

N° 1273.

**ROUMANIE
ET TCHÉCOSLOVAQUIE**

Convention d'extradition et d'assistance judiciaire en matière pénale, et protocole additionnel. Signés à Bucarest, le 7 mai 1925.

**ROUMANIA
AND CZECHOSLOVAKIA**

Convention relating to Extradition and Legal Assistance in Criminal Matters, and Additional Protocol. Signed at Bucharest, May 7, 1925.

¹ TRADUCTION. — TRANSLATION.

No. 1273. — CONVENTION ² BETWEEN THE CZECHOSLOVAK REPUBLIC AND THE KINGDOM OF ROUMANIA RELATING TO EXTRADITION AND LEGAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT BUCHAREST, MAY 7, 1925.

French official text communicated by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this Convention took place August 7, 1926.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC and HIS MAJESTY THE KING OF ROUMANIA, being desirous of regulating judicial relations between the two countries with regard to the extradition and conveyance of criminals, and legal assistance in criminal matters,

Have decided to conclude a Convention for this purpose and have appointed as Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Zdeněk FIERLINGER, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic in Roumania; and

Dr. Emile SPIRA, Head of Department in the Ministry of Justice at Prague ;

HIS MAJESTY THE KING OF ROUMANIA :

M. I. G. DUCA, Minister, Secretary of State in the Department of Foreign Affairs ;

Who, having communicated their full powers, found in good and due form, have agreed to the following Articles :

CHAPTER I.

Article I.

EXTRADITION OF CRIMINALS.

1. The Contracting Parties undertake to deliver up to each other, on requisition being made, persons in the territory of the one Party who are being proceeded against or who have been convicted by the judicial authorities of the other Party for any offence for which extradition may be authorised under the laws of the Party to which application is made :

(a) If the offence in question, according to the laws of the two States (even if applicable only in part of their territory), is punishable with at least one year's imprisonment,

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 Prague, July 9, 1926.

or a heavier penalty, or if the person claimed has been sentenced for the same offence to imprisonment for at least six months or to a heavier penalty ;

(*b*) If the offence has been committed outside the territory of the State to which application is made ;

(*c*) If the prosecution of the infraction is not reserved, by the laws of the State to which application is made, for its own judicial authorities.

2. Extradition shall also be granted in respect of attempts to commit the said offences or for participation therein, when these are punishable according to the legislation of the two Contracting Parties.

Article 2.

1. The Contracting Parties shall not surrender their own nationals.

2. If the person claimed has submitted a request for naturalisation in the State to which application is made before the offence was committed, the decision concerning the request for extradition may be delayed until the request for naturalisation has been disposed of.

Article 3.

OFFENCES FOR WHICH EXTRADITION MAY NOT BE GRANTED.

Extradition shall not be granted :

(*a*) For political crimes and offences or acts connected therewith. The State to which application is made shall alone decide whether an offence is of this nature.

An offence committed or attempted against the person of the Head of either of the Contracting States, the Queen, or the Prince and Princess, heirs to the throne of Roumania, shall not be considered as a political offence, or as an act connected with such an offence when the offence constitutes homicide (murder) or an attempt at homicide (murder) or participation therein ;

(*b*) For purely military offences ;

(*c*) For press offences, properly so called ;

(*d*) For offences against Customs, revenue or other financial laws ;

(*e*) 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 on the withdrawal of the charge ;

(*f*) If exemption from prosecution or punishment has been acquired by lapse of time in virtue of the laws in force in all parts of the territory of one of the Contracting Parties, or according to the laws of the State in which the offence was committed, before the accused was arrested or interrogated, or if it is impossible to proceed against him or to carry out the sentence for other legal reasons ;

(*g*) If the person claimed is being proceeded against for the same offence in the country to which application is made, or if he had already been finally discharged, sentenced or acquitted in respect of the same offence, unless the legislation of the country in question allows the reopening of criminal proceedings in consequence of new facts.

Article 4.

REQUISITION FOR EXTRADITION.

1. The requisition for extradition shall be made through the diplomatic channel. It should be accompanied by the indictment, warrant of arrest or any other judicial document equivalent to the latter or the judgment against the person claimed. These documents should indicate briefly

the offence complained of, its special character and denomination, and be accompanied by the authenticated text of the penal law applicable to the offence of the State making the requisition and indicating the penalty which it involves.

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

3. The originals of these documents supporting the requisition or copies authenticated by the Court or by any other competent authority of the State making application shall be annexed to the requisition; they shall, where possible, be accompanied by a description of the person whose surrender is claimed, his photograph or other particulars which might help to establish his identity.

Article 5.

LANGUAGE TO BE USED.

