNE D'ENTRAIDE JUDICIAIRE EN MATIÈRE PÉNALE

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Introduction

At the PC-OC's 75th plenary meeting in November 2018, under the chairmanship of Mr Erik Verbert, it was agreed that there was a need to obtain further information concerning national practices in terms of application of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 (the "Convention"), in particular Article 13 relating to requests for extracts from judicial records and Article 22 relating to the transmission of notifications of convictions.

Preliminary information

European Union member states send one another notifications of convictions of their nationals and requests for extracts from judicial records through the European Criminal Records Information System (ECRIS). This questionnaire therefore only concerns the transmission of notifications of convictions and requests for extracts from judicial records outside ECRIS, under the Convention.

Introduction

A l'occasion de la 75^e réunion plénière du PC-OC de novembre 2018, sous la présidence de M. Erik Verbert, il est apparu nécessaire d'obtenir davantage d'informations sur les pratiques nationales s'agissant de l'application de la Convention européenne d'entraide judiciaire en matière pénale du 20 avril 1959 (la « Convention »), et plus particulièrement de son article 13 relatif aux demandes d'extraits de casier judiciaire, et de son article 22 relatif à l'envoi d'avis de condamnation.

Information préliminaire

Les Etats-membres de l'Union européenne assurent, entre eux, la transmission des avis de condamnation de leurs ressortissants et les demandes d'obtention des bulletins des casiers judiciaires par le biais du système européen d'information des casiers judiciaires (ECRIS). Ce questionnaire ne concerne donc que les transmissions d'avis de condamnation et les demandes de bulletins en dehors d'ECRIS, dans le cadre de la Convention.

1. AUSTRIA / AUTRICHE

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

In Austria, the term „judicial records” as referred to in Articles 13 and 22 of the Convention is stipulated as **“extract of the criminal record”** in § 9 Criminal Records Act (“Strafregistergesetz”) and includes data according to § 2 para. 1 subpara. 1 to 6 Criminal Records Act (see answer to question 2).

2. Which data is contained in your national judicial records?

Data according to § 2 para. 1 subpara. 1 to 6 Criminal Records Act **means**

1. all final sentences by domestic criminal courts, as well as decisions by foreign criminal courts taken on the basis of such convictions in the context of taking over monitoring or enforcement;
2. all final sentences of Austrian citizens and such persons who have their domicile or habitual residence in Austria, by foreign criminal courts as well as decisions by domestic criminal courts taken on the basis of such convictions in the context of taking over monitoring or enforcement;
3. all final sentences by foreign criminal courts, information about which contractual states of the International Treaty of 4 May 1910, Imperial Legal Gazette No. 116/1912 for Combating the Dissemination of Obscene Publications, of the International Convention for the Suppression of Counterfeiting Currency of 20 April 1929, Federal Legal Gazette. No. 347/1931, of the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 13 July 1931, Federal Legal Gazette No. 198/1934 II, and of International Convention for the Suppression of the Traffic in Women of the Full Age of 11 October 1933, Federal Legal Gazette No. 317/1936, have undertaken to mutually exchange;
4. all decisions by the Federal President or by domestic courts related to one of the sentences mentioned in subparagraphs 1 to 3 about
 - a) subsequently fixing punishment;
 - b) subsequently appointing a probation officer or cancelling probation services;
 - c) pardoning a convicted person, alleviating, altering or reassessing a punishment;
 - d) prolonging the probation term;
 - e) revoking a conditional punishment or a conditional preventive measure involving deprivation of liberty;
 - f) finally cancelling a punishment or a preventive measure involving deprivation of liberty;
 - g) abstaining from executing a prison sentence;
 - h) conditional release from a prison term, conditional release from a measure or from a preventive measure involving deprivation of liberty, because the danger against which the measure was taken, does not exist anymore (§ 24, paragraph 2 Criminal Code, § 157, paragraph 2 Correction Services Act);
 - i) cancelling a conditional release from a prison sentence or the conditional release from a preventive measure;
 - j) final release;
 - k) cancelling or altering a judgment or a subsequent decision;
 - l) finally abstaining from passing sentence;

- m) deleting a conviction;
 - n) preliminarily abstaining from executing a sentence (§ 133a, paragraph 1 and paragraph 2 Correction Services Act) and executing a residual sentence (§ 133a, paragraph 5 Correction Services Act);
5. all information relative to sentences mentioned in one of the subparagraphs 1 to 3, about when all prison sentences, fines (fines compensating forfeiture or as value replacement) and all preventive measures involving deprivation of liberty have been executed, are considered to be executed, have been abstained from, or must no longer be executed;
 6. all decisions, dispositions and notifications by foreign authorities relative to convictions by foreign criminal courts included in the Criminal Record, which correspond to the resolutions, decisions and notifications mentioned in subparagraphs 4 and 5.

The data provided in the national judicial records encompasses:

Personal data:

- Family name(s)
- First name(s)
- Former names/Alias
- Date of birth
- Place of birth
- Nationality
- Parents' First Names
- Place of Residence

Conviction information:

- Deciding Authority/Court
- Conviction File Number
- Decision Date
- Decision Final Date
- Offence Date
- Content of the Decision (applicable legal provisions, national offence title, sanction)

3. What use is made of this data?

According to § 9 Criminal Records Act this data can be submitted to authorities and organizations under certain circumstances. Apart from the cases provided for in other federal acts and in international agreements, the Regional Police Directorate Vienna shall upon request free of charge **provide information from the Criminal Record on the data** included pursuant to § 2, paragraph 1, subparagraph 1 to 6:

1. to all domestic authorities, to stations of the Federal Police, and concerning members of the Austrian armed forces also to military command units,
2. to the authorities of the Member States of the European Union for purposes of security administration, as well as to all foreign authorities, provided there is reciprocity,

2a. to the authorities of a Member State of the European Union for other purposes, provided there is reciprocity,

2b. to all foreign authorities according to the provisions of Chapter V of the General Data Protection Regulation,

3. according to special legal regulations to youth welfare carriers for the purpose of preventing or defending against specific dangers to a specific minor child by a specific person.

Pursuant to § 2, paragraph 2 international agreements, according to which convictions by domestic criminal courts and related decisions by the Federal President and final decisions by domestic criminal courts shall be communicated to foreign states, shall not be affected.

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

Criminal Records Office (kept by the Police Directorate of Vienna).

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes

If so, how often and by which means (post, email, etc.)?

4 times a year, by post.

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

Yes

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

Yes

If so, by which means (post, email, etc.)?

by post

What use do you make of these notifications?

Relevant personal and content data is inserted in the judicial records.

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention? 9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

Personal data (at least family name, first name, date of birth, place of birth, nationality).
Conviction data (at least deciding authority, decision final date, national offence title, sanction).

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

We receive notifications of convictions only from a small part of States Parties.

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Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

Criminal Records Office.

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

1068 requests.

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

Yes

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

Yes

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

No

According to Austrian law convictions concerning legal persons are not stored in the Criminal Records database.

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

Yes

§ 9 para. 1 subpara. 3 Criminal Records Act stipulates that apart from the cases provided for in other federal acts and in international agreements, the Regional Police Directorate Vienna shall upon request free of charge provide information from the Criminal Record on the data included pursuant to § 2, paragraph 1, subparagraph 1 to 6 according to special legal regulations to **youth welfare carriers** for the purpose of preventing or defending against specific dangers to a specific minor child by a specific person.

§ 9a para. 2 Criminal Records Act stipulates that according to special legal provisions, the Regional Police Directorate Vienna shall provide information to **youth welfare carriers, school authorities** as well as to **administrative authorities** and **personnel panels of local authorities in connection with the employment of persons in institutions for caregiving, education or instruction of children and juveniles**, as well as for the purpose of **appraising the aptitude of potential adoptive parents** on convictions listed in § 2, paragraph 1a and on data pursuant to § 2, paragraph 1, subparagraphs 7 and 8 (orders for court monitoring pursuant to § 52a Criminal Code and instructions pursuant to § 51 Criminal Code, given to a person convicted for an offence against sexual integrity and self-determination, as well as enforceable disqualifications from practising an activity pursuant to § 220b Criminal Code, as well as disqualifications from practising an activity on the basis of provisions in other Member States, together with data pursuant to § 3, paragraph 2, subparagraph 1 to 3).

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Date of birth

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

Yes, an English answer can be provided.

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

A few minutes.

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

None.

2. AZERBAIJAN / AZERBAÏDJAN

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

As far as the legislation of Azerbaijan is concerned the wording “Judicial records” could be interpreted as a note form containing information about criminal convictions, records of which is kept by the Ministry of Interior following the relevant legal Regulations.

2. Which data is contained in your national judicial records?

- Surname;
- First Name;
- Patronymic name;
- Personal Identification number (if available);
- Date of Birth;
- Place and country of birth;
- Nationality;
- Name and Article of criminal act;
- Date of verdict;
- Name of the court which delivered a verdict;
- Type and length (if any) of verdict;
- Note about the appeal verdict (if any).

3. What use is made of this data?

Records of criminal acts are kept by the Ministry of the Interior. The information from the base of judicial records is used by the investigating authorities, specialized anti-corruption prosecutors, judges and human resource services of the public institutions.

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

Ministry of Justice

1, Inshaatchilar avenue,
Baku, Azerbaijan, AZ1073
tel:+99412 493 54 87
fax:+99412 510 29 40
contact@justice.gov.az;
international@justice.gov.az
web: <http://justice.gov.az>

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes

If so, how often and by which means (post, email, etc.)?

At least once a year by post

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

No

Comments, if any: the legislation does not provide for this possibility

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

Yes

If so,

by which means (post, email, etc.)?

by post

what use do you make of these notifications?

Forward to the Ministry of Interior to be used in future if necessary

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention?

- Name
- Surname,
- Patronymic name,
- Place and country of birth;
- Nationality;
- Date and place of birth,
- Name and Article of criminal act,
- Date of verdict;
- Name of the court which delivered a verdict;
- Type and length (if any) of verdict;
- Note of the appeal verdict (if any).
- copy of verdict (preferably)

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

N/A

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Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

Ministry of Justice

1, Inshaatchilar avenue,
Baku, Azerbaijan, AZ1073
tel:+99412 493 54 87
fax:+99412 510 29 40
contact@justice.gov.az;
international@justice.gov.az
web: <http://justice.gov.az>

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

None

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

No requests were made to us

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

No

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

Yes

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

Yes

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Patronymic
- Personal Identification number (if available)
- Gender
- Country of birth
- Place of birth
- Date of birth

- Nationality
- Purpose of the request
- Name of the requesting authority

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

We can respond in English

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

Approximately 2-3 months

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

No problems so far

*

3. DENMARK / DANEMARK

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

“Judicial records” are interpreted as criminal records.

2. Which data is contained in your national judicial records?

Judicial records contain information of:

- Penal decisions (Date of decision, name of Authority, type of decision, type of verdict, offence, sanction, type of sentence, date of appeal if any, date of parole and probation terms if any)
- any, disqualification and confiscation if any, remark on whether attempt or accomplice if any)
- Criminal charges

3. What use is made of this data?

- Criminal justice
- Internal tool for the police
- Base for issuing criminal record certificates to be used by public authorities or private citizens.
- Criminal statistics

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

Rigspolitiet
Politiets Administrative Center
Kriminalregisteret
Enghaven 15, DK-7500 Holstebro
mvjyl-pac-kr@politi.dk

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes

If so, how often and by which means (post, email, etc.)? In 2018 we notified the other States Parties

2.741 times. We notify by post every month.

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

Yes

Currently the Danish authorities have no way of sending or receiving secure electronic mail to other States Parties. If electronic communication are secure and encrypted, we see no problem in receiving/sending such information electronically.

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

Yes

If so, by which means (post, email, etc.)? We receive notifications by post. What use do you make of these notifications?

If the subject can be identified, and the records are in accordance with Danish law, the records will be added to the Central Criminal Register

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention?

Full name, date of birth and place, Penal decisions (Date, Name of Authority, type of decision, offence, sanction, disqualification if any)

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

We do only receive notifications from two States Parties in addition to the member states of the EU. A seamless solution to interchange information electronically would be preferable.

*

Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

Outside of EU it is The Director of Public Prosecutions and within EU it is the Police District under which the specific case falls.

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

The Director of Public Prosecutions does not have statistics that enable us to see how many requests we have received.

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

No

If not, could you indicate the reasons?

No requests were made to us. The Director of Public Prosecutions do not have statistics on these specific cases, but should a request be made, we are able to send the relevant information to be used in a criminal case, and would therefore send it, if the request lives up to conditions for mutual legal assistance.

