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Convention

drawn up on the basis of Article K.3(2)(c) of the Treaty on
European Union on the Fight against Corruption Involving
Officials of the European Communities or Officials of
Member States of the European Union

Brussels, 26 May 1997

[The Convention entered into force on 28 September 2005]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
March 2007*

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**CONVENTION DRAWN UP ON THE BASIS OF ARTICLE K.3(2)(c) OF THE
TREATY ON EUROPEAN UNION ON THE FIGHT AGAINST CORRUPTION
INVOLVING OFFICIALS OF THE EUROPEAN COMMUNITIES OR OFFICIALS
OF MEMBER STATES OF THE EUROPEAN UNION**

THE HIGH CONTRACTING PARTIES to this Convention, Member States of the European Union,

REFERRING to the Act of the Council of the European Union of 26 May 1997,

WHEREAS the Member States consider the improvement of judicial cooperation in the fight against corruption to be a matter of common interest, coming under the cooperation provided for in Title VI of the Treaty;

WHEREAS by its Act of 27 September 1996 the Council drew up a Protocol directed in particular at acts of corruption involving national or Community officials and damaging or likely to damage the European Communities' financial interests;^{1m}

WHEREAS, for the purpose of improving judicial cooperation in criminal matters between Member States, it is necessary to go further than the said Protocol and to draw up a Convention directed at acts of corruption involving officials of the European Communities or officials of the Member States in general,

DESIROUS of ensuring consistent and effective application of the Convention throughout the European Union,

HAVE AGREED ON THE FOLLOWING PROVISIONS:

ARTICLE 1

Definitions

For the purposes of this Convention:

- (a) "official" shall mean any Community or national official, including any national official of another Member State;
- (b) "Community official" shall mean:
 - any person who is an official or other contracted employee within the meaning of the Staff Regulations of officials of the European Communities or the Conditions of Employment of other servants of the European Communities,
 - any person seconded to the European Communities by the Member States or by any public or private body, who carries out functions equivalent to those performed by European Community officials or other servants.

Members of bodies set up in accordance with the Treaties establishing the European Communities and the staff of such bodies shall be treated as Community officials, inasmuch as the Staff Regulations of officials of the European Communities or the Conditions of Employment of other servants of the European Communities do not apply to them;

- (c) "national official" shall be understood by reference to the definition of "official" or "public officer" in the national law of the Member State in which the person in question performs that function for the purposes of application of the criminal law of that Member State.

Nevertheless, in the case of proceedings involving a Member State's official initiated by another Member State, the latter shall not be bound to apply the definition of "national official" except insofar as that definition is compatible with its national law.

¹ European Communities No. 6 (1999) Cm 4303

ARTICLE 2

Passive corruption

1. For the purposes of this Convention, the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such an advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties shall constitute passive corruption.
2. Each Member State shall take the necessary measures to ensure that conduct of the type referred to in paragraph 1 is made a criminal offence.

ARTICLE 3

Active corruption

1. For the purposes of this Convention, the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties shall constitute active corruption.
2. Each Member State shall take the necessary measures to ensure that conduct of the type referred to in paragraph 1 is made a criminal offence.

ARTICLE 4

Assimilation

1. Each Member State shall take the necessary measures to ensure that in its criminal law the descriptions of the offences referred to in Articles 2 and 3 committed by or against its Government Ministers, elected members of its parliamentary chambers, the members of its highest Courts or the members of its Court of Auditors in the exercise of their functions apply similarly in cases where such offences are committed by or against Members of the Commission of the European Communities, the European Parliament, the Court of Justice and the Court of Auditors of the European Communities respectively in the exercise of their duties.
2. Where a Member State has enacted special legislation concerning acts or omissions for which Government Ministers are responsible by reason of their special political position in that Member State, paragraph 1 may not apply to such legislation, provided that the Member State ensures that Members of the Commission of the European Communities are also covered by the criminal legislation implementing Articles 2 and 3.
3. Paragraphs 1 and 2 shall be without prejudice to the provisions applicable in each Member State concerning criminal proceedings and the determination of the competent court.
4. This Convention shall apply in full accordance with the relevant provisions of the Treaties establishing the European Communities, the Protocol on the Privileges and Immunities of the European Communities, the Statutes of the Court of Justice and the texts adopted for the purpose of their implementation, as regards the withdrawal of immunity.

