

¹ TRADUCTION. — TRANSLATION.No. 1038. — EXTRADITION CONVENTION² BETWEEN HUNGARY AND ROUMANIA, SIGNED AT BUCHAREST, APRIL 16, 1924.

French official text communicated by the Representative of the Royal Hungarian Government accredited to the League of Nations. The registration of this Convention took place December 12, 1925.

HIS MOST SERENE HIGHNESS THE REGENT OF HUNGARY and HIS MAJESTY THE KING OF ROUMANIA, being equally desirous of concluding a Convention for the purpose of regulating the extradition of persons charged, accused or sentenced, have appointed as their respective Plenipotentiaries :

HIS MOST SERENE HIGHNESS THE REGENT OF HUNGARY :

M. R. de WODIANER, Envoy Extraordinary and Minister Plenipotentiary ;

HIS MAJESTY THE KING OF ROUMANIA :

M. Nicolas N. FILODOR, Envoy Extraordinary and Minister Plenipotentiary, Secretary-General of the Royal Ministry of Foreign Affairs ;

who, having exchanged their full powers, found in good and due form, have agreed as follows :

Article I.

The High Contracting Parties undertake to deliver to each other any persons, other than their own nationals, who have been prosecuted or sentenced by the legal authorities of one of the Parties for any of the crimes and offences hereafter enumerated in Article 2, and who may be in the territory of the other Party.

Extradition shall only take place in the case of prosecution or sentence for an offence committed outside the territory of the State to which application for extradition is made, and provided such offence is punishable, according to the laws both of the Party making application and of the Party to which application is made, with imprisonment for one year or with some more severe penalty.

When the offence in respect of which an application for extradition is made was committed in a third State, extradition shall take place if the laws of the two Contracting Parties authorise the prosecution of such offences even when committed in a foreign country, and unless the laws of the Party to which application is made require that the person concerned be brought before its own Courts or delivered to the Government of the State where the offence was committed, in virtue of treaties concluded between that State and the Party to which application is made.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Budapest, March 24, 1925.

Article 2.

Extradition shall be granted for the following crimes and offences :

(1) Homicide, assassination, parricide, infanticide, poisoning, malicious blows and wounds causing death even without intent to kill, and also homicide as a result of imprudence.

(2) Blows dealt or wounds inflicted maliciously when they result in some apparently incurable disease, permanent inability to perform any personal work, the loss or disablement of any limb or organ, or any grave mutilation.

(3) Abortion.

(4) The culpable administration of poison or other substances which may cause death or seriously injure health, even without intent to kill. Intentional acts of a nature to endanger public health.

(5) Child-stealing, harbouring stolen children, child-murder, substitution of children, or false allegation of parenthood.

(6) Exposure or abandonment of children.

(7) Abduction of minors and abduction or detention of women or girls for immoral purposes.

(8) Rape and other indecent assaults.

(9) Offences against morals through the inciting of minors of either sex to debauchery or corruption for the satisfaction of one's own or another's passions.

(10) Infringements by individuals of the liberty of the person and the inviolability of private domicile.

(11) Bigamy.

(12) Forgery or falsification of documents or telegrams, and use of such documents ; destruction, defacement or suppression of a document with intent to injure a third person ; abuse of full powers.

(13) Coining, including the counterfeiting or debasement of coin, the issue and bringing into circulation of counterfeit or debased coin ; counterfeiting or forging banknotes, bonds or other securities issued by or with the authorisation of the State, corporations, associations or individuals ; issuing or putting into circulation such counterfeit or forged banknotes or other valuable securities.

(14) Counterfeiting or forging Government seals, stamps, punches and marks, or those intended for the public services ; the use of such counterfeit or forged seals, stamps, punches and marks, and also the illegal use of genuine seals, stamps, punches and marks belonging to the Government or a public service.

(15) Perjury, incitement to perjury, false evidence before the Courts, false statements by experts or interpreters, the subornation of witnesses, experts or interpreters. Slanderous accusation.

(16) Embezzlement and peculation by public officials.

(17) Bribing of public officials, judges or jurors.

(18) Arson and criminal use of explosives.

(19) Larceny, when the value of the stolen article exceeds 200 Hungarian gold crowns or 210 gold lei.

(20) Robbery with violence.

(21) Extortion, swindling, minor frauds when the sums obtained by these methods exceed in value 210 gold lei or 200 Hungarian gold crowns.

(22) Fraudulent theft, conversion of funds and abuse of confidence, when the sums stolen exceed in value 200 Hungarian gold crowns or 210 gold lei.

(23) Fraudulent bankruptcy and frauds committed in bankruptcy proceedings.

(24) Receiving of stolen goods.