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

Yes

Currently the Danish authorities have no way of sending or receiving secure electronic post to other contracting states. If the mails are secure or encrypted, we see no problem with receiving/sending such information electronically.

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

Yes

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

X Comments or examples: Based on the 1959 convention on mutual legal assistance in criminal matters, the Director of Public Prosecutions can respond to a request regarding criminal matters only. Since the example mentioned in the question would be regarded as a civil matter, we would not be able to respond. We are unaware of the possibility to seek this information through other channels, which concern themselves with civil matters.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Date of birth
- Nationality
- Purpose of the request
- Other: We need enough to be able to identify the person with certainty. Sometimes that might
- be more than the information ticked off.

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

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

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

This would depend on the specific case and on the urgency of the request.

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

The timeframe might be a problem in certain cases. The ECRIS system is rather fast, but there might be longer response time to a request sent as a part of mutual legal assistance request under the convention.

*

4. CROATIA / CROATIE

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

Judicial records as referred to in Article 13 of the Convention are a collection of all letters and attachments referring to the same legal matter and to the same legal or natural person (marked with the same case number).

We interpret the notion of “judicial records” as referred to in Article 22 of the Convention as the data which is an extract from the criminal judgement, containing the personal data of the perpetrator, the number of the verdict, criminal offence for which the judgement was rendered, the data in respect of the sanction and the other relevant data such as security measures, which are entered in our nation criminal records database.

2. Which data is contained in your national judicial records?

The personal data of the perpetrator of the criminal offence, number of the verdict, applied article of law for the offence for which the judgement has been rendered, the penalty and its duration as well as other relevant data.

3. What use is made of this data?

Such data is collected for the purpose of storage and further responses to judicial authority's requests and also for administrative purposes, such as employment, issuing the visa, etc.

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

Ministry of Justice of the Republic of Croatia

Directorate for Criminal Law

Department for International Exchange of Criminal Records Data

Ulica grada Vukovara 49, 10 000 Zagreb

e-mail: kazнено.pravo@pravosudje.hr

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

✓ **Yes**

If so, how often and by which means (post, email, etc.)?

If not, could you indicate the reasons?

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

✓ **Yes**

Comments, if any:

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

✓ **Yes**

If so,

by which means (post, email, etc.)?

what use do you make of these notifications?

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention?

All of necessary personal data and data about judgement in order that such information can be entered in our criminal records database.

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

Some countries do not send such data on regular basis and sometimes there exists the problem of entering notifications because of language diversity.

*

Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

The Ministry of Justice of the Republic of Croatia is the Central Authority for transmission and reception of all requests for mutual legal assistance under the Convention, as well as ones by which an extract from judicial records is sought.

After receiving the request for provision of an extract from judicial records, the Ministry of Justice transmits it without delay to the domestic judicial authority after having established their jurisdiction.

Contact details are as follows:

Ministry of Justice of the Republic of Croatia

Directorate for European Affairs, International and Judicial Cooperation

Sector for Mutual Legal Assistance and Judicial Cooperation with EU Member States

Service for Mutual Legal Assistance and Judicial Cooperation in Criminal Matters

Ulica grada Vukovara 49, 10 000 Zagreb

e-mail: europska.unija@pravosudje.hr

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

The Ministry of Justice does not keep official records on requests on the basis of Article 13. In recent years, including 2018, we have received a very small number of request for judicial record extracts. However, we emphasize that the exchange of judicial excerpts with the countries in the region is based on the provisions of bilateral agreements.

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

X Yes

If not, could you indicate the reasons?

No requests were made to us

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

X Yes

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

X Yes

Comments:

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

X No

Comments or examples: ...

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Purpose of the request

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

Yes. The Republic of Croatia had addressed declaration when depositing its instrument of accession to the 1959 Convention by which it declared that letters rogatory for mutual assistance and annexed documents shall be accompanied by a translation into the Croatian language or, if not possible, into the English language.

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

After receiving the request for provision of an extract from judicial records, the Ministry of Justice transmits it without delay to the domestic judicial authority, after having established their jurisdiction if it cannot be determined from the request itself. As soon as we receive the judicial excerpts we transmit them to the requesting Party. Please note that urgent matters are treated with priority.

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

In the application of Article 13 of the Convention we had not encountered any significant problems so far.

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5. FINLAND / FINLANDE

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

We interpret “judicial records” as denoting the same thing in both Articles, i.e. criminal convictions and related sanctions entered there by the courts of law as a result of criminal proceedings. The only difference is that Article 22 deals with automatic transmission of information on the nationals of a Contracting Party, whereas Article 13 operates on MLA requests without any restrictions on nationality.

2. Which data is contained in your national judicial records?

Information on final criminal convictions (prison sentences, also suspended sentences) and related sanctions such as, for example, community service, ban on engaging in business activities for a determined period of time, etc.

3. What use is made of this data?

Data is gathered and stored in the criminal records from where they shall be made available for the imposition and enforcement of penal sanctions. Data may also be made available for the establishment and evaluation of a person’s reliability or personal aptitude for certain professions.

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

Legal Register Center

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes

If so, how often and by which means (post, email, etc.)?

Every six months, by post to the Embassy of the country in question.

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

Yes

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

Yes

If so, by which means (post, email, etc.)?

Post

What use do you make of these notifications?

We enter them in the criminal records, provided that they warrant entering.

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention?

Person's name, personal ID code and nationality, data on court decisions, offences of which the person has been convicted of and penalties to which he or she has been sentenced, time of service of the sentences and pardons.

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

Since this is an MLA request it may be addressed to the Ministry of Justice or directly to the Legal Register Center, POB 157, 13101 Hämeenlinna, Finland, oikeusrekisterikeskus (at) om.fi

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

A few

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

No

If not, could you indicate the reasons?

No requests were made to us

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

Yes

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

Yes

Comments:

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

Yes

Comments or examples: The request has to be compliant with our domestic law.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Alias
- Gender
- Country of birth
- Date of birth
- Nationality
- Purpose of the request

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

Only English

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

A week or two, depending on the workload of the Legal Registry Center

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

*

6. FRANCE

EN

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

In France, the notion of “judicial records” is the computerised register containing information on convictions (understood as final decisions handed down by criminal courts) registered in accordance with French law.

2. Which data is contained in your national judicial records?

The computer application of the National Criminal Register (“*Casier judiciaire national*”) contains several types of data:

- identity data (surname, first name, date and place of birth, sex, nationality);
- data relating to the conviction (court, nature of the decision, situation with regard to detention, penalty imposed, wording of the offence, date of offence);
- data relating to the enforcement of the sentence.

3. What use is made of this data?

The recorded data may be included in criminal record extracts issued by the National Criminal Register (“*Casier judiciaire national*”) (bulletin no. 1 issued to a court for a purpose related to criminal proceedings, bulletin no. 2 transmitted to an administration for an administrative purpose, bulletin no. 3 issued to the person concerned).

In addition, this data may also appear in notifications of convictions sent to a State with which France is bound by an international convention, in the case of convictions handed down by French courts against nationals of that State. These notifications of convictions are not the convictions in themselves, which the French National Criminal Register does not hold, but summaries of the main elements of these convictions.

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

The competent authority is the “*Casier judiciaire national*” (Ministry of Justice / Directorate of Criminal Affairs and Pardons).

Its postal address is as follows: Casier judiciaire national - Pôle des échanges internationaux - TSA 37932 - 44379 Nantes Cedex 3 - France.

The contact email address is: cjn-bull-international@justice.gouv.fr.

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes

If so, how often and by which means (post, email, etc.)?

Monthly, by post

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

Yes

Comments, if any: Yes, however, this will require prior contact with the competent authority of the country concerned in order to address IT security issues.

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

Yes

Yes, but in a very limited way. Only Switzerland and more rarely Monaco and Norway send us these. The other Member States of the European Union, with the exception of Malta and Portugal, communicate on another legal basis within the framework of the ECRIS system (European Criminal Records Information System).

If so,

by which means (post, email, etc.)? By post

what use do you make of these notifications?

Once recorded in the French criminal record, the information received may appear in the criminal record extracts issued by the National Criminal Register ("*Casier judiciaire national*"). The information received allows French criminal courts to be informed of the existence of convictions handed down against French nationals in other countries which are signatories to the Convention. They cannot have legal effects: for example, one cannot retain the state of recidivism on the basis of one of these convictions. Similarly, the sanctions contained therein cannot be enforced by the State of nationality solely on the basis of these notifications of convictions.

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention?

At a minimum, it is necessary to have the following information:

- surname;
- first name;
- date of birth;
- place of birth;
- convicting court;
- date of the judgement;
- wording of the offence;

- date of the offence;
- sanctions imposed.

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

France receives only a few notifications of convictions under Article 22 of the Convention (sent mainly by Switzerland, Monaco and Norway).

Countries wishing to apply this article should designate a referent service with a functional e-mail address to allow direct exchanges between services, to improve the flow of information addressed on the basis of Article 22. The establishment of a targeted working group on this issue and that of Article 13 should be considered within the Council of Europe (perhaps in the context of the PC-OC Mod).

By way of comparison, ECRIS, the system which currently interconnects the EU Member States and allows for the exchange of thousands of conviction notices each month, could only be set up after the initiative of Germany, Belgium, Spain and France to create an interconnection of criminal records on the basis of discussions held in the criminal records services. It emerged that in order to be effective and interesting (for judicial authorities in particular), the exchange of information at the level of criminal records should be simple and not unnecessarily increase the burden on the convicting State. This is what the working group should be working towards.

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Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

The competent authority is the “*Casier judiciaire national*” (Ministry of Justice / Directorate of Criminal Affairs and Pardons).

Its postal address is as follows: Casier judiciaire national - Pôle des échanges internationaux - TSA 37932 - 44379 Nantes Cedex 3 - France.

The contact email address is: cjn-bull-international@justice.gouv.fr.

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

During 2018, the National Criminal Record received approximately 6,000 requests for criminal records extracts pursuant to article 13 (Switzerland, Monaco, Liechtenstein, Norway).

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

Yes

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

Yes, but this requires prior contact with the relevant department in the requesting State to discuss IT security issues.

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

Yes

Comments:

France has a criminal record containing criminal convictions handed down by its courts against legal persons and would therefore be able to respond to requests for criminal records extracts regarding legal persons. It might be appropriate to refer the matter to the Council of Europe's Legal Department so that the question relating to the applicability of Article 13 of the Convention to legal persons be raised, since such exchanges can only be conceived in the context of reciprocity.

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

Yes

Comments or examples: ...

The following list of examples is not exhaustive:

- request for employment involving contact with children,
- request for a change of nationality,
- request for employment in the public sector,
- request for employment in the security sector (private sector),
- the Department of International Exchanges ("*Pôle des échanges internationaux*") of the National Criminal Register ("*Casier judiciaire national*") is able to respond to the requesting State if the purpose of the request is admissible under domestic law, in cases where this basis is not linked to criminal proceedings.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Gender
- Country of birth
- Place of birth (obligatory if the country of birth is France)
- Date of birth
- Purpose of the request

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

Yes

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

The estimated timeframes are as follows:

- approximately 10 days from the date of receipt of the application by the National Criminal Register ("*Casier judiciaire national*") for a request related to criminal proceedings or for administrative purposes;

- approximately 20 days from the date of receipt of the application by the National Criminal Register ("*Casier judiciaire national*") for an application made at the request of an individual.

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

In order to be able to send requests to all States signatories to the Convention, France would like to have an exhaustive list of the contact details of their services which can respond to such requests and, if possible, a functional e-mail address to initiate contacts (in English or French). Some States have apparently not yet provided contact details for distribution in the Secretariat's "List of competent authorities for the application of Articles 13 and 15, paragraph 3, of the European Convention on Mutual Assistance in Criminal Matters (ETS 030)".

*

FR

1. Comment interprétez-vous la notion de « casier judiciaire », telle que mentionnée aux articles 13 et 22 de la Convention, dans votre juridiction ?

En France, le « casier judiciaire » constitue le registre informatisé regroupant des informations relatives aux condamnations (entendues comme des décisions définitives prononcées par des juridictions pénales) enregistrées conformément au droit français.

2. Quelles sont les données contenues dans vos casiers judiciaires nationaux ?

L'application informatique du Casier judiciaire national contient plusieurs types de données :

- données d'identité (nom, prénom, date et lieu de naissance, sexe, nationalité) ;

- données relatives à la condamnation (juridiction, nature de la décision, situation au regard de la détention, sanction prononcée, libellé de l'infraction, date d'infraction) ;

- données relatives à l'exécution de la peine.