ARTICLE 5

Penalties

1. Each Member State shall take the necessary measures to ensure that the conduct referred to in Articles 2 and 3, and participating in and instigating the conduct in question, is punishable by effective, proportionate and dissuasive criminal penalties, including, at least in serious cases, penalties involving deprivation of liberty which can give rise to extradition.

2. Paragraph 1 shall be without prejudice to the exercise of disciplinary powers by the competent authorities against national officials or Community officials. In determining the penalty to be imposed, then national criminal courts may, in accordance with the principles of their national law, take into account any disciplinary penalty already imposed on the same person for the same conduct.

ARTICLE 6

Criminal liability of heads of businesses

1. Each Member State shall take the necessary measures to allow heads of businesses or any persons having power to take decisions or exercise control within a business to be declared criminally liable in accordance with the principles defined by its national law in cases of corruption, as referred to in Article 3, by a person under their authority acting on behalf of the business.

ARTICLE 7

Jurisdiction

1. Each Member State shall take the measures necessary to establish its jurisdiction over the offences it has established in accordance with the obligations arising out of Articles 2, 3 and 4 where:

- (a) the offence is committed in whole or in part within its territory;
- (b) the offender is one of its nationals or one of its officials;
- (c) the offence is committed against one of the persons referred to in Article 1 or a member of one of the European Community institutions referred to in Article 4(1) who is at the same time one of its nationals;
- (d) the offender is a Community official working for a European Community institution or a body set up in accordance with the Treaties establishing the European Communities which has its headquarters in the Member State in question.

2. Each Member State may declare, when giving the notification provided for in Article 13(2), that it will not apply or will apply only in specific cases or conditions one or more of the jurisdiction rules laid down in paragraph 1(b), (c), and (d).

ARTICLE 8

Extradition and prosecution

1. Any Member State which, under its law, does not extradite its own nationals shall take the necessary measures to establish its jurisdiction over the offences it has established in accordance with the obligations arising out of Articles 2, 3 and 4, when committed by its own nationals outside its territory.

2. Each Member State shall, when one of its nationals is alleged to have committed in another Member State an offence established in accordance with the obligations arising out of Articles 2, 3 and 4 and it does not extradite that person to that other Member State solely on the ground of his nationality, submit the case to its competent authorities for the purpose of prosecution if appropriate. In order to enable prosecution to take place, the files, information and exhibits relating to the offence shall be transmitted in accordance with the procedures laid down in Article 6 of the European Convention on Extradition of 13 December 1957¹. The requesting Member State shall be informed of the prosecution initiated and of its outcome.

3. For the purposes of this Article, the term “national” of a Member State shall be construed in accordance with any declaration made by that State under Article 6(1)(b) of the European Convention on Extradition and with paragraph 1(c) of that Article.

ARTICLE 9

Cooperation

1. If any procedure in connection with an offence established in accordance with the obligations arising out of Articles 2, 3 and 4 concerns at least two Member States, those States shall cooperate effectively in the investigation, the prosecution and in carrying out the punishment imposed by means, for example, of mutual legal assistance, extradition, transfer of proceedings or enforcement of sentences passed in another Member State.

2. Where more than one Member State has jurisdiction and has the possibility of viable prosecution of an offence based on the same facts, the Member States involved shall cooperate in deciding which shall prosecute the offender or offenders with a view to centralizing the prosecution in a single Member State where possible.

ARTICLE 10

Ne bis in idem

1. Member States shall apply, in their national criminal laws, the “ne bis in idem” rule, under which a person whose trial has been finally disposed of in a Member State may not be prosecuted in another Member State in respect of the same facts, provided that if a penalty 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.

2. A Member State may, when giving the notification referred to in Article 13(2), declare that it shall not be bound by paragraph 1 of this Article in one or more of the following cases:

- (a) if the facts which were the subject of the judgment rendered abroad took place in its own territory either in whole or in part; in the latter case this exception shall not apply if those facts took place partly in 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.