(25) Acts directed against the security of traffic on railways, waterways, airways or any other means of transport, and involving danger to life.

(26) Malicious and unlawful destruction or injury, whether total or partial, and by any means whatever, of railways, navigating vessels, aircraft or any other means of transport, their working stock, steam-engines, telegraphs and telephones, or wireless telegraphs and telephones, when employed in a public service.

(27) Malicious and unlawful destruction or injury, whether total or partial, and by any means whatever, of buildings, bridges, roads or other constructions belonging to the public or to some other person.

(28) Destruction or defacement of tombs, monuments and works of art ; destruction or defacement of public books or registers, documents or other objects of public use.

(29) Acts causing the foundering or loss of ships ; destruction or injury of vessels or their cargoes.

Extradition shall also be granted in respect of attempted offences or of participation, in any form or in any nature (for example, complicity prior to, concomitant with or subsequent to the offence, etc.) in the offences mentioned in the present article, should the attempt or participation be punishable under the legislation of both States.

Article 3.

Extradition shall not be granted for political offences.

The person surrendered shall in no case be prosecuted or punished for a political offence committed prior to extradition, nor for any act connected with such offence.

An attack on the person of the head of a State or on the members of his family, when such attack constitutes murder, assassination, poisoning or an attempt at one of these acts or complicity therein, shall not be regarded as a political offence nor as an act connected with a political offence.

Article 4.

The person surrendered shall not be tried or punished in the country to which extradition has been granted, or be surrendered to a third State, for any non-political offence which is not included in the present Convention and which was committed prior to his extradition, unless in either case he has been at liberty to leave the country making application within the month following his trial, or — in the event of his having been sentenced — within a month after he has served his sentence or after his amnesty or pardon, or unless he has returned to that country of his own free will.

No person shall be tried or punished by the Party to which extradition has been granted, nor may he be extradited to a third State, for any offence other than that in respect of which extradition was granted, without the express consent of the Party surrendering him, which may, if it thinks fit, demand the production of one of the documents mentioned in Article 14 of the present Convention. The consent of the latter Party is also required to permit the extradition of the accused to a third State. Nevertheless, this consent shall not be required if the accused of his own free will asks to be

tried or to serve his sentence ; or if within the period fixed above he does not leave the territory of the Party to which he has been surrendered, or if he subsequently returns to that country.

Article 5.

If the person whose surrender is claimed is proceeded against by the Party making application for an offence in respect of which exemption from punishment has been acquired in virtue of the laws of the Party to which application is made or those of the State in which the offence was committed, either because the time necessary for exemption from any proceedings or punishment has lapsed, or for some other legal reason, his extradition cannot be granted by the Party to which application is made.

Article 6.

Extradition shall not be granted if the person whose surrender is claimed is being prosecuted for the same offence in the country to which application is made, or if he has already been finally discharged, sentenced, pardoned or acquitted in respect of the same offence.

Article 7.

If, under the legislation of the Party to which application is made, proceedings cannot be taken in respect of the offence which gave rise to the application for extradition except on a charge being brought or application being made by the injured party, extradition shall not take place unless it is proved that the injured party has demanded that proceedings be taken.

Article 8.

No person accused of an offence referred to in Article 2 of the present Convention shall be sentenced by the judicial authorities of the State making application to a punishment more severe than that provided in respect of the same offence by the penal law of the third State in whose territory the offence was committed.

At the request of the Party to which application is made (which granted the extradition), the Party making application (which obtained extradition) shall notify the final result of the criminal proceedings.

Article 9.

If the person whose surrender is claimed is prosecuted or sentenced, in the territory of the State to which application is made, for any other offence than that which gave rise to the application for extradition, the surrender of such person may be postponed until the proceedings are concluded and, if he has been sentenced, until he has served his sentence or obtained its remission.

Nevertheless, if, under the laws of the Party applying for extradition, the expiration of the period of prescription or other serious difficulties in connection with the proceedings against the accused might result from such postponement, he shall be temporarily surrendered unless there are special reasons to the contrary, and subject to the obligation of returning the person so surrendered as soon as the proceedings in the country making application are terminated.

Should the person whose surrender is claimed be prevented by extradition from fulfilling his contractual obligations to private parties, he shall nevertheless be surrendered, subject to the latter proving their legal right before the competent authority.

Article 10.

If the person whose extradition is applied for by one of the Contracting Parties is also wanted for other offences by one or more other States, such person shall be surrendered to the State in whose territory the most serious offence was committed, and, when the offences are equally serious, to the State whose application is received first.

Article 11.

The Contracting Parties reciprocally renounce any claim in respect of the refund of expenses incurred in their respective territories through the detention, custody and conveyance of the offender and through the temporary surrender of his person under Article 9.