3. Quelle est l'utilisation faite de ces données ?

Les données enregistrées sont susceptibles de figurer dans les extraits de casier judiciaire délivrés par le Casier judiciaire national (bulletin n°1 délivré à une juridiction pour un motif lié à une procédure pénale, bulletin n°2 transmis à une administration pour un motif administratif, bulletin n°3 délivré à la personne concernée).

Par ailleurs, ces données sont également susceptibles de figurer dans des avis de condamnation adressés à un Etat avec lequel la France est liée par une convention internationale s'agissant de condamnations prononcées par des juridictions françaises à l'encontre de ressortissants de cet Etat. Ces avis de condamnation ne sont pas les condamnations en elles-mêmes que le Casier judiciaire national français ne détient pas, mais des résumés des principaux éléments desdites condamnations.

Article 22

4. Quelle est l'autorité compétente dans votre système national pour appliquer cet article relatif aux échanges automatiques d'avis de condamnation entre Etats-parties et quelles sont ses coordonnées?

L'autorité compétente est le Casier judiciaire national (Ministère de la Justice / Direction des affaires criminelles et des grâces)

Ses coordonnées postales sont les suivantes : Casier judiciaire national - Pôle des échanges internationaux - TSA 37932 - 44379 Nantes Cedex 3 - France

L'adresse courriel de contact est : cjn-bull-international@justice.gouv.fr

5. Votre Etat adresse-t-il des avis de condamnation aux autres Etats parties en application de l'article 22 de la Convention ?

Oui

Si oui : à quelle fréquence sont-ils transmis et par quel moyen (postal, électronique...) ?
Fréquence mensuelle par voie postale

6. Pourriez-vous envisager, si ce n'est pas déjà le cas, d'envoyer et/ou de recevoir de tels avis de condamnation par voie électronique ?

Oui. Cela impliquera toutefois que des contacts préalables soient pris avec l'autorité compétente du pays concerné afin de traiter les questions relatives à la sécurité informatique.

7. Votre Etat reçoit-il des avis de condamnation d'autres Etats Parties en vertu de l'article 22 de la Convention ?

Oui, mais de manière très limitée. Seule la Suisse et plus rarement Monaco et la Norvège nous en adressent. Les autres pays membres de l'Union européenne, à l'exception de Malte et du Portugal, communiquent sur un autre fondement juridique dans le cadre du système ECRIS (système européen d'information des casiers judiciaires).

Si c'est le cas,

Par quelle voie (postale, électronique etc.) ? Par voie postale

Quel usage faites-vous de ces avis ?

Une fois enregistrées au casier judiciaire français, les informations reçues sont susceptibles de figurer dans les extraits de casier judiciaire délivrés par le Casier judiciaire national. Ces données permettent aux juridictions pénales françaises d'être informées de l'existence de condamnations prononcées contre des nationaux français dans les autres pays signataires de la Convention. Elles ne peuvent avoir d'effets juridiques : on ne peut ainsi pas, par exemple, retenir l'état de récidive sur la base d'une de ces condamnations. De la même façon, les sanctions qu'elles contiennent ne peuvent être mises à exécution par l'Etat de nationalité sur la base de ces seuls avis de condamnation.

8. Quelles sont les informations obligatoires sans lesquelles vous ne pouvez pas traiter un avis de condamnation transmis par un Etat partie à la Convention ?

A minima, il est nécessaire de disposer des informations suivantes :

- nom,
- prénom,
- date de naissance,
- lieu de naissance,
- juridiction de condamnation,
- date du jugement,
- libellé de l'infraction,
- date de l'infraction,
- sanctions prononcées.

9. Quels sont les problèmes rencontrés dans l'application de l'article 22 de la Convention et quelles améliorations proposeriez-vous ?

La France ne reçoit que peu d'avis de condamnation sur le fondement de l'article 22 de la Convention (envoyés majoritairement par la Suisse, Monaco et la Norvège).

Les pays qui souhaiteraient appliquer cet article devraient désigner un service référent avec une adresse mail fonctionnelle pour permettre des échanges directs entre services pour améliorer la fluidité des informations adressées sur le fondement de l'article 22. L'instauration d'un groupe de travail ciblé sur cette problématique et celle de l'article 13 devrait être envisagée au sein du Conseil de l'Europe (peut-être dans le cadre du PC-OC mod). A titre de comparaison, ECRIS, le système qui interconnecte aujourd'hui les pays membres de l'UE et permet des échanges de milliers d'avis de condamnation chaque mois, n'a pu se mettre en place qu'après l'initiative de l'Allemagne, de la Belgique, de l'Espagne et de la France de créer une interconnexion des casiers judiciaires sur la base des réflexions menées au niveau des services des casiers judiciaires. Il en est ressorti que les échanges d'information au niveau des casiers judiciaires pour être efficaces et intéressants (pour les autorités judiciaires notamment) devaient être simples et ne pas alourdir inutilement la charge pour l'Etat de condamnation. C'est ce vers quoi devrait tendre le groupe de travail.

*

Article 13

10. Quelle est l'autorité compétente dans votre système national pour appliquer cet article relatif aux transmissions d'extraits de casiers judiciaires et quelles sont ses coordonnées?

L'autorité compétente est le Casier judiciaire national (Ministère de la Justice).

Ses coordonnées postales sont les suivantes : Casier judiciaire national - Pôle des échanges internationaux - TSA 37932 - 44379 Nantes Cedex 3 - France

L'adresse courriel de contact est : cjn-bull-international@justice.gouv.fr

11. Quel est le nombre de demandes d'extraits de casier judiciaire reçues par cette autorité sur le fondement de l'article 13 pendant l'année 2018 ?

Au cours de l'année 2018, le Casier judiciaire national a reçu environ 6 000 demandes d'extraits de casier judiciaire en application de l'article 13 (Suisse, Monaco, Liechtenstein, Norvège).

12. Dans l'hypothèse où vous avez été saisis à ce titre, votre Etat a-t-il effectivement adressé aux Etats-parties requérants les extraits de casier judiciaire sollicités en application de l'article 13 de la Convention ?

Oui

13. Si ce n'est pas déjà le cas, pourriez-vous envisager d'envoyer et/ou de recevoir de tels extraits de casier judiciaire par voie dématérialisée ?

Oui. Cela suppose cependant une prise de contact préalable avec le service compétent de l'Etat requérant pour évoquer les problèmes liés à la sécurité informatique.

14. Etes-vous en mesure d'exécuter une demande basée sur l'article 13, paragraphes 1 et 2 concernant des personnes morales ?

Oui.

Commentaires:

La France dispose d'un casier judiciaire contenant les condamnations pénales prononcées par ses juridictions contre les personnes morales et serait donc en mesure de répondre à des demandes d'extrait de casier judiciaire visant des personnes morales. Il pourrait être opportun de saisir le service juridique du Conseil de l'Europe afin que la question relative à l'applicabilité de l'article 13 de la Convention aux personnes morales soit posée, de tels échanges ne se concevant que dans le cadre de la réciprocité.

15. Votre législation nationale permet-elle de répondre à une requête d'extrait de casier judiciaire pour d'autres motifs qu'une procédure pénale (par exemple, dans le cadre d'un recrutement pour une profession en contact avec des mineurs) ?

Oui.

Commentaires et exemples éventuels :

La liste suivante d'exemples n'est pas exhaustive :

- requête pour un emploi impliquant des contacts avec des enfants,
- requête pour un changement de nationalité,
- requête pour un emploi dans le secteur public,
- requête pour un emploi dans la sécurité (secteur privé),

- le pôle des échanges internationaux du Casier judiciaire national français est à même de répondre à l'Etat requérant si le motif de la requête est recevable au vu du droit interne, dans le cas où ce fondement n'est pas lié à une procédure pénale.

16. Quelles sont les informations obligatoires dont vous avez besoin pour traiter une demande d'extrait de casier judiciaire sur le fondement de l'article 13 de la convention de 1959 ?

- Nom
- Prénom
- Sexe
- Pays de naissance
- Ville de naissance (obligatoire si le pays de naissance est la France)
- Date de naissance
- Finalité de la demande

17. Acceptez-vous de répondre à une demande d'extrait de casier judiciaire visant l'article 13 de la convention de 1959 et rédigée dans une des deux langues officielles (anglais ou français) du Conseil de l'Europe ?

Oui

18. Combien de temps vous faudrait-il pour répondre à une demande d'extrait de casier judiciaire en vertu de l'article 13?

Les délais estimés sont les suivants :

- environ 10 jours, à compter de la date de réception de la demande par le Casier judiciaire national, pour une requête liée à une procédure pénale ou pour un motif administratif ;
- environ 20 jours, à compter de la date de réception de la demande par le Casier judiciaire national, pour une requête effectuée sur la demande d'un particulier.

19. Quels sont les problèmes rencontrés dans l'application de l'article 13 de la Convention et quelles améliorations proposeriez-vous ?

Afin de pouvoir adresser des demandes à l'ensemble des Etats signataires de la Convention, la France souhaiterait pouvoir disposer d'une liste exhaustive des coordonnées des services de ces derniers qui peuvent répondre à de telles demandes et si possible d'une adresse mail fonctionnelle pour initier des contacts (en anglais ou en français). Certains Etats n'ont, semble-t-il, pas encore communiqué de coordonnées à diffuser dans la « Liste d'autorités compétentes pour l'application des articles 13 et 15, paragraphe 3, de la Convention européenne d'entraide judiciaire en matière pénale (STE 030) », établie par le Secrétariat.

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7. GEORGIA / GEORGIE

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

Georgia interprets “judicial records” as the data related to the conviction of the person for specific type of crime, the sentence imposed on him/her, any subsequent measures stemming from the conviction (e.g. deprivation of the driving license, decision on the forfeiture property) as well as information about the application pardon, amnesty and any form of commutation of the penalty.

2. Which data is contained in your national judicial records?

The data mentioned in response to question 1 is contained in the nation judicial records.

3. What use is made of this data?

The data contained in judicial records is used for the purpose of the proper qualification of the criminal act when the specific article of the Criminal Code of Georgia defines aggravated criminal liability for recidivism. The data referred to above is also taken into account by the court as a personal characteristic of the defendant when defining specific type and measure of penalty. Apart from criminal purposes, the data referred to above can also be used for civil, administrative and any other reasons (e.g. information is needed for the purpose of recruitment of the employees in public service).

Article 22

4. Which department in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

In Georgia, Informational Centre of the Informational-Analytical Department of the Ministry of Interior is in charge of the exchange of notifications of final convictions under Article 22 of the Convention on Mutual Assistance in Criminal Matters. The contact details of the mentioned structural unit are as follows: 10, G. Gulua Str., Tbilisi, 0114, Georgia. Tel.: (+99532) 2411008; E-mail: police@mia.gov.ge.

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes

If so, how often and by which means (post, email, etc.)?

Usually per year, by post.

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

Yes

7. What use do you make of notifications of conviction received?

In case Georgia recognizes foreign criminal judgments based on the relevant international treaties, local judicial authorities can use the notifications of convictions received from the respective foreign states in the course of criminal proceedings. Namely, when defining the legal qualification of the repeated criminal act committed by the defendant, information about the previous conviction abroad can be used as a ground for aggravating the criminal liability of the person in question. Notifications of conviction received from abroad can also be used for civil and administrative purposes.

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention? Please tick the relevant boxes.

- Surname
- First name
- Gender
- Parents (surnames and first names of father and mother)
- Country of birth
- Place of birth
- Date of birth
- Nationality
- Relevant offence
- References of relevant criminal legislation
- Date of commission of offence
- Place of commission of offence
- Length/severity of sentence(s) handed down
- Date of conviction
- Name of sentencing authority

Article 13

10. Which department in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

In Georgia, International Cooperation Unit of the Legal Department of the Office of the Prosecutor General is in charge of the transmission of extracts from judicial records under Article 13 of the Convention on Mutual Assistance in Criminal Matters. The contact details of the mentioned structural unit are as follows: 24, Gorgasali Str., 0114, Tbilisi, Georgia. Tel.: (+99532) 2405144; E-mail: international@pog.gov.ge.

11. How many requests for judicial record extracts did this department receive on the basis of Article 13 during 2018?

International Cooperation Unit, Legal Department of the Office of the Prosecutor General of Georgia received 52 requests for judicial record extracts on the basis of Article 13 of the Convention in 2018. As of the current date, all the requests received during 2018 have been executed.