3. If a further prosecution is brought in a Member State against a person whose trial, in respect of the same facts, has been finally 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.

¹ Treaty Series No. 97 (1991) Cm 1762

4. The exceptions which may be the subject of a declaration under paragraph 2 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.

5. Relevant bilateral or multilateral agreements concluded between Member States and relevant declarations shall remain unaffected by this Article.

ARTICLE 11

Internal provisions

No provision in this Convention shall prevent Member States from adopting internal legal provisions which go beyond the obligations deriving from this Convention.

ARTICLE 12

Court of Justice

1. Any dispute between Member States on the interpretation or application of this Convention which it has proved impossible to resolve bilaterally must in an initial stage be examined by the Council in accordance with the procedure set out in Title VI of the Treaty on European Union with a view to reaching a solution. If no solution has been found within six months, the matter may be referred to the Court of Justice of the European Communities by one of the parties to the dispute.

2. Any dispute between one or more Member States and the Commission of the European Communities concerning Article 1, with the exception of point (c), or Articles 2, 3 and 4, insofar as it concerns a question of Community law or the Communities' financial interests, or involves members or officials of Community institutions or bodies set up in accordance with the Treaties establishing the European Communities, which it has proved impossible to settle through negotiation, may be submitted to the Court of Justice by one of the parties to the dispute.

3. Any court in a Member State may ask the Court of Justice to give a preliminary ruling on a matter concerning the interpretation of Articles 1 to 4 and 12 to 16 raised in a case pending before it and involving members or officials of Community institutions or bodies set up in accordance with the Treaties establishing the European Communities, acting in the exercise of their functions, if it considers that a decision on that matter is necessary to enable it to give judgment.

4. The competence of the Court of Justice provided for in paragraph 3 shall be subject to its acceptance by the Member State concerned in a declaration to that effect made at the time of the notification referred to in Article 13(2) or at any subsequent time.

5. A Member State making a declaration under paragraph 4 may restrict the possibility of asking the Court of Justice to give a preliminary ruling to those of its courts against the decisions of which there is no judicial remedy under national law.

6. The Statute of the Court of Justice of the European Community and its Rules of Procedure shall apply. In accordance with those Statutes, any Member State, or the Commission, whether or not it has made a declaration pursuant to paragraph 4, shall be entitled to submit statements of case or written observations to the Court of Justice in cases which arise under paragraph 3.

ARTICLE 13

Entry into force

1. This Convention shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.
2. Member States shall notify the Secretary-General of the Council of the European Union of the completion of the procedures laid down by their respective constitutional requirements for adopting this Convention.
3. This Convention shall enter into force ninety days after the notification, referred to in paragraph 2, by the last Member State to fulfil that formality.
4. Until the entry into force of this Convention, any Member State may, when giving the notification referred to in paragraph 2 or at any time thereafter, declare that this Convention, with the exception of Article 12 thereof, shall apply to it in its relationships with those Member States which have made the same declaration. This Convention shall become applicable in respect of the Member State that makes such a declaration on the first day of the month following the expiry of a period of ninety days after the date of deposit of its declaration.
5. A Member State that has not made any declaration as referred to in paragraph 4 may apply this Convention with respect to the other contracting Member States on the basis of bilateral agreements.

ARTICLE 14

Accession of new Member States

1. This Convention shall be open to accession by any State that becomes a member of the European Union.
2. The text of this Convention in the language of the acceding State, drawn up by the Council of the European Union, shall be authentic.
3. Instruments of accession shall be deposited with the depositary.
4. This Convention shall enter into force with respect to any State acceding to it ninety days after the date of deposit of its instrument of accession or on the date of entry into force of the Convention if it has not already entered into force at the time of expiry of the said period of ninety days.
5. If this Convention has not yet entered into force when the instrument of accession is deposited, Article 13(4) shall apply to acceding States.