The cost of transit of a person whose extradition or temporary surrender has been granted by a third State to the Party making application shall be borne by the Party making application.

Article 12.

The articles which the accused may have in his possession as a result of his offence, or those found upon him at the time of his arrest, and objects which may have been used in committing the offence, together with any other articles serving as evidence of the offence, shall, at the discretion of the competent authority, be handed over to the Party applying for extradition at the same time as the accused ; they may also be handed over even if extradition has been granted but becomes impossible by reason of the death or escape of the accused.

All articles of a similar nature which the accused may have concealed or deposited in the country granting extradition, and which may subsequently be discovered, shall also be handed over.

Nevertheless, the rights of third parties to the articles in question shall be reserved, and such articles shall be returned to the lawful owners free of cost after the conclusion of the trial.

Article 13.

The application for extradition shall always be made through the diplomatic channel.

Article 14.

Extradition shall be granted on the production either of the judgment or of a writ of prosecution or arrest, such as a writ of summons, an order of commitment, a final or preliminary arraignment, a warrant of arrest, or any other legal instrument having the same force ; such document to indicate the nature and gravity of the offence, and give its description, together with the text of the penal law in force in the country demanding extradition which is applicable to the offence in question, and the penalty which it involves.

In the case of offences against property, the amount of the actual or attempted damages shall always be indicated.

The originals of the documents in question shall be forwarded, or else copies legalised by the Court or other competent authority of the Party making application ; they shall, where possible, be accompanied by a description of the person whose surrender is claimed or other particulars which may help to establish his identity.

In the event of there being any question whether the offence in respect of which proceedings are being taken comes within the scope of the present Convention, the Party making application shall be asked for further particulars, and extradition shall be granted only if the particulars supplied

are of a nature to dispel all uncertainty. It is agreed that, in order to prevent the possibility of escape, the competent authorities of the Party to which application is made shall proceed to arrest the accused immediately upon receipt of the documents specified above, while reserving judgment regarding the application for extradition.

In the event of explanations being requested in regard to extradition, the person arrested may be released if the explanations so requested are not supplied to the Party to which application is made within one month from the date on which the request for such explanations shall have been received by the Party making application.

Article 15.

Provisional arrest shall be effected not only on the production of one of the documents mentioned in Article 14 but also, in urgent cases, on any notification by post or telegraph of the existence of a warrant of arrest, provided that this notification is made through the diplomatic channel to the Ministry of Foreign Affairs of the Party to which the application is made.

In cases of extreme urgency, provisional arrest shall also be effected on direct application being made by a competent authority of one of the Contracting Parties to the competent authority of the other Contracting Party.

Article 16.

Aliens arrested in accordance with the second paragraph of Article 15 shall be released if no notification of the existence of a warrant of arrest issued by judicial authority is given within ten days from the date of arrest.

In all cases persons arrested in accordance with Article 15 shall be released if the Party to which application is made has not received any of the documents mentioned in Article 14 through the diplomatic channel within one month from the date of the arrest.

Article 17.

If the extradition of an offender is effected between one of the Contracting Parties and a third State, the other Contracting Party shall allow the transit of the extradited person through its territory unless the person in question is its own national and provided, of course, that the offence giving rise to extradition is one of those mentioned in Articles 1 and 2 of the present Convention and does not come within the provisions of Articles 3, 5 and 6.

For the purpose of allowing transit in conformity with the present article, application need only be made through the diplomatic channel, the original or a duly authenticated copy of one of the legal instruments mentioned in Article 14 being produced.

Article 18.

If it is considered necessary or desirable to summon a witness in a criminal case of a non-political nature, the Government of the Party in whose territory the witness is residing shall advise him to obey the subpoena served on him for this purpose by the authorities of the other Party, but shall not be entitled to subject him to measures of coercion.

The cost of summoning a witness shall in every case be borne by the Party making application, and the request, sent for this purpose through the diplomatic channel, shall show the amount allowed to the witness for travelling expenses and subsistence, together with the amount of the advance that the Party to which application is made may pay to the witness out of the total sum, subject to repayment by the Party making application.

This advance shall be paid to him as soon as he has announced his willingness to comply with the subpoena.

No witness of any nationality whatsoever, who is summoned to the country of one of the Contracting Parties and appears of his own free will before a Court of the other Party, may be prosecuted in that Court or detained for previous criminal offences or convictions, or on the pretext that he was an accessory to the offences in the case in which he is to appear as a witness.

Article 19.

When the production of articles serving as evidence in the case or legal documents is judged necessary in a criminal case of a non-political nature awaiting judgment before the Courts of one of the Contracting Parties, the request therefor shall be made through the diplomatic channel, and shall be complied with unless there are special objections to this course. Such articles and documents shall, however, be returned as soon as possible.

