

N° 846.

BULGARIE ET ROUMANIE

Convention d'extradition, signée à
Bucarest, le 19 avril 1924.

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Extradition Convention, signed at
Bucharest, April 19, 1924.

¹ TRADUCTION. — TRANSLATIONNo. 846. — EXTRADITION CONVENTION ² BETWEEN BULGARIA AND ROUMANIA, SIGNED AT BUCHAREST, APRIL 19, 1924.

French official text communicated by the Bulgarian Chargé d'Affaires at Berne. The registration of this Convention took place March 23, 1925.

HIS MAJESTY THE KING OF THE BULGARIANS 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 MAJESTY THE KING OF THE BULGARIANS :

General FITCHEFF, Envoy Extraordinary and Minister Plenipotentiary of his Majesty the King of the Bulgarians at Bucharest ;

M. Ph. POPOFF, President of the Supreme Court of Appeal, at Sofia, and

M. C. MINCOFF, Minister Plenipotentiary, Secretary-General of the Bulgarian Ministry for Foreign Affairs.

HIS MAJESTY THE KING OF ROUMANIA :

M. George MARZESCO, Minister of Justice, Acting Minister for Foreign Affairs, and

M. Gregory BILCIURESCO, Minister Plenipotentiary, Director at the Ministry for Foreign Affairs,

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

Article 1.

The Bulgarian Government and the Roumanian Government undertake to deliver to each other any persons, other than their own nationals, who have been prosecuted or sentenced by the local authorities of one of the Contracting Parties 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.

Article 2.

If the application for extradition relates to a convicted person, such person shall only be surrendered if he has been finally sentenced to a term of more than six months' imprisonment for offences punishable under the legislation of both countries.

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 Bucharest, March 5, 1925.

If the application for extradition relates to a person who has not yet been convicted, such person shall only be extradited if the punishable offence of which he is accused involves a term of not less than two years' imprisonment under the legislation of both countries.

Article 3.

Extradition shall also be granted in respect of attempted offences or of participation, in any form or of any nature, should the attempt or participation be punishable, under the legislation of both States, by imprisonment.

Article 4.

Extradition shall not be granted

(a) For political offences.

An attack on the person of the head of a State or on the person of any member of his family, when such attack constitutes murder or an attempt at murder or complicity therein, shall not be regarded as a political offence nor as an act connected with a political offence ;

(b) For purely military offences ;

(c) For Press offences ;

(d) For offences in respect of which proceedings can only be taken on a charge being brought by the injured party and which may be stayed upon the withdrawal of the charge by the injured party ;

(e) If the party whose surrender is claimed is proceeded against by the State making application for an offence in respect of which exemption from punishment has been acquired by lapse of time in accordance with its laws, those of the State to which application is made or those of the State in which the offence was committed, and

(f) If the party 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 5.

The person surrendered shall in no case be tried or punished for a political offence committed prior to surrender or for any act connected with such offence.

He shall not be tried or punished in the country to which extradition has been granted, or surrendered to a third State for any non-political offence 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 State to which extradition has been granted for any offence other than that in respect of which extradition was granted, without the express consent of the Government surrendering him, which may, if it thinks fit, demand the production of one of the documents mentioned in Article II of the present Convention. The consent of the latter Government 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 penalty ; or if within the period fixed above he does not leave the territory of the country to which he has been surrendered, or if he subsequently returns to that country.

Article 6.

The State to which application is made shall alone judge, on the basis of the present Convention, whether extradition shall be refused.

Article 7.

The accused shall not be sentenced by the local 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 State surrendering him or of the third State on whose territory the offence was committed.

In compliance with the above principle, and in view of the fact that capital punishment is not admitted by the penal law of Roumania, the Roumanian Government shall not surrender criminals who are liable to the said penalty under the penal laws of Bulgaria unless the Bulgarian Government undertakes by a formal declaration not to carry out the capital sentence which may be pronounced on such criminals.

Article 8.

If the person whose surrender is claimed, is prosecuted or sentenced in 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 his sentence has been served or until he has obtained its remission.

Nevertheless if, under the laws of the country 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 9.

If the person whose extradition is applied for by one of the Contracting Parties is also claimed 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 10.

The application for extradition shall always be made through diplomatic channels.

Article 11.

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 for 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 approximate 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 country 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 Government making application shall be asked for further particulars, and extradition shall only be granted 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 State to which application is made shall proceed to the arrest of 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 State to which application is made within one month from the date on which the request for such explanations have been received by the State making application.