ARTICLE 15

Reservations

1. No reservation shall be authorized with the exception of those provided for in Articles 7(2) and 10(2).
2. Any Member State which has entered a reservation may withdraw it at any time in whole or in part by notifying the depositary. Withdrawal shall take effect on the date on which the depositary receives the notification.

ARTICLE 16

Depositary

1. The Secretary-General of the Council of the European Union shall act as depositary of this Convention.
2. The depositary shall publish in the Official Journal of the European Communities information on the progress of adoptions and accessions, declarations and reservations and any other notification concerning this Convention.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hand.

Done at Brussels, on the twenty-sixth day of May in the year one thousand nine hundred and ninety-seven in a single original, in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic, such original remaining deposited in the archives of the General Secretariat of the Council of the European Union.

[Here follow the Signatures]

NOTIFICATIONS AND EFFECTIVE DATES

<i>State</i>	<i>Action</i>	<i>Date</i>	<i>Effective Date</i>
Austria	Notification	19 Jan 2000	28 Sep 2005
Belgium	Notification	12 Mar 2002	28 Sep 2005
Cyprus	Notification	25 Oct 2004	28 Sep 2005
Germany	Notification	08 Oct 2003	28 Sep 2005
Denmark	Notification	02 Oct 2000	28 Sep 2005
Estonia	Notification	17 Jan 2005	28 Sep 2005
Spain	Notification	20 Jan 2000	28 Sep 2005
France	Notification	04 Aug 2000	28 Sep 2005
United Kingdom	Notification	11 Oct 1999	28 Sep 2005
Greece	Notification	11 Apr 2001	28 Sep 2005
Hungary	Notification	13 Jun 2005	28 Sep 2005
Italy	Notification	06 Mar 2003	28 Sep 2005
Ireland	Notification	11 Mar 2003	28 Sep 2005
Lithuania	Notification	28 May 2004	28 Sep 2005
Luxembourg	Notification	30 Jun 2005	28 Sep 2005
Latvia	Notification	14 Jun 2004	28 Sep 2005
Netherlands	Notification	28 Mar 2002	28 Sep 2005
Portugal	Notification	03 Dec 2001	28 Sep 2005
Poland	Notification	25 Jan 2005	28 Sep 2005
Sweden	Notification	10 Jun 1999	28 Sep 2005
Finland	Notification	18 Dec 1998	28 Sep 2005
Slovenia	Notification	21 Sep 2004	28 Sep 2005
Slovakia	Notification	30 Sep 2004	28 Sep 2005

DECLARATIONS

Austria

1. Pursuant to Article 7(2): Pursuant to Article 7(2) of the Convention, the Republic of Austria hereby declares that it shall be bound by Article 7(1)(b) of the Convention in respect of offences committed by its nationals only if the acts are also punishable in the country in which they were committed.

2. Pursuant to Article 10(2): Pursuant to Article 10(2) of the Convention, the Republic of Austria hereby declares that it shall not be bound by Article 10(1) of the Convention in the following cases:
 - (a) if the facts which were the subject of the judgment rendered 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 one of the following offences: Exploitation of a business or industrial secret in favour of foreign interests (Article 124 of the Penal Code) High treason and preparations to that end (Articles 242 and 244 of the Penal Code) Subversive links (Article 246 of the Penal Code) Debasing the State and its image (Article 248 of the Penal Code) Attacks on supreme organs of the State (Articles 249 to 251 of the Penal Code) Treason (Articles 252 to 258 of the Penal Code) Punishable acts committed against the armed forces of the State (Articles 259 and 260 of the Penal Code) Punishable acts committed against an Austrian official (Article 74, fourth line of the Penal Code) in the performance of his duties, or by virtue thereof Offences against the Foreign Trade Law and Offences against the War Materials Law;

 - (c) if the facts which were the subject of the foreign judgment rendered were committed by an Austrian official (Article 74, fourth line of the Penal Code) contrary to the duties of his office.