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

Yes

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

Yes

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

Yes

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

Yes

Comments or examples: Theoretically Georgian law provides possibility to comply with the request for a judicial record extract on grounds other than for criminal proceedings. However, in practice No such requests have been submitted to the Prosecutor General's Office of Georgia so far.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Alias
- Gender
- Parents (surnames and first names of father and mother)
- Country of birth
- Place of birth
- Date of birth
- Nationality
- Purpose of the request

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

Yes.

18. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

Georgia has not encountered any significant problems in the application of Article 13 of the Convention so far.

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8. GERMANY / ALLEMAGNE

A. Questionnaire for the attention of the members of the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC)

Preliminary questions

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

We interpret “judicial records” as criminal convictions, decisions given by the administrative authorities as well as court decisions and orders in respect of lack of criminal capacity or in respect that acts were committed owing to drug addiction.

This definition is based on Section 3 of the Act on the Central Criminal Register and the Educative Measures Register (Bundeszentralregistergesetz, BZRG), the Register contains entries on

1. criminal convictions (i.e. penalty, measure of reform and prevention, warning with deferred sentence, findings as to the guilt of a juvenile or young adult),
2. (repealed)
3. decisions given by the administrative authorities and courts (e.g. refusal, withdrawal or restriction of a passport or an identity card; prohibition of the possession and purchase of weapons and ammunition; refusal of the issue of a license to possess weapons or a hunting licence or permission; refusal of an application for admission to a profession or withdrawal or revocation of the admission; prohibition of the exercise of a profession; withdrawal of the authorisation to hire or train apprentices; prohibition of the employment, supervision, instruction or training of children and juveniles)
4. decisions given by the courts and orders made by the criminal prosecution authorities in respect of lack of criminal capacity,
5. court findings with regard to acts that were committed owing to drug addiction if a term of imprisonment of no more than two years is imposed
6. subsequent decisions and facts relating to entries referred to in nos 1 to 4.

2. Which data is contained in your national judicial records?

Section 5 BZRG states that the entry must include

1. the personal details of the person concerned; these include name at birth, family name if this is different, first names, gender, date of birth, place of birth, nationality, address, alias names and any deviating personal details,
2. the decision-making body, including a reference number,
3. the date of commission of the (last) act,
4. the date of the first judgment; in the case of penal orders, the date of the first judgment is the date of signature by the judge; where an objection was lodged against the penal order,

the date of the first judgment is the date on which the decision on the objection is given, unless the objection was dismissed,

5. the date on which the judgment became final,

6. the legal designation of the act of which the convicted person has been found guilty, stating the criminal provisions applied,

7. the penalties imposed

3. What use is made of this data?

The BZRG provides for two basic types of information:

- the certificate of good conduct (sections 30 to 32) and
- the unrestricted disclosure of information (sections 41 and 42).

Based on the purpose of the certificate of good conduct, a distinction is made between:

- certificates of good conduct for private purposes pursuant to section 30 subsections (1) to (4) and
- certificates of good conduct for official purposes (i.e. presentation to another authority) pursuant to section 30 (5),
- extended certificates of good conduct (section 30a) and
- European certificates of good conduct (section 30b).

The “certificate of good conduct for private purposes”, the “certificate of good conduct for official purposes” and the “European certificate of good conduct” are available in extended form and have different content (i.e. inclusion of certain sexual and violent offences even if the entry for these offences refers to a single misdemeanour and extension of the time limits for inclusion in the extended certificate of good conduct).

Unrestricted disclosure generally includes the entire content of the Register. However, it can also vary based on the type of recipient: In certain cases, public prosecution offices and criminal courts will receive more comprehensive information than the other entitled bodies (section 41 (3)). The entire content of the Register is disclosed only to a strictly limited number of authorities for certain purposes and when there is an overriding public interest.

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

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Tel: +49 22899 410-5668

Fax: +49 22899 410-5603

Internet: www.bundesjustizamt.de

Email: bzr.international@bfj.bund.de

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes

If so, how often and by which means (post, email, etc.)?

- only by post, every quarter

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

Yes

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

Yes

If so,

by which means (post, email, etc.)?

- only by post

what use do you make of these notifications?

- We are verifying whether the convictions shall be included in the German Central Criminal Register. This is only the case when a penalty, sentence or a measure of reform and prevention could have been imposed on account of the facts underlying the conviction even under German law. If a conviction is included in the Register, we store it for as long as required by our national law.

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention?

Strictly required information:

- Surname at birth
- First name
- Date of birth
- Relevant offence
- References of relevant criminal legislation
- Length/severity of sentence(s) handed down
- Date of conviction of the first instance
- Name and file number of sentencing authority
- Date on which the judgment became final

Information required facilitating the process:

- Surname
- Place of birth
- Nationality
- Date of commission of offence
- Place of commission of offence

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

- It happens regularly that notifications of convictions cannot be delivered and are returned to us.
- Many notifications lack the confirmation that the conviction has become final.

*

Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

Bundesamt für Justiz
Referat IV 2
Internationale Registerangelegenheiten
Adenauerallee 99 – 103
D - 53113 BONN
Tel: +49 22899 410-5668
Fax: +49 22899 410-5603
Internet: www.bundesjustizamt.de
Email: bzr.international@bfj.bund.de

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

- In 2018 the Federal Office of Justice received 2.551 requests.

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

Yes

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

Yes

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

In Germany no convictions can be issued against legal persons. Therefore, the Central Criminal Register does not contain information in this regard.

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

Yes

Comments or examples:

According to Section 57 para. 1 BZRG, agencies in another state receive unrestricted information extracted from the Register or for issuance of a certificate of good conduct for official purposes. The request needs exactly stating the purpose of the request so that it can be examined on a case-by-case basis whether information could be provided under German law. The information may only be used for that purpose.

Generally, foreign agencies receive judicial record extracts for the same purposes and in the same scope as to comparable German agencies, i.e. unrestricted disclosure of information (Section 41 BZRG) and (extended) certificates of good conduct for official purposes (i.e. presentation to another authority, Section 31 BZRG).

The following foreign agencies get an unrestricted disclosure of information:

1. the courts, court presidents, public prosecution offices and supervising authorities for the purposes of the administration of justice and to prisons for the purposes of the execution of sentences, including conducting checks of all those employed in the prison service,
2. the highest federal and Land authorities,
3. the offices for the protection of the constitution at federal and Land level, the Federal Intelligence Service and the Military Counterintelligence Service for security tasks assigned to these authorities,
4. the fiscal authorities for the prosecution of those criminal offences which fall within their remit,
5. the police stations responsible for criminal offences for the purposes of the prevention and prosecution of criminal offences,
6. the naturalisation authorities for naturalisation procedures,
7. the foreigners authorities and the Federal Office for Migration and Refugees if the information refers to a foreign national,
8. the authorities responsible for pardons in matters relating to pardons,
9. the authorities competent in regard to licences issued under weapons law or explosives law, the issue of hunting licences, licences to keep a dangerous dog or licences issued to the security industry and security staff screening,
10. the Federal Institute for Drugs and Medical Devices in the context of the licensing procedure under the Narcotics Act,
11. the bar associations or chambers of patent lawyers for decisions given in proceedings concerning admission, acceptance and supervision under the Federal Lawyers' Act, the Patent Lawyers' Act, the Act on the Activities of European Lawyers in Germany or the Act on the Activities of European Patent Lawyers in Germany,

12. the Federal Office for the Safety of Nuclear Waste Management as part of nuclear reliability checks under the Atomic Energy Act,

13. the aviation security authorities for the purposes of reliability checks under section 7 of the Aviation Security Act,

14. the Financial Intelligence Unit (FIU) for the purposes of fulfilling tasks assigned under the Money Laundering Act

Authorities are sent an extended certificate of good conduct for official purposes (including for the purposes of protecting minors) under the condition that it is required in the fulfilment of their sovereign tasks and it is not appropriate to request the person concerned to present a certificate of good conduct or such a request was unsuccessful.

Private persons or legal entities under private law have no right to information to the extent stated above. Private persons can apply for a private certificate of good conduct. Therefore, the response to a request in connection with the recruitment to a profession involving contact with minors is generally only possible if the certificate of good conduct is issued to the applying person.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- First name
- Alias
- Place of birth
- Date of birth
- Nationality
- Purpose of the request

Other:

- Surname at birth

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

- No.

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

- Under normal circumstances we handle those requests within 5-7 working days.

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

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9. LATVIA / LETTONIE

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

This concerns the area of competence of the Ministry of Justice.

2. Which data is contained in your national judicial records?

It is not within the competence of the Ministry of Interior Information Center.

3. What use is made of this data?

The essence of this question is unclear.

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

The Ministry of Interior Information Center provides information about convictions (criminal records).

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes

If so, how often and by which means (post, email, etc.)?

Once a year. By post.

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

Yes

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

Yes but not from all State Parties.

If so,

by which means (post, email, etc.)? By post.

what use do you make of these notifications?

According to the Punishment Register Law this data is included in the Punishment Register.

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention? 9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

Correct personal data is very important as well as detailed information on conviction and on release.

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

Not all States Parties provide information.

Article 13 (The Ministry of Interior Information Center does not apply Article 13, thus we are unable to answer the questions of this section.)

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

Ministry of Justice is the relevant authority responsible for applying this provision.

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

It is in the area of competence of the Ministry of Justice.

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

Yes

This question is not within the competence of the Ministry of Interior Information Center.

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

This question is not within the competence of the Ministry of Interior Information Center.

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

Comments:

This question is not within the competence of the Ministry of Interior Information Center.

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

Comments or examples: ...

We do not directly respond to the requests from third States, however a response is given through the intermediary of the State Police.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

This question is not within the competence of the Ministry of Interior Information Center.

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

This question is not within the competence of the Ministry of Interior Information Center.

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

If a request is received, we prepare a response and it is then sent through the intermediary of the State Police.

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

This question is not within the competence of the Ministry of Interior Information Center.

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10. MONACO

1. Comment interprétez-vous la notion de « casier judiciaire », telle que mentionnée aux articles 13 et 22 de la Convention, dans votre juridiction ?

Le casier judiciaire désigne le relevé des condamnations judiciaires rendues à l'encontre d'une personne privée ou morale

2. Quelles sont les données contenues dans vos casiers judiciaires nationaux ?

- **Le bulletin n°1** mentionne les noms, prénoms, filiation, date et lieu de naissance, domicile, profession et nationalité du condamné.

Lorsqu'il s'agit d'une personne morale, ce bulletin mentionne l'identité, les raison ou dénomination sociale, forme juridique, siège social et objet social de la personne morale condamnée.

Il mentionne également la juridiction qui a statué, le caractère définitif ou non du jugement ou de l'arrêt, son caractère contradictoire, par défaut ou par contumace, la date de la condamnation, la nature des crimes et délits qui ont motivé la condamnation et la date de ces infractions, la nature, la durée, le taux de la peine prononcée, le bénéfice du sursis s'il a été accordé, le texte visé par le jugement ou l'arrêt, le refus de l'imputation de la détention préventive ou, s'il y a eu imputation, la date du mandat d'arrêt ou de l'ordonnance de prise de corps.

- **Le bulletin n°2** reproduit les mentions du bulletin n°1 à l'exclusion :

1° Des décisions concernant les mineurs ;

2° Des décisions assorties du bénéfice du sursis, sauf s'il y a eu révocation ;

3° Des condamnations effacées par la réhabilitation ;

4° Des jugements prononçant la faillite personnelle ou certaines des déchéances de la faillite personnelle effacés par la réhabilitation.

- **Le bulletin n°3** est le relevé des condamnations à des peines privatives de liberté prononcées par une juridiction répressive monégasque pour crime ou délit et pour lesquelles le sursis n'a pas été accordé. N'y sont pas inscrites les condamnations déjà exclues au bulletin n° 2.

3. Quelle est l'utilisation faite de ces données ?

Le bulletin n° 1 est destiné à être classé au Greffe Général, le bulletin n°2 n'est délivré qu'aux autorités judiciaires, ou aux administrations publiques pour les besoins de la constitution d'un dossier administratif, le bulletin n°3 ne peut être réclamé que par la personne qu'il concerne ou par son représentant légal et ne doit en aucun cas être délivré à un tiers.

Article 22

4. Quelle est l'autorité compétente dans votre système national pour appliquer cet article relatif aux échanges automatiques d'avis de condamnation entre Etats-parties et quelles sont ses coordonnées?