The documents mentioned in the preceding Article shall be drawn up in the official language of the State making application, in the form required by the laws of the latter and bearing the official seal. Translations in the official language of the State to which application is made, executed or attested as authentic by a sworn interpreter who shall sign and seal them, or by an official interpreter of the Party making application, shall be annexed thereto.

Article 6.

SUPPLEMENTARY EXPLANATIONS.

If there is any doubt as to whether the offence which is being proceeded against comes under the provisions of the present Convention, explanations shall be asked of the State making application, and extradition will only be ordered when the explanations furnished are of a nature to dispel such doubt.

Article 7.

MEASURES WITH A VIEW TO ENSURING EXTRADITION.

On the arrival of the requisition for surrender, together with the documents laid down in Articles 4 and 5, the State to which application is made shall take all necessary measures to arrest the person in question and to prevent his escape, unless the surrender appears at the outset as inadmissible.

Article 8.

TEMPORARY ARREST.

1. In urgent cases, the person claimed may be provisionally detained even before the requisition for surrender has been submitted, on notification forwarded by post or telegraph, provided that reference is made to a warrant of arrest or a judgment and that the offence is also indicated. This notification may be addressed direct by the tribunal or competent authority of the State making application to the competent authority of the State to which application is made.

2. The competent authorities of each of the Contracting Parties may, even in the absence of such notification, effect the temporary arrest of any person discovered in their territory whose description has been given by the authorities of the other Party or who is entered as wanted by the police in their respective bulletins or registers.

3. The authority which has proceeded to the arrest of a person in conformity with paragraphs 1 and 2, shall inform without delay the authority applying for this arrest or the authority desiring

to proceed against the person referred to in the notification published in the police bulletins or registers, at the same time mentioning the place of his detention.

4. If, within a period of fifteen days from the date on which this information was forwarded in conformity with the above provisions, the other Contracting Party has not stated that the surrender of the person arrested will be asked for, the latter may be set at liberty.

Article 9.

1. If the requisition for extradition accompanied by the documents in support mentioned in Articles 4 and 5, is not received within a period of six weeks from the date on which the intimation of arrest provided for by paragraph 3 of the preceding Article was made, the person arrested may be set at liberty.

2. In cases where supplementary explanations have been asked for in conformity with Article 6, the person arrested may also be set at liberty if these explanations are not given to the State, to which application is made, within a reasonable period fixed by it. This period may be extended if a request for the purpose is made, accompanied by a statement of the reasons therefor.

Article 10.

REQUISITION FOR EXTRADITION SUBMITTED BY MORE THAN ONE STATE.

1. If the person whose extradition is requested by one of the Contracting Parties is also claimed by one or more other States, the State to which application is made shall be free to surrender him either to the State of which he is a national or to the State in the territory on which the offence was committed. If the State of which the person in question is a national is not among the States making application, the State to which application is made may inform it of the application received from the other States, giving it a period of fifteen days in which to declare whether it also intends to apply for extradition. The provisions of Article 9, paragraph 1, shall be also applicable as regards its requisition for extradition.

2. Otherwise, the person claimed shall be delivered up to the State in the territory of which the most serious offence was committed, and if the offences are of equal gravity, to the State whose requisition for extradition was first received.

3. These provisions shall not affect any undertakings entered into previously by one of the Contracting States with other States.

Article 11.

POSTPONEMENT OF EXTRADITION.

1. If the person claimed is being proceeded against or has been convicted in the territory of the State to which application is made for an offence other than that leading to the requisition for extradition, or if he is in confinement there for other reasons, his extradition may be postponed until the proceedings are concluded or, in the event of his conviction, until he has completed his sentence, or until it has been remitted, or his confinement due to other reasons is at an end.

2. This postponement shall not prevent a decision being given without delay in regard to the extradition.

3. If the postponement of extradition mentioned in paragraph 1 might, however, under the laws of the State making application lead to exemption from prosecution or punishment being acquired by lapse of time or to any other serious obstacles to the proceedings, the temporary surrender of the person claimed may, unless there are special considerations forbidding such action,

be granted on condition that the person delivered up be sent back as soon as the legal investigation proceedings on account of which the person was temporarily claimed, are concluded in the State making application.

Article 12.

LIMITS TO THE RIGHT OF EXTRADITION.

1. The person surrendered may not be proceeded against or sentenced in the State to which extradition was granted, or delivered up to a third country, for an offence other than that for which his extradition was granted.