3. Pursuant to Article 12(4):
- (a) The Republic of Austria recognises the jurisdiction of the Court of Justice of the European Communities in accordance with Article 12(3) of the Convention.
 - (b) The Republic of Austria reserves the right to make provision in its national law to the effect that, where a question relating to the interpretation of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union is raised in a case pending before a national court or tribunal against whose decision there is no judicial remedy under national law, that court or tribunal will be required to refer the matter to the Court of Justice.
4. Pursuant to Article 13(4): The Republic of Austria declares that this Convention, with the exception of Article 12 thereof, shall apply to it in its relationships with those Member States which have made the same declaration.

Cyprus

Bearing in mind Paragraph 4 of Article 12 of the Convention, the Republic of Cyprus declares that it recognizes the competence of the European Court of Justice as provided for in Paragraph 3 of Article 12 of the Convention.

Germany

Declarations: Re Article 10: The Federal Government declares in accordance with Article 10(2)(a) that the Federal Republic of Germany is not bound by Article 10(1) if the act which was the subject of the judgment rendered abroad took place entirely or partly on its territory, unless the act took place partly on the territory of the Member State where the judgment was rendered.

Re Article 12: The Federal Government declares in accordance with Article 12(4) that the Federal Republic of Germany recognises the decisions of the Court of Justice of the European Communities. A national court against whose decisions there is no judicial remedy under national law shall refer matters to the Court of Justice of the European Communities for a preliminary ruling pursuant to Article 12(3), if it considers that a decision on those matters is necessary to enable it to give judgment.

Re Article 13: The Federal Government declares in accordance with Article 13(4) that as far as the Federal Republic of Germany is concerned, this Convention shall apply to its relations with Member States that have made the same declaration from the first day of the month following the expiry of a period of 90 days after the date of deposit of its declaration.

Denmark

Declarations: With reference to Article 7(2), the reservation is made that in the circumstances described in the first phrase of Article 7(1)(b), Denmark may make Danish jurisdiction conditional on the offence also being punishable under the legislation of the country in which the offence was committed (double criminality). With reference to Article 10(2)(a) to (c), Denmark shall not be bound by Article 10(1) in the cases listed in Article 10(2)(a), (b) and (c).

As regards the acts listed in Article 10(2)(b), this declaration covers offences under Chapter 12 (Offences against the independence and safety of the State), Chapter 13 (Offences against the Constitution and the supreme authorities of the State) and Chapter 14 (Offences against public authority) of the Danish Criminal Code, and offences which may be similarly categorised.

Denmark understands Article 10(2)(b) *inter alia* to include acts described in §8(1) of the Danish Criminal Code. Furthermore, Denmark interprets Article 10 as only applying to the ability to impose punishment, not the ability to deprive someone of their rights.

With reference to Article 12(4), Denmark accepts that any court in Denmark may request the Court of Justice of the European Communities to give a preliminary ruling on a matter concerning the interpretation of Articles 1 to 4 and 12 to 16 raised in a case pending before it and involving members or officials of Community institutions or bodies set up in

accordance with the Treaties establishing the European Communities, acting in the exercise of their functions, if the court considers that decision on that matter is necessary to enable it to give judgment.

With reference to Article 13(4) Denmark declares that the Convention shall apply to it from the first day of the month following the expiry of a period of 90 days after the date of deposit of its declaration, in its relationships with those States which have made the same declaration. The Faroe Islands and Greenland are not covered by the Convention for the time being.

Estonia

The Republic of Estonia declares that pursuant to Article 12, paragraph 4 of the Convention a court of Estonia may ask the European Court of Justice to give a preliminary ruling on a matter concerning the interpretation of the Convention raised in a case pending before it, if it considers that a decision on that matter is necessary to enable it to give judgement.

Spain

Reservation: "Spain declares, in accordance with Article 15, and in relation to Article 10(2), that it is not bound by paragraph 1 of that Article in the cases provided for in subparagraphs (a), (b) and (c)."

Declaration: "Spain declares, in accordance with Article 15, and in relation to Article 12(4) and (5), that it accepts the competence of the Court of Justice, for matters referred for preliminary rulings by Spanish courts against the decisions of which there is no judicial remedy."

