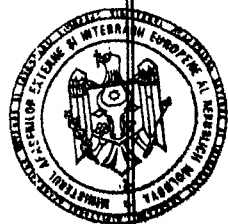




CONVENȚIA
europeană privind supravegherea infractorilor
condamnați condiționat sau liberați condiționat

Strasbourg, 30 noiembrie 1964



COPIE CERTIFICATĂ
TEXT ÎN LIMBA ENGLEZĂ

Preamble

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

Considering that the aim of the Council of Europe is to achieve greater unity among its members;

Being resolved to take concerted action to combat crime;

Considering that, to this end, they are in duty bound to ensure, in the territory of the other Contracting Parties, either the social rehabilitation of offenders given suspended sentences or released conditionally by their own courts, or the enforcement of the sentence when the prescribed conditions are not fulfilled,

Have agreed as follows:

Part I – Basic principles

Article 1

- 1 The Contracting Parties undertake to grant each other in the circumstances set out below the mutual assistance necessary for the social rehabilitation of the offenders referred to in Article 2. This assistance shall take the form of supervision designed to facilitate the good conduct and readaptation to social life of such offenders and to keep a watch on their behaviour with a view, should it become necessary, either to pronouncing sentence on them or to enforcing a sentence already pronounced.
- 2 The Contracting Parties shall, in the circumstances set out below and in accordance with the following provisions, enforce such detention order or other penalty involving deprivation of liberty as may have been passed on the offender, application of which has been suspended.

Article 2

- 1 For the purposes of this Convention, the term "offender" shall be taken to mean any person, who, in the territory of one of the Contracting Parties, has:
 - a been found guilty by a court and placed on probation without sentence having been pronounced;
 - b been given a suspended sentence involving deprivation of liberty, or a sentence of which the enforcement has been conditionally suspended, in whole or in part, either at the time of the sentence or subsequently.
- 2 In subsequent articles, the term "sentence" shall be deemed to include all judicial decisions taken in accordance with sub-paragraphs a and b of paragraph 1 above.

Article 3

The decisions referred to in Article 2 must be final and must have executive force.

Article 4

The offence on which any request under Article 5 is based shall be one punishable under the legislation of both the requesting and the requested State.

Article 5

- 1 The State which pronounced the sentence may request the State in whose territory the offender establishes his ordinary residence:
 - a to carry out supervision only, in accordance with Part II;
 - b to carry out supervision and if necessary to enforce the sentence, in accordance with Parts II and III;
 - c to assume entire responsibility for applying the sentence, in accordance with the provisions of Part IV.
- 2 The requested State shall act upon such a request, under the conditions laid down in this Convention.
- 3 If the requesting State has made one of the requests mentioned in paragraph 1 above, and the requested State deems it preferable, in any particular case, to adopt one of the other courses provided for in that paragraph, the requested State may refuse to accede to such a request, at the same time declaring its willingness to follow another course, which it shall indicate.

Article 6

Supervision, enforcement or complete application of the sentence, as defined in the preceding article, shall be carried out, at the request of the State in which sentence was pronounced, by the State in whose territory the offender establishes his ordinary residence.

Article 7

- 1 Supervision, enforcement or complete application shall be refused:
 - a if the request is regarded by the requested State as likely to prejudice its sovereignty, security, the fundamentals of its legal system, or other essential interests;
 - b if the request relates to a sentence for an offence which has been judged in final instance in the requested State;
 - c if the act for which sentence has been passed is considered by the requested State as either a political offence or an offence related to a political offence, or as a purely military offence;
 - d if the penalty imposed can no longer be exacted, because of the lapse of time, under the legislation of either the requesting or the requested State;
 - e if the offender has benefited under an amnesty or a pardon in either the requesting or the requested State.
- 2 Supervision, enforcement or complete application may be refused:
 - a if the competent authorities in the requested State have decided not to take proceedings,

- or to drop proceedings already begun, in respect of the same act;
- b if the act for which sentence has been pronounced is also the subject of proceedings in the requested State;
 - c if the sentence to which the request relates was pronounced *in absentia*;
 - d to the extent that the requested State deems the sentence incompatible with the principles governing the application of its own penal law, in particular, if on account of his age the offender could not have been sentenced in the requested State.
- 3 In the case of fiscal offences, supervision or enforcement shall be carried out, in accordance with the provisions of this Convention, only if the Contracting Parties have so decided in respect of each such offence or category of offences.

Article 8

The requesting and requested State shall keep each other informed in so far as it is necessary of all circumstances likely to affect measures of supervision or enforcement in the territory of the requested State.

Article 9

The requested State shall inform the requesting State without delay what action is being taken on its request

In the case of total or partial refusal to comply, it shall communicate its reasons for such refusal.

Part II – Supervision

Article 10

The requesting State shall inform the requested State of the conditions imposed on the offender and of any supervisory measures with which he must comply during his period of probation.

