

CONVENTION of 25 May 1987 between the Member States of the European Communities on double jeopardy

PREAMBLE

THE MEMBER STATES OF THE EUROPEAN COMMUNITIES hereinafter referred to as "The Member States"

MINDFUL of the close links existing between their peoples,

TAKING INTO ACCOUNT the developments tending to the elimination of obstacles to the free movement of persons between Member States,

DESIRING to extend their co-operation in criminal matters on the basis of mutual trust, understanding and respect,

CONVINCED that a mutual recognition of the rule against double jeopardy with respect to foreign judicial decisions constitutes the embodiment of such a trust, understanding and respect,

HAVE AGREED AS FOLLOWS :

Art. 1. – A person whose trial has finally been disposed of in a Member State may not be prosecuted in another Member State in respect of the same facts, provided that if a sanction was imposed, it has been enforced, is actually in the process of being enforced or can no longer be enforced under the laws of the sentencing State.

Art. 2. – 1. A Member State may, at the time of ratification, acceptance or approval of this Convention, declare that it shall not be bound by Article 1 in one or more of the following cases :

- (a) If the facts which were the subject of the judgment rendered abroad took place on its own territory either in whole or in part. In the latter case this exception shall not apply if those facts took place partly on the territory of the Member State where the judgment was rendered.
- (b) If the facts which were the subject of the judgment rendered abroad constitute an offence directed against the security or other equally essential interests of that Member State.

(c) If the facts which were the subject of the judgment rendered abroad were committed by an official of that Member State contrary to the duties of his office.

2. A Member State which makes a declaration in respect of the exception in paragraph 1(b) shall specify the type of offences to which that exception may be applied.

3. A Member State may at any time withdraw such a declaration in respect of one or more of the exceptions in paragraph 1. The withdrawal shall be notified to the Foreign Ministry of Belgium and shall take effect on the first day of the month following the date of such notification.

4. The exceptions which may be the subject of a declaration under paragraph 1 shall not apply if the Member State concerned in respect of the same facts requested the other Member State to bring the prosecution or granted extradition of the person concerned.

Art. 3. – If a Member State brings a further prosecution in respect of the same facts against a person whose trial has finally been disposed of in another Member State, any period of deprivation of liberty served in the latter Member State arising from those facts shall be deducted from any sanction imposed. To the extent permitted by national law sanctions not involving deprivation of liberty shall also be taken into account insofar as they have been enforced.

Art. 4. – 1. If a criminal charge is brought against a person in a Member State and the competent authorities of that Member State have reasons to believe that this charge concerns the same facts as those in respect of which his trial has finally been disposed of in another Member State they shall, if they consider it necessary, seek relevant information from the competent authorities of the Member State where the trial took place.

2. Information thus requested shall be given as soon as possible and shall be taken into account in determining whether the proceedings should be continued.

3. Each Member State shall, at the time of signature, ratification, acceptance or approval of this Convention, specify the authorities authorised to request and receive information under this Article.

Art. 5. – The preceding provisions shall not prevent the application of wider domestic provisions relating to the rule against double jeopardy attached to foreign judicial decisions.

Art. 6. – 1. This Convention shall be open for signature by the Member States. It shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Foreign Ministry of Belgium

2. This Convention shall enter into force 90 days after the deposit of the instruments of ratification, acceptance or approval by all the States which are members of the European Communities at the date on which this Convention is opened for signature.

3. Each State may, when depositing its instrument of ratification, acceptance or approval, or at any later date until the entry into force of this Convention, declare that this Convention will apply to it in its relations with other States that have made the same declaration 90 days after the date of deposit.

Art. 7. – 1. This Convention shall be open for accession by any State which becomes a Member of the European Communities. The instruments of accession shall be deposited with the Foreign Ministry of Belgium.

2. This Convention shall enter into force for any State acceding thereto 90 days after the deposit of its instrument of accession.

Art. 8. – 1. Each Member State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.

2. Each Member State may, when depositing its instrument of ratification, acceptance or approval or at any later date, by declaration addressed to the Foreign Ministry of Belgium extend this Convention to any other territory 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, as regards any territory specified in that declaration, be withdrawn by means of a notification addressed to the Foreign Ministry of Belgium.

The withdrawal shall have effect immediately or at such later date as may be specified in the notification.

Art. 9. – The Foreign Ministry of Belgium shall notify all the Member States of any signature, deposit of instruments, declaration or notification.

The Foreign Ministry of Belgium shall transmit certified copies to the government of each Member State.