Direction des Services Judiciaires
Palais de Justice
5, rue Colonel Bellando de Castro 98000 MONACO
T : +377 98 98 81 63 / 81 18
F : +377 98 98 85 89
Mail : dsj@justice.mc

5. Votre Etat adresse-t-il des avis de condamnation aux autres Etats parties en application de l'article 22 de la Convention ?

Oui

Deux fois par an (juin et décembre) par voie postale

6. Pourriez-vous envisager, si ce n'est pas déjà le cas, d'envoyer et/ou de recevoir de tels avis de condamnation par voie électronique ?

Oui

7. Votre Etat reçoit-il des avis de condamnation d'autres Etats Parties en vertu de l'article 22 de la Convention ?

Non

Le seul Etat faisant parvenir les avis de condamnation de ressortissants monégasques est la France, en vertu de la Convention bilatérale d'entraide judiciaire en matière pénale du 8/11/2005. Ces condamnations sont inscrites au casier judiciaire national et classées au Greffe Général.

8. Quelles sont les informations obligatoires sans lesquelles vous ne pouvez pas traiter un avis de condamnation transmis par un Etat partie à la Convention ?

L'avis de condamnation transmis par un Etat partie à la convention doit faire figurer les mentions inscrites au bulletin n°1 de l'extrait de casier judiciaire monégasque.

9. Quels sont les problèmes rencontrés dans l'application de l'article 22 de la Convention et quelles améliorations proposeriez-vous ?

Certains Etats exigent une traduction des avis de condamnation en anglais ou dans leur langue, ce qui engendre des frais supplémentaires pour les autorités monégasques, pour une démarche volontaire de leur part et en rien réciproque.

Article 13

10. Quelle est l'autorité compétente dans votre système national pour appliquer cet article relatif aux transmissions d'extraits de casiers judiciaires et quelles sont ses coordonnées?

Direction des Services Judiciaires
Palais de Justice
5, rue Colonel Bellando de Castro 98000 MONACO
T : +377 98 98 81 63 / 81 18
F : +377 98 98 85 89
Mail : dsj@justice.mc

11. Quel est le nombre de demandes d'extraits de casier judiciaire reçues par cette autorité sur le fondement de l'article 13 pendant l'année 2018 ?

Aucune

12. Dans l'hypothèse où vous avez été saisis à ce titre, votre Etat a-t-il effectivement adressé aux Etats-parties requérants les extraits de casier judiciaire sollicités en application de l'article 13 de la Convention ?

Notre Etat n'a pas été saisi de demandes

13. Si ce n'est pas déjà le cas, pourriez-vous envisager d'envoyer et/ou de recevoir de tels extraits de casier judiciaire par voie dématérialisée ?

Oui

14. Etes-vous en mesure d'exécuter une demande basée sur l'article 13, paragraphes 1 et 2 concernant des personnes morales ?

Oui

15. Votre législation nationale permet-elle de répondre à une requête d'extrait de casier judiciaire pour d'autres motifs qu'une procédure pénale (par exemple, dans le cadre d'un recrutement pour une profession en contact avec des mineurs) ?

Non

Les autorités monégasques ne transmettent pas d'avis de condamnation à un tiers étranger, hors le cadre de l'entraide judiciaire en matière pénale.

Toutefois, si une administration publique, ou un employeur privé, étrangers, avaient besoin d'un extrait de casier judiciaire pour la constitution d'un dossier administratif, la personne concernée par cet extrait pourrait directement solliciter du Greffe Général la délivrance d'un bulletin n°3, afin de le remettre à qui de droit.

16. Quelles sont les informations obligatoires dont vous avez besoin pour traiter une demande d'extrait de casier judiciaire sur le fondement de l'article 13 de la convention de 1959 ?

- Nom

- Prénom
- Alias
- Sexe
- Filiation (nom et prénom du père et de la mère)
- Pays de naissance
- Ville de naissance
- Date de naissance
- Nationalité
- Finalité de la demande

17. Acceptez-vous de répondre à une demande d'extrait de casier judiciaire visant l'article 13 de la convention de 1959 et rédigée dans une des deux langues officielles (anglais ou français) du Conseil de l'Europe ?

La demande doit être rédigée en langue française.

18. Combien de temps vous faudrait-il pour répondre à une demande d'extrait de casier judiciaire en vertu de l'article 13?

la demande serait exécutée à très bref délai, néanmoins, l'article 204-1 du Code de procédure pénale monégasque impose désormais au Parquet Général, dans le cadre d'une demande d'entraide judiciaire en matière pénale, *"de conserver pendant un délai de deux mois à partir de la date de réception, les documents qui la fondent et les pièces d'exécution qui y sont jointes"* afin de permettre aux éventuels avocats des personnes qui font l'objet de mesures exécutées en application d'une demande d'entraide d'en prendre connaissance.

19. Quels sont les problèmes rencontrés dans l'application de l'article 13 de la Convention et quelles améliorations proposeriez-vous ?

Pas de retour d'expérience, les autorités monégasques n'ont jamais été saisies d'une telle demande, et n'en ont pas émise non plus.

*

11.NORWAY / NORVEGE

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

The notion of "judicial records" is interpreted as a detailed record of final and enforceable criminal sanctions and measures passed against a person or legal entities as a result of a breach of law.

2. Which data is contained in your national judicial records?

The Norwegian national judicial records (criminal sanctions database) contain records of penalties and other measures imposed as result of a breach of law. Personal details, sanctions and measures are recorded.

3. What use is made of this data?

Use of the data registered in criminal sanctions database is regulated by the Norwegian Act relating to the processing of data by the police and prosecuting authority from 2010 (Police Databases Act). The data may – provided that certain legal conditions are met – for instance be used in connection with the prevention, investigation and prosecution of other criminal offences, security clearance and the issuing of criminal record certificates. The information may also be used as a basis for making a decision to enter a DNA profile in our DNA database.

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

National Criminal Investigation Service
P.O. Box 2094 Vika
NO-0125 OSLO

NORWAY

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

X Yes

If so, how often and by which means (post, email, etc.)?

Norway forwards the notifications by post. For the past year, Norway has sent notifications quite frequently, and will continue to send notifications several times per year.

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

X Yes

Comments, if any:

From our point of view, it would be more efficient to send and receive notifications electronically, thus enabling more expedient transmission of information. This will require, however, the implementation of secure and encrypted communications channels between the State Parties in pursuance to data protection regulations.

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

X Yes

If so, by which means (post, email, etc.)?

What use do you make of these notifications?

Norway receives notifications by post and e-mail. The information is entered in our national criminal sanctions database. The information is for instance used in connection with the prevention, investigation and prosecution of other criminal offences, conf. question 3.

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention?

Norway must receive the following information:

- name (first name, middle name, surname)
- date of birth
- citizenship
- date of judgement
- offence
- date of offence
- sentence
- court of law

The judgement must be final and enforceable before being entered in our criminal sanctions database.

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

First of all, it is very important to continue the exchange of information according to Art. 22 as it is one of several tools contributing to enhance international legal cooperation.

Norway is positive to initiatives contributing to the improvement of today's process of sending and receiving notifications. Secure electronic transmission of information would make it more expedient in all aspects. It would also be very useful to implement a universal digital format used by all State Parties. We also believe that the use of standard definitions and terminology and/or access to translated legal terminology specific for these notifications would contribute to reducing the time and cost for translations etc., and also reduce the need for contacting the respective countries for clarifications.

Furthermore, all countries have different requirements in terms of must have-information, and this is not always known to other State Parties. It may not even be possible to send the information required due to different national legislation, different computer systems etc. As a start, it would be useful to have access to a detailed and updated overview of the information required (must have) in order to enter the information in the respective national databases. A list of the national authorities (contact points) responsible for the judicial records in each

State Party would also be relevant. It is our hope that such overviews will be made accessible to the State Parties subsequent to the current work carried out by PC-OC.

*

Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

According to Norwegian law, the Norwegian Public Prosecutors and Chiefs of Police are competent to respond to requests forwarded under Article 13 no 1 of the European Convention on Mutual Legal Assistance. Contact details within the Norwegian Prosecuting authority can be found under "Atlas" at the EJM website. Requests may also be forwarded to the Ministry of Justice and Public Security.

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

No statistics available.

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

X Yes

If not, could you indicate the reasons?

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

X Yes [Comment: provided that we could communicate it in a secure manner]

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

X Yes

Comments: (This answer relates to requests under article 13 no 1)

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

X No

Comments or examples: ...

As a main rule the answer is no. The person concerned may personally apply for a police certificate of conduct.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

X Surname

X First name

X Date of birth

X Purpose of the request

Please note that surname, first name and date of birth is the minimum of personal information we would need in order to process a request. In some cases that might not be enough. Thus we encourage all State Parties to provide as much information as possible, including nationality and alias.

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

Yes, English.

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

A request under Article 13 would normally be dealt with shortly. It is difficult to estimate days/weeks, but all international requests for assistance are to be given priority. If it is requested to respond within a given time-limit, we would strive to comply with it.

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

*

12. NORTH MACEDONIA / MACEDOINE DU NORD

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

In Republic of North Macedonia “judicial records” is criminal records – meaning notification that a person has committed a crime in a foreign country and that should be recorded in a register in place of birth or/and nationality

2. Which data is contained in your national judicial records?

- first and last name (alias and nickname if any)
 - fathers (mothers) name
 - date of birth
 - place of birth
 - personal number
- if there is a record for that particular person
- court number of verdict
 - who issued the verdict
 - date that the verdict become final
 - imposed penalty
 - criminal offence

3. What use is made of this data?

This data is used if there is another procedure for the same person. For every procedure this information is needed

Article 22

4. Which department in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

Ministry of justice
Mutual legal assistance
Dimitrie Chupovski 9 – Skopje

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

✓ Yes

If so, how often and by which means (post, email, etc.)?

By post, and it depends from the frequency of the court procedure regarding foreign nationals and specific state

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

7. What use do you make of notifications of conviction received?

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention? Please tick the relevant boxes.

- Surname
- First name
- Gender
- Parents (surnames and first names of father and mother)
- Country of birth
- Place of birth
- Date of birth
- Relevant offence
- References of relevant criminal legislation
- Date of commission of offence
- Place of commission of offence
- Length/severity of sentence(s) handed down
- Date of conviction
- Name of sentencing authority

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

We have problems with translation. North Macedonia is a very small country and we simply do not have translators in many languages and because the state parties are not obligated to send any translation records from those countries are simply not entered in to the system.

Article 13

10. Which department in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

Ministry of justice
Mutual legal assistance
Dimitrie Chupovski 9 - Skopje

11. How many requests for judicial record extracts did this department receive on the basis of Article 13 during 2018?

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

✓ Yes

If not, could you indicate the reasons?

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

✓ Yes

[14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

It is not clear what do you mean in reference to the convention.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Alias
- Gender
- Parents (surnames and first names of father and mother)
- Country of birth
- Place of birth
- Date of birth
- Nationality
- Purpose of the request

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

18. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

*

13. POLAND /POLOGNE

How do you interpret the notion of "judicial records", as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

Judicial records means data contained in the National Criminal Register (NCR).

2. Which data is contained in your national judicial records?

In the National Criminal Register, data on following persons is contained:

- 1) convicted for criminal or fiscal offenses;
- 2) against whom the proceedings in cases concerning criminal or fiscal offenses have been finally conditionally discontinued;
- 3) against whom proceedings in cases of criminal or fiscal offenses were terminated due to amnesty;
- 4) being Polish citizens convicted by foreign courts;
- 5) who have been subjected to precautionary measures in cases of criminal or fiscal offenses;
- 6) being juveniles who were subjected to educational, corrective or educational-therapeutic measures or punishment;
- 7) convicted for petty offences for arrest;
- 8) wanted by a arrest warrant;
- 9) temporarily detained;
- 10) juveniles placed in juvenile shelters.

The Register also contains data on legal persons that were subjected to financial penalty, forfeiture, prohibition or publication of the judgment.

3. What use is made of this data?

Data contained in NCR is available to persons, entities and agencies set out in the Act of May 24th, 2000 on National Criminal Register. It is used for proceedings in criminal, civil and administrative cases, employment vetting, compiling statistical data and in scientific studies, among other things.

*

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

Ministry of Justice of the Republic of Poland / Ministerstwo Sprawiedliwości National Criminal Register Information Office / Biuro Informacyjne Krajowego Rejestru Karnego ul. Czerniakowska 100 00-454 Warsaw, Poland telephone number: 48 22 39 76 200 e-mail: krk@ms.gov.pl

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

✓ YES

If so, how often and by which means (post, email, etc.)?