Article 20.

When one of the Parties deems it necessary to hear witnesses domiciled in the territory of the other Party or to take any other measure of judicial enquiry in the prosecution of a criminal case of a non-political nature, letters rogatory shall be sent for this purpose, and shall be complied with in accordance with the law of the Party in whose territory the witnesses are to be heard or the measures of judicial enquiry are to be taken.

Letters rogatory emanating from the competent foreign authority and requiring either a search of premises or the seizure of the *corpus delicti* or of articles constituting evidence in the case shall be executed only in respect of one of the acts enumerated in Article 2 and subject to the reservation contained in the last paragraph of Article 12.

Letters rogatory shall be sent through the diplomatic channel. Nevertheless, in cases of extreme urgency, when any loss of time might compromise the result of the criminal proceedings, the prosecuting authorities may apply directly to the competent authorities of the Party to whom application is made, either in order to obtain the arrest or establish the identity of an offender or in order to ensure the success of a search of premises or the seizure of the *corpus delicti* and of articles constituting evidence in the case.

The respective Contracting Parties renounce all claim to the refund of expenditure arising from the execution of letters rogatory, with the exception of sums disbursed to witnesses and experts.

Article 21.

If one of the Contracting Parties deems it necessary to give notice of legal proceedings to a person in the territory of the other Party, this communication shall be effected through the diplomatic channel to the competent authority of the Party to which application is made, which shall return through the same channel the document certifying that the notification has been made or shall give the reasons preventing such notification. Sentences passed by the courts of one of the Contracting Parties on nationals of the other Party shall not, however, be notified to the latter. The Party to which application is made takes no responsibility in respect of the notification of such legal proceedings.

Article 22.

The Contracting Parties undertake to communicate to each other, without reimbursement of costs, sentences pronounced in respect of crimes and offences of all kinds by the courts of one of the two Parties upon the subjects of the other.

This communication shall be effected by sending to the Party to which the convicted person belongs, through the diplomatic channel, the text of the final judgment passed or a certificate of the sentence.

Article 23.

The legal documents mentioned in Article 14 shall be accompanied free of charge by a duly authenticated French translation unless they are drawn up in the language of the Party to which application is made or accompanied by a translation in that language.

Letters rogatory in regard to criminal cases, and their annexes, together with the documents to be communicated under Article 21, when drawn up in a language other than that of the Court to which application is made, shall be accompanied in the case of Hungary by a Hungarian translation ; these translations, duly authenticated, shall also be forwarded free of charge.

Replies to letters rogatory and documents drawn up in execution of such letters, as also documents transmitted in virtue of Article 19 and judgments or certificates communicated in virtue of Article 22, shall be accompanied by a translation only if the Party making application so requests, and subject to the repayment of the costs of translation.

Documents relating to criminal cases despatched by the judicial authorities of the Contracting Parties shall not require legalisation. Such documents shall bear the seal of the judicial authority issuing them.

Article 24.

The present Convention shall be ratified, and the instruments of ratification shall be exchanged at Budapest as soon as possible.

Article 25.

The present Convention shall come into force three months after the exchange of the instruments of ratification, and shall remain in force for ten years as from that date.

If, twelve months before the end of the specified period, neither of the Contracting Parties shall have notified its intention to terminate the Convention, the latter shall remain binding upon the Parties until one year from the date on which one or other of the Contracting Parties shall have denounced it.

In faith whereof the respective Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done at Bucharest in duplicate on April 16, 1924.

(L. S.) (Signed) R. DE WODIANER.

(L. S.) (Signed) N. N. FILODOR.

PROTOCOL OF SIGNATURE.

At the time of signing the Extradition Convention of this day's date, the undersigned Plenipotentiaries have agreed as follows :

(1) As far as concerns Roumania, the term " penal law " in Article 8 refers to the laws in force in the old Kingdom or to those which may be substituted for them.

(2) In view of the fact that the death penalty is not included among the penalties provided by the penal laws of Roumania, the Roumanian Government will not consent

to extradite criminals who, under the penal laws of Hungary, are liable to that penalty, unless the Hungarian Government gives a formal undertaking that any capital sentence pronounced upon such criminals shall not be carried into effect.

The present Protocol shall have the same force and the same period of validity as the Extradition Convention concluded this day.

In faith whereof the respective Plenipotentiaries have signed the present Protocol and have thereto fixed their seals.

Done at Bucharest, in duplicate, on April 16, 1924.

(L. S.) (Signed) R. DE WODIANER.

(L. S.) (Signed) N. N. FILODOR.