France

1. Declaration pursuant to Article 12(4): "In accordance with the declaration made by France on 4 March 2000 pursuant to Article 35 of the Treaty on European Union, the French Republic hereby states that it accepts the jurisdiction of the Court Of Justice of the European Communities to give preliminary rulings on any question concerning the interpretation of Article 1 to 4 and 12 to 16 of the convention, under the conditions laid down in Article 12(3) thereof."

2. Declaration pursuant to Article 7(2): "Where the offences covered by Articles 2, 3 and 4 of this convention are committed outside the territory of the French Republic, France states, in accordance with the provisions of Article 6(2), that charges for such offences may be brought against the persons listed in Article 7(1)(b), (c) and (d) only at the request of the public prosecutor. Prosecution must be preceded by a complaint by the victim or by his legal successor(s) or by official denunciation of the offence by the authorities of the country in which it was committed."

United Kingdom

The United Kingdom will not apply the rules laid down in paragraph 1 (b), (c) and (d) of Article 7.

Greece

Declarations: Greek courts will have jurisdiction to try corruption offences in any of the cases referred to in Article 7(1) of the Convention ratified by the present law. The provisions of the present law will also apply where the corruption offence was committed by a Greek national abroad, even where the act is not a criminal offence under the law of the State in which it was committed. Pursuant to Article 10(2) and Article 15(1) of the Convention, Greece will not be bound by Article 10(1) of the Convention in the cases referred to in Article 10(2)(b) and (c) of the Convention. Pursuant to Article 12(4) of the Convention, Greece accepts the competence of the Court of Justice of the European Communities to give preliminary rulings as laid down in that Article, provided a Greek court requests such a ruling.

Hungary

Reservations: “In accordance with Article 7(2) of the Convention, the Republic of Hungary declares that it will not apply the rule on jurisdiction laid down in Article 7(1)(c). In accordance with Article 10(2) of the Convention, the Republic of Hungary declares that it shall not be bound by Article 10(1) if the facts which were the subject of the judgment rendered abroad constitute an offence directed against the security or other essential interests of the Republic of Hungary (Article 10(2)(b)). In accordance with Article 10(2) of the Convention, the Republic of Hungary declares that it shall not be bound by Article 10(1) if the facts which were the subject of the judgment rendered abroad were committed by an official of the Republic of Hungary contrary to the duties of his office (Article 10(2)(c)).”

Declaration: “The Republic of Hungary accepts the jurisdiction of the European Court of Justice, in accordance with Article 35(3)(b) of the Treaty on European Union”.

Italy

“Italy will apply without restriction the jurisdiction rules set out in points (a) and (d) of Article 7(1) of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, whereas it will apply the rules set out in points (b) and (c) subject to the conditions currently laid down in Articles 7, 9 and 10 of the Italian Penal Code.” “Italy will not be bound by Article 10(1) in the cases set out in paragraph 2(a), (b) and (c) of that Article.” “Pursuant to Article 13(4), Italy will apply the Convention, with the exception of Article 12 thereof, in its relationships with those Member States which have made the same declaration.”

Lithuania

AND WHEREAS, having regard to Paragraph 2 of Article 7 of the Convention the Seimas of the Republic of Lithuania declares that the Republic of Lithuania does not apply the jurisdiction rules provided for in Subparagraphs c and d of Paragraph 1 of Article 7 of this Convention;

AND WHEREAS, having regard to Paragraph 4 of Article 12 of the Convention the Seimas of the Republic of Lithuania declares that the Republic of Lithuania recognizes the competence of the International Court of Justice as provided for in Paragraph 3 of Article 12 of the Convention.

Luxembourg

1. “Pursuant to Article 7(2) of the Convention, drawn up on the basis of Article K.3(2)(c) of the Treaty on European Union, on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, signed in Brussels on 26 May 1997, the Government of the Grand-Duchy of Luxembourg hereby declares that, with the exception of cases covered by Article 7(1)(a) of the Convention, it will apply the jurisdiction rules laid down in Article 7(1)(b), (c) and (d) only if the perpetrator of the offence is of Luxembourg nationality”.