Once or twice a year.

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

✓ YES

Comments, if any:

Secure and encrypted e-mail connection must be established.

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

✓ YES

8. If so, how often and by which means (post, email, etc.)?

By post.

What use do you make of these notifications?

Received notifications are used to supplement the database of convicted Polish citizens with sentences or decisions passed in countries that are parties to the MLA Convention.

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention?

- a) the fullest possible identification of the sentenced person which is: surname, first name, gender, first names and surnames of parents, country and place of birth, date of birth, nationality;
- b) the name of the authority issuing the judgment/decision;
- c) the file number of the case;
- d) the date on which the judgment/decision was delivered and became final;
- e) the legal classification of the offence;
- f) the penalties and measures imposed;
- g) the date on which the offence was committed.

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

The biggest problem with the received notifications is the difficulty of clearly identifying the convicted person.

*

Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

11.

Ministry of Justice of the Republic of Poland / Ministerstwo Sprawiedliwości National Criminal Register Information Office / Biuro Informacyjne Krajowego Rejestru Karnego
ul. Czerniakowska 100 00-454

Warsaw, Poland telephone number

48 22 39 76 200 e-mail:

krk@ms.gov.pl

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

We do not keep data on the number of such requests.

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

✓ YES

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

✓ YES

✓

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

15.

16. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

✓ NO

✓

Comments or examples:

The European Convention on Mutual Assistance in Criminal does not constitute the basis for exchange of information on purposes other than criminal proceedings that is required by the Polish law (Act of May 24th, 2000 on National Criminal Register).

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Gender
- Parents (surnames and first names of father and mother)
- Country of birth
- Place of birth
- Date of birth
- Nationality
- Purpose of the request

PESEL number.

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

Request only in English will be responded to.

18. How much time would you need to respond to a request for judicial record extracts under

Article 13?

7 days are needed to respond to a request providing that no additional proceedings have to be conducted.

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

Communication and timely obtaining information from some countries are problematic.

14. REPUBLIC OF KOREA / REPUBLIQUE DE COREE

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

The term “judicial records” is interpreted as all of the documents that is recorded in the court’s trial process in which the investigative authorities have investigated and have indicted

2. Which data is contained in your national judicial records?

In our judicial records, the following data is included; personal information of the accused, the reasons for initiating the investigation, the contents of the investigation, statements of the accused and relevant persons, other evidence gathered by the investigative authorities, the petition of appeal(indictment), protocol(report) of the trial, and the written court ruling.

3. What use is made of this data?

It is used in the investigative process, and/or trial process, and/or in the process of the execution of the sentence.

4. Which department in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

Central Institution in charge of mutual legal assistance in criminal matters.

Mailing Address:

Director Mr. LEE, Dong-un
International Criminal Affairs Division
Ministry of Justice
47 Gwanmun-ro, Gwacheon
13809, Republic of Korea

Contact Points:

Prosecutor: OH Jinse jinse@spo.go.kr
Legal Officer: CHOI Chang-hwan longpine@spo.go.kr

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

No

Because, if a national of a Contracting Party is arrested in the territory of Republic of Korea, the consulate of the Contracting Party residing in Republic of Korea is notified pursuant to Article 36 of the Vienna Convention on Consular Relations, and extracts from and information relating to judicial records are provided pursuant to Article 13 of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959.

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

Yes

7. What use do you make of notifications of conviction received?

It is not utilized widely because it is difficult to verify the identity of our national from the contents of the notification.

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention? Please tick the relevant boxes.

- Surname
- First name
- Gender
- Date of birth
- Nationality
- Relevant offence
- References of relevant criminal legislation
- Date of commission of offence
- Place of commission of offence
- Length/severity of sentence(s) handed down
- Date of conviction
- Name of sentencing authority
- Other: Copy of passport or passport number of our national subject to the notification, in order to verify the identity.

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

It is difficult to verify the identity of our national just by the contents of the notification. The notification need to include a copy of passport, and/or passport number information so that we can verify the identity of our national, subject to the notification.

10. Which department in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

Central Institution in charge of mutual legal assistance in criminal matters

Mailing Address:

Director Mr. LEE, Dong-un

International Criminal Affairs Division

Ministry of Justice

47 Gwanmun-ro, Gwacheon

13809, Republic of Korea

Contact Points:

Prosecutor: OH Jinse jinse@spo.go.kr

Legal Officer: CHOI Chang-hwan longpine@spo.go.kr

11. How many requests for judicial record extracts did this department receive on the basis of Article 13 during 2018?

2 cases in the year 2018.

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

Yes

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

Yes

[14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

Yes

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

No

To follow through the request for mutual legal assistance in criminal matters, the criteria of dual criminality must be met according to our nation's criminal code. However, in the cases of requests on grounds other than for criminal proceedings, the criteria of dual criminality may be difficult to fulfill.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Alias
- Gender
- Date of birth
- Nationality
- Purpose of the request
- Other: facts of crime, process of investigation, charge and applicable law, name of investigation authority, etc.

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

Judicial records are provided in their original language (Korean), in principle.

18. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

If there is no information about the investigative authority or judicial authority of the requested case, it may be difficult to confirm the location of that case file, so information about the requested case is crucial, if possible.

*

15. RUSSIAN FEDERATION / FEDERATION DE RUSSIE

1. Comment interprétez-vous la notion de « casier judiciaire », telle que mentionnée aux articles 13 et 22 de la Convention, dans votre juridiction ?

Sous la notion de « casier judiciaire » on comprend des actes judiciaires en matière répressive (des décisions judiciaires, des jugements) et d'autres documents rédigés par des participants au procès dans le cadre de l'examen de l'affaire pénale.

2. Quelles sont les données contenues dans vos casiers judiciaires nationaux ?

Selon les types de documents des casiers judiciaires peuvent contenir :

- des informations sur des parties et d'autres personnes participantes à la procédure, leurs représentants ;
- des règles législatives, prévoyant la responsabilité pour l'infraction étant à la base de l'accusation ;
- la description du délit ;
- des preuves et d'autres renseignements.

3. Quelle est l'utilisation faite de ces données ?

Ces données peuvent représenter des décisions judiciaires ou contenir des preuves.

4. Quelle est l'autorité compétente dans votre système national pour appliquer l'article 22 de la Convention relative aux échanges automatiques d'avis de condamnation entre Etats-parties et quelles sont ses coordonnées ?

En vertu de l'alinéa 7 de la Loi fédérale en date du 25.10.1999 № 193-FZ « Sur la ratification de la Convention européenne d'entraide judiciaire en matière pénale et du Protocole additionnel à cette Convention » cette autorité est le Ministère de la Justice de la Fédération de Russie – ulitsa Gitnaya, 14, Moscou, Federation de Russie. 119991.

5. Votre Etat adresse-t-il des avis de condamnation aux autres Etats parties en application de l'article 22 de la Convention ?

Oui, il les adresse.

6. Pourriez-vous envisager, si ce n'est pas déjà le cas, d'envoyer et/ou de recevoir de tels avis de condamnation par voie électronique ?

Oui, mais en vertu du principe de réciprocité et avec le respect des exigences à la protection des données personnelles (par des voies protégées de communication, etc.).

7. Votre Etat reçoit-il des avis de condamnation d'autres Etats Parties en vertu de l'article 22 de la Convention ?

Oui, il les reçoit.

8. Quelles sont les informations obligatoires sans lesquelles vous ne pouvez pas traiter un avis de condamnation transmis par un Etat partie à la Convention ?

Le nom, le prénom et le patronyme du mis en examen, la date de sa naissance, le lieu de naissance, les textes de la loi à la base desquels la personne a été poursuivie dans un Etat étranger et des informations sur la peine fixée à l'intéressé.

9. Quels sont les problèmes rencontrés dans l'application de l'article 22 de la Convention et quelles améliorations proposeriez-vous ?

L'article 22 de la Convention ne prévoit pas la traduction des informations sur des jugements ainsi que des données personnelles des personnes condamnées.

10. Quelle est l'autorité compétente dans votre système national pour appliquer cet article relatif aux transmissions d'extraits de casiers judiciaires et quelles sont ses coordonnées?

En vertu de l'alinéa 7 de la Loi fédérale en date du 25.10.1999 N 193-FZ « Sur la ratification de la Convention européenne d'entraide judiciaire en matière pénale et du Protocole additionnel à cette Convention » cette autorité est le Ministère de la Justice de la Fédération de Russie – ulitsa Gitnaya, 14, Moscou, 119991.

11. Quel est le nombre de demandes d'extraits de casier judiciaire reçues par cette autorité sur le fondement de l'article 13 pendant l'année 2018 ?

On n'a eu aucunes demandes.

12. Dans l'hypothèse où vous avez été saisis à ce titre, votre Etat a-t-il effectivement adressé aux Etats-parties requérants les extraits de casier judiciaire sollicités en application de l'article 13 de la Convention ?

Le Ministère de la Justice de la Russie n'a pas eu aucunes demandes émises par des tribunaux russes pour leur envoi ultérieur sur le territoire d'un Etat étranger.

13. Si ce n'est pas déjà le cas, pourriez-vous envisager d'envoyer et/ou de recevoir de tels extraits de casier judiciaire par voie dématérialisée ?

Non

14. Etes-vous en mesure d'exécuter une demande basée sur l'article 13, paragraphes 1 et 2 concernant des personnes morales ?

Oui

15. Votre législation nationale permet-elle de répondre à une requête d'extrait de casier judiciaire pour d'autres motifs qu'une procédure pénale (par exemple, dans le cadre d'un recrutement pour une profession en contact avec des mineurs) ?

Non

16. Quelles sont les informations obligatoires dont vous avez besoin pour traiter une demande d'extrait de casier judiciaire sur le fondement de l'article 13 de la convention de 1959 ?

Une demande doit contenir des informations suivantes : l'objectif, le nom, le prénom et le patronyme du mis en examen, la date de sa naissance, le lieu de naissance, les textes de la

loi à la base desquels la personne a été poursuivie dans un Etat étranger et des informations sur la peine fixée à l'intéressé.

17. Acceptez-vous de répondre à une demande d'extrait de casier judiciaire visant l'article 13 de la convention de 1959 et rédigée dans une des deux langues officielles (anglais ou français) du Conseil de l'Europe ?

La demande doit être accompagnée de sa traduction en langue russe.

18. Combien de temps vous faudrait-il pour répondre à une demande d'extrait de casier judiciaire en vertu de l'article 13?

De 3 à 6 mois environ

19. Quels sont les problèmes rencontrés dans l'application de l'article 13 de la Convention et quelles améliorations proposeriez-vous ?

Il n'y a pas de pratique d'application.

*

16. SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

The judicial records is a national database collecting information on persons who have been lawfully convicted in criminal proceedings, whose prosecution has been lawfully conditionally suspended, on proceedings in which a settlement has been approved and the prosecution has been terminated, either by the court or the prosecutor and on decisions and measures that follow from such decisions and other facts, if required by law.

2. Which data is contained in your national judicial records?

1 / if the prosecution has resulted in a valid conviction:

a) data relating to the identity of the sentenced natural person and legal entity

aa) in relation to a convicted natural person

- name, surname and maiden name, alias or nickname, if applicable; in the case of a change of name or change of surname also the original name or surname

- date of birth, birth identification number, number and type of identity document, place and district of birth,

- permanent residence and, for persons born abroad, the country of birth,

- citizenship as well as other citizenship of another Member State of the European Union,

- sex,

- name, surname and maiden name of parents,

ab) in relation to a convicted legal entity

- the company name or name and registered seat of the legal entity,

- identification number, if assigned,

- the register in which the legal entity is registered.

b) information on courts which have decided at first instance and on appeal proceedings and their file numbers, including the date of the judgment and the date on which the judgment became final;

c) a decision on guilt, indicating the legal classification of the act, the place and time of the offense, the type and rate of the punishment and the protective measures, their enforcement and the restrictions or obligations imposed,

d) changes of the decision in the appellate proceedings;

e) changes related to the execution of the sentence or protective measure.

f) a court decision on conditional release from a service of a term of imprisonment or a decision on a conditional waiver of the execution of the remaining term of punishment by disqualification or punishment by prohibition of residence and other punishments,

g) a court decision on ordering the execution of a conditionally suspended custodial sentence;

h) the decision of the court converting the punishment by house arrest or community service into an imprisonment punishment;

i) the decision of the court ordering a substitute sentence of imprisonment instead of a fine;

j) grant of mercy,

k) participation of the sentenced person in an amnesty;

2 / in the case of a conditional suspension of criminal prosecution by a court or a prosecutor, in addition to the above –mentioned details concerning the identity of the person, judicial records contain :

a) designation of the court or prosecutor's office and the reference number of the criminal case file;

- b) date of the decision's issuance and the date of its validity;
- c) description of circumstances of the act and its legal qualification;
- d) whether the accused person has made good during the probationary period; or
- e) prosecution is will continue;
- f) probationary period has expired and the certificate has not been decided.