Article 11

- 1 In complying with a request for supervision, the requested State shall, if necessary, adapt the prescribed supervisory measures in accordance with its own laws.
- 2 In no case may the supervisory measures applied by the requested State, as regards either their nature or their duration, be more severe than those prescribed by the requesting State.

Article 12

When the requested State agrees to undertake supervision, it shall proceed as follows:

- 1 It shall inform the requesting State without delay of the answer given to its request;
- 2 It shall contact the authorities or bodies responsible in its own territory for supervising and assisting offenders;
- 3 It shall inform the requesting State of all measures taken and their implementation.

Article 13

Should the offender become liable to revocation of the conditional suspension of his sentence referred to in Article 2 either because he has been prosecuted or sentenced for a new offence, or because he has failed to observe the prescribed conditions, the necessary information shall be supplied to the requesting State automatically and without delay by the requested State.

Article 14

When the period of supervision expires, the requested State shall, on application by the requesting State, transmit all necessary information to the latter.

Article 15

The requesting State shall alone be competent to judge, on the basis of the information and comments supplied by the requested State, whether or not the offender has satisfied the conditions imposed upon him, and, on the basis of such appraisal, to take any further steps provided for by its own legislation.

It shall inform the requested State of its decision.

Part III - Enforcement of sentences

Article 16

After revocation of the conditional suspension of the sentence by the requesting State, and on application by that State, the requested State shall be competent to enforce the said sentence.

Article 17

Enforcement in the requested State shall take place in accordance with the law of that State, after verification of the authenticity of the request for enforcement and its compatibility with the terms of this Convention.

Article 18

The requested State shall in due course transmit to the requesting State a document certifying that the sentence has been enforced.

Article 19

The requested State shall, if need be, substitute for the penalty imposed in the requesting State, the penalty or measure provided for by its own legislation for a similar offence. The nature of such penalty or measure shall correspond as closely as possible to that in the sentence to be enforced. It may not exceed the maximum penalty provided for by the legislation of the requested State, nor may it be longer or more rigorous than that imposed by the requesting State.

Article 20

The requesting State may no longer itself take any of the measures of enforcement requested, unless the requested State indicates that it is unwilling or unable to do so.

Article 21

The requested State shall be competent to grant the offender conditional release. The right of

pardon may be exercised by either the requesting or the requested State.

Part IV – Relinquishment to the requested State

Article 22

The requesting State shall communicate to the requested State the sentence of which it requests complete application.

Article 23

- 1 The requested State shall adapt to its own penal legislation the penalty or measure prescribed as if the sentence had been pronounced for the same offence committed in its own territory.
- 2 The penalty imposed by the requested State may not be more severe than that pronounced in the requesting State.

Article 24

The requested State shall ensure complete application of the sentence thus adapted as if it were a sentence pronounced by its own courts.

Article 25

The acceptance by the requested State of a request in accordance with the present Part IV shall extinguish the right of the requesting State to enforce the sentence.

Part V – Common provisions

Article 26

- 1 All requests in accordance with Article 5 shall be transmitted in writing. They shall indicate:
 - a the issuing authority;
 - b their purpose;
 - c the identity of the offender and his place of residence in the requested State.
- 2 Requests for supervision shall be accompanied by the original or a certified transcript of the Court findings containing the reasons which justify the supervision and specifying the measures imposed on the offender. They should also certify the enforceable nature of the sentence and of the supervisory measures to be applied. So far as possible, they shall state the circumstances of the offence giving rise to the sentence of supervision, its time and place and legal destination and, where necessary, the length of the sentence to be enforced. They shall give full details of the nature and duration of the measures of supervision requested, and include a reference to the legal provisions applicable together with necessary information on the character of the offender and his behaviour in the requesting State before and after pronouncement of the supervisory order.
- 3 Requests for enforcement shall be accompanied by the original, or a certified transcript, of the decision to revoke conditional suspension of the pronouncement or enforcement of sentence and also of the decision imposing the sentence now to be enforced. The enforceable nature of both decisions shall be certified in the manner prescribed by the law of the State in which they

were pronounced.

If the judgment to be enforced has replaced an earlier one and does not contain a recital of the facts of the case, a certified copy of the judgment containing such recital shall also be attached.

- 4 Requests for complete application of the sentence shall be accompanied by the documents mentioned in paragraph 2 above.

Article 27

- 1 Requests shall be sent by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State and the reply shall be sent through the same channels.
- 2 Any communications necessary under the terms of this Convention shall be exchanged either through the channels referred to in paragraph 1 of this article, or directly between the authorities of the Contracting Parties.
- 3 In case of emergency, the communications referred to in paragraph 2 of this article may be made through the International Criminal Police Organisation (Interpol).
- 4 Any Contracting Party may, by declaration addressed to the Secretary General of the Council of Europe, give notice of its intention to adopt new rules in regard to the communications referred to in paragraphs 1 and 2 of this article.