2. “Pursuant to Article 12(4) of the Convention, drawn up on the basis of Article K.3(2)(c) of the Treaty on European Union, on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, signed in Brussels on 26 May 1997, the Government of the Grand-Duchy of Luxembourg hereby declares that it accepts the jurisdiction of the Court of Justice of the European Communities in accordance with the rules laid down in Article 12(3) of the Convention”.

Netherlands

Reservation in respect of Article 7: “The Netherlands Government declares that with regard to Article 7(1), jurisdiction may be exercised by the Netherlands in the following cases:

- (a) where the offence is committed in whole or in part within Netherlands territory;
- (b) in respect of the offence punishable under Article 2, with regard to Netherlands officials and also with regard to Netherlands nationals who are not officials, insofar as it is punishable under the law of the country where it was committed, in respect of the offences punishable under Articles 3 and 4, with regard to both Netherlands nationals and Netherlands officials, insofar as the relevant offence is punishable under the law of the country where it was committed;
- (c) with regard to Netherlands nationals, insofar as the offence is punishable under the law of the country where it was committed;
- (d) with regard to public servants working for a European Community institution which has its headquarters in the Netherlands or for a body set up in accordance with the Treaties establishing the European Communities which has its headquarters in the Netherlands, insofar as the offence is punishable under the law of the country where it was committed”.

Portugal

In accordance with Article 7(2) of the Convention, the Portuguese Republic declares that:

- (a) Where the offender is a Portuguese national but not a Portuguese official, it will apply the jurisdiction rule in Article 7(1)(b) of the Convention only if: the offender is found in Portugal; the acts are also punishable under the legislation of the place where they were perpetrated, save where no punitive authority is exercised there; in addition, the acts constitute extraditable offences and extradition cannot be granted.
- (b) It will not apply the jurisdiction rule in Article 7(1)(c) of the Convention. In accordance with and for the purposes of Article 12(4) of the Convention, the Portuguese Republic declares that it accepts the competence of the Court of Justice to give preliminary rulings concerning the interpretation of the Convention, as provided in Article 12(3) of the Convention. In accordance with and for the purposes of Article 13(4) of the Convention, the Portuguese Republic will apply the Convention in its relations with those Member States which have made a similar declaration.

Sweden

I DECLARE: in accordance with Article 7(2) of the Convention, that:

- (a) Sweden does not intend to exercise jurisdiction in cases where the offence was committed against a Community official referred to in Article 1 or against a member of one of the European Community institutions referred to in Article 4(1) who is at the same time a national of Sweden (Article 7(1)(c)), and
- (b) Sweden does not intend to exercise jurisdiction in cases where the offender is a Community official working for an institution or body which has its headquarters in Sweden (Article 7(1)(d));

in accordance with Article 10(2) of the Convention, that: Sweden will be able to bring proceedings against a person who has been convicted of the same offence in another State which is a member of the European Union, if the offence was:

- (a) wholly or partly committed on Swedish territory (Article 10(2)(a)), or
- (b) directed against Sweden’s security or other equally essential interests of Sweden (Article 10(2)(b));

in accordance with Article 12(4) and (5) of the Convention, that: Swedish courts are able to seek preliminary rulings by the Court of Justice of the European Communities on the interpretation of the Convention. This option will not be limited to courts of final instance;

in accordance with Article 13(4) of the Convention, that: the Convention is—even before it enters into force—applicable in Sweden’s relationships with those Member States which have made the same declaration.

Finland

1. Finland applies the rules laid down in Article 7(1)(b) of the Convention in respect of its own nationals in accordance with Chapter 1(11) of the Finnish criminal code only if the offence is also punishable under the law of the place where the offence was committed and would also be considered a punishable offence before a court of the foreign state. No stricter penalties may be imposed in Finland than those prescribed under the law of the place of the offence.
2. Finland does not apply the rules as laid down in Article 7(1)(c) and (d) of the Convention.
3. Article 10(1) of the Convention does not bind Finland in the cases mentioned in Article 10(2)(a) to (c).
4. Finland accepts that, in accordance with Article 12(3) of the Convention, any Finnish court may ask the European Court of Justice to give a preliminary ruling in the cases referred to in the Article.



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