The report on the conditional suspension of criminal prosecution shall be removed from the criminal records upon receipt of a written report that the prosecution is continuing;

(3) in the case of a decision of settlement and suspension of prosecution, in addition to the above-mentioned details concerning the identity of the person, judicial records contain :

- a) designation of the court or prosecutor's office and the reference number of the criminal case file;
- b) date of the decision's issuance and the date of its validity;
- c) description of circumstances of the act and its legal qualification.

3. What use is made of this data?

Data is used for the purpose of criminal proceedings, civil proceedings, administrative judicial proceedings or administrative proceedings, national security protection, certificates of integrity and reliability of the person.

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

Ministry of Justice
Župné námestie 1
811 03 Bratislava
Slovak Republic

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes.

If so, how often and by which means (post, email, etc.)?

Notifications are sent approximately once a year. However, the communication with some countries is more intensive and notifications are sent four times a year. Notifications are sent via post.

If not, could you indicate the reasons?

Does not apply.

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

No.

Comments, if any :

Due to the personal data protection we prefer to send and receive the notifications by post.

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

Yes.

If so,

by which means (post, email, etc.)?

Notifications are sent to the Slovak Republic by post.

what use do you make of these notifications?

All such written notifications are embedded in the criminal records register (in accordance with the Act no. 330/2007 on the Criminal Register).

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention?

The notification must contain at least the following information :

- (a) identification data : name, surname, date and place of birth, nationality;
- (b) conviction information : court, file number, date of issuance of the judgment, legal qualification of the act and the punishment imposed.

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

We have encountered the following problems :

- A structured standardized form would simplify the application of the said article.
- There is a problem with notification's translation sent according to this article.
- Another issue is the scope of the data provided.
- Some states send information with several years delay, thus not current.
- In relation to information on convictions already notified, no additional decisions are sent (for example deletion of conviction).

Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

General Prosecutor's Office
Štúrova 2
812 85 Bratislava
Slovak Republic

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

The General Prosecutor's Office received 28 requests on the basis of Article 13 during the year 2018.

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

Yes

If not, could you indicate the reasons?

No requests were made to us

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

Extract may be send or received electronically, but we subsequently request and also send to the requesting state its original paper version.

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

Yes.

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

Based on the wording of Art. 13, par. 2, the Slovak Republic would, in the case of such request, proceed in the same way as in the case of a similar national request, thus in accordance with our national legislation.

In practice, however, there are no agreed rules for such exchange within the frame of this treaty. It is not possible to verify whether the requesting authority is the competent one. Declarations made by parties to the treaty designate only judicial authorities for the purpose of criminal proceedings and not the authorities for the purpose of the other types of proceedings.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Gender
- Parents (surnames and first names of father and mother)
- Country of birth
- Place of birth
- Date of birth/ identification number if available
- Nationality
- Purpose of the request

The request will be processed only if on the basis of the data provided it is possible to clearly identify the person in question. Otherwise, we will ask for additional information.

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

Yes. The Slovak Republic in line with its declaration towards Article 16 accepts the requests and supporting documents in either Slovak language or in one of the official languages of the Council of Europe or together with a translation into one of these languages.

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

On average, it takes us two weeks to respond to such a request.

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

There is no sufficient information about the identity of the person and the purpose of the use of the requested data is often missing.

*

17. SWITZERLAND / SUISSE

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

In the context of **article 13** the *judicial record* is the central authority – provided the country has centralized this very authority - for the registration of all criminal convictions in a country. In Switzerland, this authority is the Swiss criminal records. It is part of the federal department of Justice based in Bern. It is, among other things, responsible for the international exchange of notices of information from judicial records based on the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 (see Article 22) and bilateral Treaties between individual countries.

In our understanding article 13 says further, that every member party is allowed to ask for extracts from their criminal records if the request comes from a judicial authority and an ongoing criminal proceeding is taking place without the need of a formal request for mutual legal assistance. It offers – or at least it should - a quick way to exchange criminal information's.

In the context of **article 22** *judicial record* means the same as stated previously - the Swiss criminal records. The criminal records from every member party are obliged to transmit convictions of nationals of any other member party. In our understanding, the purpose of this article is to offer every member party a criminal register about their nationals as fully as possible.

2. Which data is contained in your national judicial records?

The Swiss criminal records contain convictions for indictable and summary offences committed by adults on the territory of the confederation as well as Swiss nationals who have been convicted abroad. Convictions for misdemeanours committed by adults only are registered if they satisfy certain conditions. Convictions relating to juveniles are only recorded in the criminal records register where they involve specific penalties (imprisonment, detention, probation, judgments imposing a ban prohibiting the exercising of a profession, judgments prohibiting certain activities from being undertaken, judgments prohibiting contact, and judgments prohibiting the individual from visiting certain locations). Furthermore, the Swiss criminal records contain separate subsequent court decisions. Also parts of the data are the personal data of the convicted person.

3. What use is made of this data?

According to the Swiss criminal law, only certain *authorities* are allowed to see the registered data. The data also can only be used for the scope of the purposes provided by law.

Individual persons can order a so called excerpt or special excerpt from the criminal records about their self.

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

Federal Department of Justice and Police
Federal Office of Justice
Criminal register
Bundesrain 20
3003 Bern
vostra@bj.admin.ch
+41 (0) 58 463 09 00

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes

If so, how often and by which means (post, email, etc.)?

Once a week – by post.

No

If not, could you indicate the reasons?

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

Yes

It needs to be a secure electronic Mail connection.

No

Comments, if any:

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

Yes

If so,

by which means (post, email, etc.)? Post and exchange platforms.

what use do you make of these notifications? Data is updated in our Swiss criminal records if the registration conditions by Swiss law are fulfilled.

No

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention?

- Identity of the person (**mandatory**: Surname, First Name, Date of birth; *if possible*: Parents Name, Place of birth)
- Dates of the judgment (at least we need **one** of the following dates: Date of issue, opening date or date of the full legal effect)
- Every single committed offences (**mandatory**)
- Time of the offences (**mandatory**)
- Criminal justice authority (**mandatory**)
- Sanctions (**mandatory**)

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

Main Problems:

- Incomplete information according to number 8 (see above)
- Irregular or non-existent exchange
- Non readable Language (for example: Cyrillic script)

Improvements:

- Regular exchange with every member party.
- Standardisation of form (formula) and language

Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

Federal Department of Justice and Police
Federal Office of Justice
Criminal register
Bundesrain 20
3003 Bern
vostra@bj.admin.ch
+41 (0) 58 463 09 00

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

About 1800.

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

Yes

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

See answer number 12.

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

No

Comments:

Switzerland does not have criminal records for company's (legal persons). Only natural persons are registered in the Swiss criminal records.

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

No

Comments or examples:

Switzerland does not have any legal basis to answer a non-criminal request.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Parents (surnames and first names of father and mother)
- Date of birth
- Purpose of the request

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

Yes

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

One day, once we received it.

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

- Incomplete information according to number 16 (see above)
- No answer - causeless
- Non readable Language (for example: Cyrillic script)
- Difficulties to find a contact person when we encountered problems.
- Waiting period until an answer is made (up to 6 months or even more)

Improvements:

- Function exchange with every member party in a short period of time (1 Month should be the maximum)
- Standardisation of form (formula) and language

*

18. TURKEY / TURQUIE

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

C: It is a system in which records of people with finalized convictions are kept.

2. Which data is contained in your national judicial records?

The identity information of the person (citizenship number, name, surname, parent's name, place of birth, date of birth, place of registry), offence, penalty and court information.

3. What use is made of this data?

It is requested to be used by judicial authorities, public institutions and organizations, real and legal persons.

Article 22

4. Which department in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

Ministry of Justice of the Republic of Turkey

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes.

If so, how often and by which means (post, email, etc.)?

They are periodically sent through the Ministry of Justice.

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

Yes

No

7. What use do you make of notifications of conviction received?

Records sent by other countries are recorded in the criminal record information system and are evaluated as national records.

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention? Please tick the relevant boxes.

X Surname

X First name

X Gender

X Parents (surnames and first names of father and mother)

- Country of birth
- Place of birth
- Date of birth
- Relevant offence
- References of relevant criminal legislation
- Date of commission of offence
- Length/severity of sentence(s) handed down
- Date of conviction
- Name of sentencing authority
- Other: Republic of Turkey citizenship number, the date of finalization, status of suspension of of penalty

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

Submission of the documents as a hard copy and digitally will contribute to shortening the completion of the process.

As stated in the answer to question 8, eliminating the missing aspects of information in the records will enable the processes to be concluded in a shorter time. It is considered that sending a copy of the official identity document (identity card, passport, certificate of domicile, etc) for confirmation shall be useful in resolving this matter.

Article 13

10. Which department in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

Directorate General for Foreign Relations and European Union Affairs and General Directorate for Criminal Records and Statistics of the Ministry of Justice of the Republic of Turkey.

11. How many requests for judicial record extracts did this department receive on the basis of Article 13 during 2018?

Approximately 17

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

Yes.

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

Yes.

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

No.

Comments: As per our legislation, it is not possible for criminal records to be given to anyone except judicial authorities, public institutions and organizations, foreign states on the basis of reciprocity and the person himself or his representative.

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

No.

Comments or examples: As per our legislation, it is not possible for criminal records to be given to anyone except judicial authorities, public institutions and organizations, foreign states on the basis of reciprocity and the person himself or his representative.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Parents (surnames and first names of father and mother)
- Country of birth
- Place of birth
- Date of birth
- Purpose of the request

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

In practice, these requests are still met.

18. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

*

19. UKRAINE

1. How do you interpret the term “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

The notion of «judicial records», as referred to in Article 13 of the Convention, includes materials of the criminal proceedings either at the stage of pre-trial investigation or trial consideration.

Taking into account the competence of the Department of Informatization of the Ministry of Interior Affairs (hereinafter referred to as “the MIA”), in particular concerning the operation of personal-reference record of the Unified informational system of the MIA, and the practice of exchange of information within the framework of the Convention, the term «judicial records» means the database, namely the personal-reference record, in which data on a person’s status in criminal proceedings (as a person notified of suspicion, or a person whose indictment was forwarded to the court), on his her conviction for committing criminal offence and on completion of serving the punishment is accumulated and stored.

2. Which data do your national judicial records contain?

The judicial records contain factual data, on the basis of which the presence or absence of the facts and circumstances relevant to the criminal proceeding is established. Namely: the event of criminal offence, the guilt of an accused in committing criminal offence, the form of guilt, the motive and purpose of criminal offence; type and amount of damage, caused by the criminal offence, as well as amount of procedural costs; circumstances, which influence the gravity of a criminal offence, characterize the personality of an accused, aggravate or commute the punishment, exclude criminal responsibility or stand as a basis for closure of a criminal proceeding; circumstances, which exclude criminal responsibility or punishment; circumstances confirming that money, values and other property subject to special confiscation were obtained in result of committing a criminal offence and/or derive from such property, or were designed (used) to abet a person to commit a criminal offense, used as financial and/or material support of a criminal offense or reward for its performance, or are the target of a criminal offense, including those related to their illicit trafficking, or found, manufactured, adapted or used as means or instruments of a criminal offence; circumstances which are the basis for application of criminal measures to legal entities.

The personal-reference record maintains the data concerning:

- persons, who under the Criminal Procedural Code of Ukraine acquire the status of a suspect, accused (defendant), convicted, acquitted;
- persons, to whom compulsory measures of medical or educational character were applied;
- persons, discharged from criminal responsibility according to Articles 44-49, 97 of the Criminal Code of Ukraine;
- Ukrainian nationals, sentenced by foreign courts to deprivation of liberty.

The personal-reference record also maintains fingerprints of sentenced persons.

3. In what way this data is used?

Data from the personal-reference record is used in order to:

- qualify the criminal offence if a new criminal offence is committed (repetition);

- implement the procedure of exemption from criminal responsibility for criminal offence;
- establish the existence of circumstances aggravating the punishment;
- take the decision on conditional release, amnesty, pardon and on other issues as provided for by legislation in force;
- establish the existence of obstacles to hold offices;
- prohibit to engage in certain types of professional activities;
- limit the freedom of movement.