Article 12.

Provisional arrest shall be effected not only on the production of one of the documents mentioned in Article 11 but also, in urgent cases, on any notification by post or telegraph of the existence of a warrant for arrest, provided that this notification is made through diplomatic channels to the Ministry for Foreign Affairs of the State to which the application is made.

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

Article 13.

Aliens arrested in accordance with the second paragraph of Article 12 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 12 shall be released if the Government to which application is made has not received any of the documents mentioned in Article 11 through diplomatic channels within one month from the date of the arrest.

Article 14.

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 State 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 in the event of acquittal be returned to the lawful owners free of cost after the conclusion of the trial.

Article 15.

If the extradition of an offender is effected between one of the Contracting Parties and a third Power, the other Contracting Power shall allow the transit of the extradited person through its territory, unless the person in question is its own national, provided that the offence giving rise to extradition does not come within the provisions of Article 4.

For the purpose of allowing transit in conformity with the present Article, application must previously be made and granted through diplomatic channels, after production of the original or a duly authenticated copy of one of the legal instruments mentioned in Article 11.

Article 16.

The Contracting Parties reciprocally renounce any claim in respect of the refund of expenses incurred on their respective territories by the detention, custody and conveyance of the offender and by the temporary surrender of his person under Article 8.

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

Article 17.

If it is considered necessary or desirable to summon a witness in a criminal case of a non-political nature, the Government of the State 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 State, but shall not be entitled to subject him to measures of coercion.

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

This advance shall be paid to him as soon as he has declared 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 18.

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 diplomatic channels 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 19.

When one of the Governments deems it necessary to hear witnesses domiciled in the other State or to take any other measure of judicial enquiry in the prosecution of a criminal case of a non-political nature, a "commission rogatoire" shall be sent through diplomatic channels for this purpose and shall be complied with in accordance with the laws of the country in which the witnesses are heard or the measures of judicial enquiry are to be taken.

"Commissions rogatoires" 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 only be executed in cases not covered by Article 4 and subject to the reservation laid down in the last paragraph of Article 14.

The respective Governments renounce all claims for the refund of expenditure arising from the execution of such "commissions rogatoires" with the exception of sums disbursed to witnesses and experts.

Article 20.

If one of the Contracting Parties deems it necessary to give notice of legal proceeding to a person in the territory of the other Party, this communication shall be effected through diplomatic channels to the competent authority in the State to which application is made, which shall return through the same channels the document certifying that the notification has been made or 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 State to which application is made takes no responsibility in respect of the notification of such legal proceedings.

Article 21.

The two Governments undertake to communicate to each other without reimbursement of costs sentences in respect of crimes and offences of all kinds pronounced by the courts of one of the two States against the subjects of the other.

This communication shall be effected by sending the text of the judgment passed or a certificate of the sentence to the Government of the country to which the convicted person belongs through diplomatic channels.

Article 22.

The legal documents mentioned in Article 11 shall be accompanied free of charge by a duly authenticated French translation unless they are drawn up in the language of the State to which application is made or accompanied by a translation in that language.

“Commissions rogatoires” in regard to criminal cases, and their annexes, together with the documents to be communicated under Article 20, when drawn up in a language other than that of the Court to which application is made, shall be accompanied in the case of Bulgaria by a Bulgarian translation and in the case of Roumania by a Roumanian translation; these translations duly authenticated shall also be forwarded free of charge.

Replies to “Commissions rogatoires” and documents drawn up in execution of such commissions, together with documents transmitted in virtue of Article 18 and judgments or certificates communicated in virtue of Article 21, shall only be accompanied by a translation if the State making application so requests and subject to re-payment 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 23.

The Ministry of Justice of one of the Contracting Parties shall supply the Ministry of Justice of the other Party on request with the text of the laws in force in its territory.

Article 24.

As regards Roumania, the term “penal law” employed in the present Convention signifies the legislation in force in the old Kingdom or such legislation as may subsequently be substituted therefor.

Article 25.

The present Convention shall be ratified and the ratifications shall be exchanged at Bucharest as soon as possible.

It shall enter into force three months after the exchange of ratifications and shall remain in force until one year after the date of its denunciation by one of the Contracting Parties.

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

Done at Bucharest, in duplicate, on April 19, 1924.

(L. S.) GENERAL FITCHEFF.

(L. S.) PH. POPOFF.

(L. S.) C. MINCOFF.

(L. S.) G. MARZESCO.

(L. S.) GR. BILCIURESCO.