Article 28

If the requested State considers that the information supplied by the requesting State is inadequate to enable it to apply this Convention, it shall ask for the additional information required. It may fix a time-limit for receipt of such information.

Article 29

- 1 Subject to the provisions of paragraph 2 of this article, no translation of requests, or of the supporting documents, or of any other documents relating to the application of this Convention, shall be required.
- 2 Any Contracting Party may, when signing this Convention or depositing its instrument of ratification, acceptance or accession, by a declaration addressed to the Secretary General of the Council of Europe, reserve the right to require that requests and supporting documents should be accompanied by a translation into its own language, or into one of the official languages of the Council of Europe, or into such one of those languages as it shall indicate. The other Contracting Parties may claim reciprocity.
- 3 This article shall be without prejudice to any provision regarding translation of requests and supporting documents that may be contained in agreements or arrangements now in force or that may be concluded between two or more of the Contracting Parties.

Article 30

Documents transmitted in application of this Convention shall not require authentication.

Article 31

The requested State shall have powers to collect, at the request of the requesting State, the cost

of prosecution and trial incurred in that State.

Should it collect such costs, it shall be obliged to refund to the requesting State experts' fees only.

Article 32

Supervision and enforcement costs incurred in the requested State shall not be refunded.

Part VI – Final provisions

Article 33

This Convention shall be without prejudice to police regulations relating to foreigners.

Article 34

- 1 This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.
- 2 This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification or acceptance.
- 3 In respect of a signatory State ratifying or accepting subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification or acceptance.

Article 35

- 1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any non-member State to accede thereto.
- 2 Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

Article 36

- 1 Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory or territories to which this Convention shall apply.
- 2 Any Contracting Party may, when depositing its instrument of ratification, acceptance or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.
- 3 Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 39 of this Convention.

Article 37

- 1 This Convention shall not affect the undertakings given in any other existing or future international Convention, whether bilateral or multilateral, between two or more of the Contracting Parties, on extradition or any other form of mutual assistance in criminal matters.
- 2 The Contracting Parties may not conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, except in order to supplement its provisions or facilitate application of the principles embodied in it.
- 3 Should two or more Contracting Parties, however, have already established their relations in this matter on the basis of uniform legislation, or instituted a special system of their own, or should they in future do so, they shall be entitled to regulate those relations accordingly, notwithstanding the terms of this Convention.

Contracting Parties ceasing to apply the terms of this Convention to their mutual relations in this matter shall notify the Secretary General of the Council of Europe to that effect.

Article 38

- 1 Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, declare that it avails itself of one or more of the reservations provided for in the annex to this Convention.
- 2 Any Contracting Party may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.
- 3 A Contracting Party which has made a reservation in respect of any provision of this Convention may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.
- 4 Any Contracting Party may, on signing the present Convention, or on depositing its instrument of ratification, acceptance or accession, notify the Secretary General of the Council of Europe that it considers ratification, acceptance or accession as entailing an obligation, in international law, to introduce into municipal law measures to implement the said Convention.

Article 39

- 1 This Convention shall remain in force indefinitely.
- 2 Any Contracting Party may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
- 3 Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

Article 40

The Secretary General of the Council of Europe shall notify the member States of the Council, and any State that has acceded to this Convention of:

- a any signature;
- b any deposit of an instrument of ratification, acceptance or accession;
- c any date of entry into force of this Convention in accordance with Article 34;
- d any notification or declaration received in pursuance of the provisions of paragraph 4 of Article 27, of paragraph 2 of Article 29, of paragraph 3 of Article 37 and of paragraph 4 of Article 38;
- e any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 36;
- f any reservation made in pursuance of the provisions of paragraph 1 of Article 38;
- g the withdrawal of any reservation carried out in pursuance of the provisions of paragraph 2 of Article 38;
- h any notification received in pursuance of the provisions of Article 39, and the date on which denunciation takes effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg this 30th day of November 1964, in English and French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

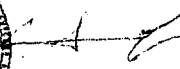
ANNEX

Any Contracting Party may declare that it reserves the right to make known:

- 1 that it does not accept the provisions of the Convention as related to the enforcement of sentences or their complete application;
- 2 that it accepts only part of these provisions;
- 3 that it does not accept the provisions of paragraph 2 of Article 37.

Prin prezenta confirm că textul alăturat este o copie certificată de pe Convenția europeană privind supravegherea infractorilor condamnați condiționat sau liberați condiționat (Strasbourg, 30 noiembrie 1964), originalul căruia este depozitat la Arhiva Tratatelor a Ministerului Afacerilor Externe și Integrării Europene.




Dumitru SOCOLAN,
Șef al Direcției Generale Drept
Internațional a Ministerului Afacerilor
Externe și Integrării Europene al
Republicii Moldova