The fingerprint information is used to identify (establish similarities of) person who previously was subjected to fingerprinting and registered in the fingerprint record of the MIA in accordance with the Ukrainian legislation and international treaties on the exchange of data.

Article 22

4. Which authority in your national system is responsible for applying the provision of this Article on the exchange of notifications of final convictions between States Parties? How do you contact it?

The Ministry of Interior Affairs of Ukraine is a competent authority for the issue of such notifications. Contact details: 10 Academician Bogomolets St., Kyiv, 01601, Ukraine, e-mail address of the Department of Informatization of the MIA: di_zvernennya@mvs.gov.ua; tel: +38 044 256 14 38, 254 96 07.

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

- ✓ Yes, periodically, by post

6. Do you consider sending and/or receiving such notifications of convictions electronically relevant?

Sending and receiving the notifications of convictions electronically is currently not accepted. However, in the future, the possibility of exchange of information between States electronically will speed up and simplify receiving of necessary information by the competent authorities.

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

- ✓ Yes, by post

The Ministry of Justice of Ukraine receives notifications of convictions under Article 22, afterward transmits them to the Department of Informatization of the MIA. Statistics in 2018:

	State, from which the notification was received	Number of persons/sentences
1	Austria	57
2	Bulgaria	20
3	Denmark	114

4	Germany	3670
5	Romania	41
6	France	58
7	Slovakia	523
8	Slovenia	183
9	Sweden	246

8. What information do you have to receive in order to process the notification of conviction transmitted by a State Party to the Convention?

In order to receive information from a personal-reference record the request for such information must include:

- first name, last name and middle name (if available) of a person, to whom the requested data belongs, as well as information on possible change of name;
- date of birth of person, concerning whom the data is requested;
- place of birth of person, concerning whom the data is requested; (if the information is available);
- reference to an international legal instrument, according to which the request is made;
- purpose of receiving the information;
- requisites of a criminal, judicial case, within the framework of which the information is requested;
- name and address of the legal entity making the request, position, first, last and middle name of the person certifying the request;
- list of the requested information.

9. What problems arise in the application of Article 22 of the Convention? What ways of their solution would you propose?

Receiving of notifications in a foreign language complicates their processing in the personal-reference record and their practical use.

Moreover, the absence of information, mentioned above in Para 8, causes the impossibility to process the notification of conviction transmitted by a State Party to the Convention for qualifying the criminal offence if the new criminal offence is committed.

Article 13

10. Which authority in your national system is responsible for applying the provision of this Article relating to the transmission of extracts from judicial records? How do you contact it?

The General Prosecutor's Office of Ukraine is responsible for the application of this Article on the stage of pre-trial investigation. Contact details: 13/15 Reznitska str., Kyiv, 01011, Ukraine; e-mail address of the Department of International Legal Cooperation: indep@gp.gov.ua.

The Ministry of Justice of Ukraine is responsible for the application of this Article on the trial stage of criminal proceedings. Contact details: 13, Horodetskogo street, Kyiv, 01001, Ukraine, tel: +38 044 2796879, fax: +38 044 270 54 53, e-mail: itex@minjust.gov.ua.

11. How many requests for judicial record extracts were received on the basis of Article 13 in 2018?

The General Prosecutor's Office of Ukraine has no such statistics.

Statistics of the Ministry of Justice of Ukraine – in 2018 47 judicial requests on the basis of Article 13 of the European Convention on Mutual Assistance in Criminal Matters (1959) were received.

12. If requests were sent to you, did your State actually send the judicial record extracts requested under Article 13 of the Convention to the requesting State Party ?

✓ Yes

If the request for judicial record extracts is received, such extracts are provided to the extent considered feasible by the investigator or process supervisor in the criminal proceeding.

The requesting States Parties were provided with the judicial record extracts via authorities, responsible for international legal cooperation in criminal matters during pre-trial investigation (the General Prosecutor's Office of Ukraine) and trial (via the Ministry of Justice of Ukraine).

✓ No

Indicate the reasons.

✓ No requests were made to us

13. If you have not done it yet, would you consider sending and/or receiving such extracts electronically?

✓ Yes

Sending and receiving the extracts electronically is not currently applicable.

But in urgent cases an authorized body of Ukraine according to Paragraph 5 of Article 548 of the Criminal Procedural Code of Ukraine may accept for consideration a request submitted by the requesting Party via e-mail, fax or other means of communication. Such request shall be executed upon the confirmation of mailing or submitting its original. The materials of the executed request may be sent to a foreign competent authority only after the Ukrainian Party receives the original of a request.

14. Are you in a position to execute the request under Article 13 paragraphs 1 and 2 concerning legal persons?

✓ Yes

Execution of the request under Article 13 Para 1 of the Convention concerning legal persons is possible if the requested information is available in the materials of criminal proceeding.

The personal-reference record maintains information concerning individuals. Processing of information on application of criminal measures to legal entities is not prescribed in the personal-reference record.

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than criminal proceedings (for example, in connection with recruitment to a position involving contact with minors)?

- Yes
- No
- Comments or examples: ...

Providing data from the personal-reference record of the Unified informational system of the MIA to the competent authorities of foreign states is possible only for the purpose of criminal prosecution.

For any other purpose other than criminal proceedings it is possible to receive data from personal-reference record only if the person concerned previously received the certificate from the personal-reference record and provides it himself to a requesting state.

16. Which information do you have to receive in order to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Last name
- First name
- Alias
- Gender
- Parents (first and last names of father and mother)
- Country of birth
- Place of birth
- Date of birth
- Nationality
- Purpose of the request
- Other:

In order to perform the request for judicial record extracts under Art. 13 of the Convention it is necessary to receive the information listed above as well as information on possible change of name; reference to the international legal instrument, on the basis of which the request is made; requisites of the criminal, judicial case, in course of which the data is requested; name, address of legal entity, making the request, position, first, last and middle name of the person, certifying the request; list of requested information; to explain the connection between the information requested and the subject matter of the investigation.

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the official languages of the Council of Europe (English and French)?

The General Prosecutor's Office of Ukraine and the Ministry of Justice of Ukraine respond to requests, drafted in one of the official languages of the Council of Europe.

No for the MIA.

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

According to the requirements of national legislation the request for international legal assistance must be performed within one month after receiving it by the actual performer. If

necessary the time limit for its performance may be extended by the General Prosecutor's Office of Ukraine of the Ministry of Justice.

The legal act regulating access to the personal-reference record of the Unified informational system of the MIA (order of the MIA dated 29.11.2016 № 1256) provides for the information to be provided to the law-enforcement authorities within 10 working days, with the exception of fulfillment of the requirements concerning persons, concerning whom the issue of applying a measure of restraint in the form of detention is considered - such information must be provided within one day.

19. What problems arise in the application of Article 13 of the Convention? What ways of their solution would you propose?

No problematic issues arise.

20. UNITED KINGDOM / ROYAUME-UNI

1. How do you interpret the notion of “judicial records”, as referred to in Articles 13 and 22 of the Convention in your jurisdiction?

Our interpretation is that judicial records include records involving the courts or judges.

2. Which data is contained in your national judicial records?

Judicial records are held on the Police National Computer (PNC) for England and Wales, on the Crimina History System for Scotland, Causeway for Northern Ireland, and on Gibraltar’s criminal register. These systems store a range of different data including cautions, reprimands and warnings, however, we will only share, under Articles 13 and 22, what is considered a judicial record – records which involve the courts/judges and therefore not cautions, reprimands or warnings.

3. What use is made of this data?

This data can be accessed by the police for criminal investigation and offender management purposes, and by any agencies that have been granted access to the criminal register. These include disclosure agencies who can use the information to assess an individual’s suitability for a particular job, as well as other non-police organisations with a legitimate business need to access the information.

Article 22

4. Which authority in your national system is responsible for applying this provision relating to the exchange of notifications of final convictions between States Parties and what are its contact details?

The ACRO Criminal Records Office is the central authority for ECRIS and carries out the same obligations as the conduit for MLA requests under the Convention, as it has access to the UK’s national criminal register.

ACRO
PO Box 481
Fareham
Hampshire PO14 9FS
United Kingdom
E-mail: ukca@acro.pnn.police.uk

5. Does your State send notifications of convictions to the other States Parties pursuant to Article 22 of the Convention?

Yes

If so, how often and by which means (post, email, etc.)?

ACRO sends notifications via INTERPOL i24/7 and via secure email. Although the Convention mandates that notifications of convictions should be shared at least once a year,

ACRO sends notifications to other Signatory States much more frequently, indeed they do so as frequently as is required under ECRIS when dealing with EUMS.

6. If you do not already do so, would you consider sending and/or receiving such notifications of convictions electronically?

Yes

Comments, if any:

The UK fully supports the sending and receiving of notifications electronically. ACRO has access to the UK's national criminal register and is an INTERPOL sub-bureau able to undertake criminal records exchange. Alternatively, ACRO can send and receive notifications via secure email channels.

7. Does your State receive notifications of convictions from other States Parties pursuant to Article 22 of the Convention?

Yes

If so,

by which means (post, email, etc.)?

We receive notifications via i24/7, via secure web portals, secure email, and occasionally by post.

What use do you make of these notifications?

These notifications are added to the PNC where they can be accessed not only by the police, but also by any agencies that have been granted access to the criminal register. These include disclosure agencies who can use the information to assess an individual's suitability for a particular job, as well as other non-police organisations with a legitimate business need to access the information. Organisations that would come under this category would include the Home Office, HM Prison Service, HM Revenue and Customs, Ministry of Justice, and UK Visas and Immigration, amongst others.

8. Which information must you receive to enable you to process a notification of conviction transmitted by a State Party to the Convention?

We will require a name, date of birth, and gender as a minimum requirement.

9. What are the problems encountered in the application of Article 22 of the Convention and what improvements would you propose?

We would welcome the inclusion of fingerprints with the notification in order to verify identity.

Article 13

10. Which authority in your national system is responsible for applying this provision relating to the transmission of extracts from judicial records and what are its contact details?

The ACRO Criminal Records Office.

11. How many requests for judicial record extracts did this authority receive on the basis of Article 13 during 2018?

EU Countries via ECRIS (calendar year 2018):

Requests In for criminal proceedings– 8,051

Non-EU countries (calendar year 2018):

Requests In for criminal proceedings– 2,442

12. If requests were made to you, did your State actually send the requesting States Parties the judicial record extracts requested under Article 13 of the Convention?

Yes

13. If you do not already do so, would you consider sending and/or receiving such extracts electronically?

Yes

The UK fully supports the sending and receiving of requests electronically. ACRO has access to the UK's national criminal register(s) and is an INTERPOL sub-bureau able to undertake some criminal records exchange outside of the EU system with EU MS (ECRIS). Alternatively, ACRO can send and receive requests via secure email channels.

14. Are you in a position to execute a request based on Article 13 paragraphs 1 and 2 concerning legal persons?

Yes

15. Does your domestic legislation allow you to respond to a request for a judicial record extract on grounds other than for criminal proceedings (for example, in connection with recruitment to a profession involving contact with minors)?

Yes

The UK's domestic legislation allows for responses to requests for purposes outside of criminal proceedings. ACRO currently fulfil requests as per Article 10 of the EU Directive on combating the sexual abuse and sexual exploitation of children and child pornography (Directive 2011/92/EU) as well as responding to requests for non-criminal proceedings from the person concerned for information on their own criminal record. The UK and ACRO will also seek to respond to all requests where a risk to the public is identified.

16. Which information must you receive to enable you to process a request for a judicial record extract on the basis of Article 13 of the 1959 Convention?

- Surname
- First name
- Alias (if held)
- Gender
- Date of birth

- Purpose of the request
- Other: (would like to have fingerprints if available in order to verify identity)

17. Are you willing to respond to requests for judicial record extracts under Article 13 of the 1959 Convention drafted in one of the Council of Europe's official languages (English and French)?

The UK can respond to requests sent in English and all responses to requests will be sent in English.

18. How much time would you need to respond to a request for judicial record extracts under Article 13?

The turnaround time is approximately 10 working days.

19. What are the problems encountered in the application of Article 13 of the Convention and what improvements would you propose?

Currently, there is no real obligation to respond nor are there set timescales or defined processes for sending or replying to requests under Article 13. The inclusion of a mandate to respond within defined time scales, standardisation of responses and the obligation to send requests and responses electronically, where possible, would assist in making the application of Article 13 more timely and less administratively burdensome.

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