2. In the case of other offences committed before extradition, the person surrendered may be proceeded against, punished or delivered up to a third country only :

(a) If the State granting extradition consents to this later. This consent may not be refused if extradition for the offence in question is laid down in the present Convention. The State which surrendered the offender may require that this consent be applied for according to the forms laid down for requisitions for extradition, with the documents in support mentioned in Articles 4 and 5 ;

(b) If the person in question did not of his own accord leave the territory of the State to which he was surrendered within one month after judgment was given there, and, in the event of conviction, after completing his sentence or after having been pardoned, or if he returned there subsequently.

3. On requisition being made by the State which has given its consent to extradition in conformity with paragraph 2, the other State shall inform it of the final result of the proceedings by transmitting to it an authenticated copy of the judgment.

Article 13.

CONVEYANCE OF CRIMINALS.

1. If the extradition of an offender takes place between one of the Contracting Parties and a third State, the other Party shall, on requisition being made, allow him to be conveyed through its territory.

2. The provisions relating to the authorisation of extradition shall apply equally to such conveyance.

3. The conveyance shall be effected by the agents of the Party to whom application is made under such conditions and by such means as it may determine.

CHAPTER II.

LEGAL ASSISTANCE IN CRIMINAL MATTERS.

Article 14.

1. In criminal matters, the Contracting Parties shall afford each other legal assistance. They shall in particular serve documents relating to criminal procedure on persons within their territory, institute legal investigation measures such as the hearing of witnesses and experts, the drawing-up of affidavits, searches, and the seizing of articles, and transmit to each other legal documents and articles serving as evidence of the crime.

2. Sentences and summonses to appear for trial emanating from the courts of one of the Contracting Parties, and referring to nationals of the other Party, shall not, however, be served on the latter. Similarly, a national of one of the Contracting Parties may not be subjected to an enquiry as an accused person at the request of the other Party.

3. The request for legal assistance shall be drawn up in the official language of the State making application, shall bear the seal of the authority making application and be transmitted direct by the Ministry of Justice of the State making the application to the Ministry of Justice of the State to which application is made. The provisions of Article 5 regarding translation, shall also apply to the request and to the annexed documents.

A request for legal assistance in criminal matters shall be complied with in accordance with the laws of the State on the territory of which the legal investigation asked for is to take place. The record of these investigations shall not be translated into the official language of the State making the application.

Article 15.

WHEN LEGAL ASSISTANCE MAY BE REFUSED.

Legal assistance in criminal matters may be refused in cases in which, according to the provisions of the present Convention, there is no obligation to grant the extradition of the person required.

Article 16.

SUMMONING AND APPEARANCE OF PERSONS OF THE OTHER CONTRACTING STATE.

1. If, in a criminal case pending before the Courts of one Contracting State, the personal appearance of a witness or an expert who happens to be in the territory of the other Contracting State is considered necessary or desirable, the authorities of the latter shall call upon him to obey the subpoena served on him through their intermediary or on behalf of the said Courts.

2. The costs connected with the personal appearance of a witness or expert shall be borne by the State making application and the subpoena shall show the amount to be allocated to the witness or expert as travelling expenses and subsistence allowance, together with the amount of the advance which may be paid to him by the State to which the application is made, subject to repayment by the State making application, as soon as the person cited has declared his willingness to comply with the subpoena.

3. No witness or expert of any nationality whatsoever who is in the territory of one of the Contracting Parties and who, on being called upon by it, shall appear of his own free will before the Courts of the other Party, may be proceeded against there or detained for previous criminal acts or convictions or on the pretext of participation in the acts forming the subject of the case in which he is appearing.

4. These persons shall, however, lose this privilege if they do not of their own free will leave the territory of the State making application within three days from the time when their presence before the judicial authorities is no longer required.

5. If the person cited is in confinement in the territory of the State applied to, requisition may be made for his appearance subject to an undertaking being given that he will be sent back as soon as possible. Such a request may only be refused for special reasons, and, more particularly, if the person in question expressly declares his opposition thereto.

6. Similarly, subject to the conditions laid down above, the conveyance and the return of a person in detention in a third country shall be allowed through the territory of one of the Contracting Parties if the other Contracting Party considers it necessary to confront him with the person who is being proceeded against or to hear him as a witness.

Article 17.

HANDING OVER OF ARTICLES SERVING AS PROOF OF THE CRIME.

1. The authorities of the two Contracting Parties shall deliver up to each other, if requested to do so, the articles which an accused person may have obtained as a result of his offence or which may serve as proof of the offence, and this delivery shall take place even in cases in which the said articles are liable to be seized or confiscated.

2. If these articles are in the possession of the accused at the time of his extradition or conveyance, they shall, as far as possible, be handed over at the time at which the extradition or conveyance takes place. They shall be delivered up even when the surrender, after having been granted, shall be prevented from taking place by reason of the death or escape of the accused person. Delivery shall also extend to 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.

3. Nevertheless, the rights of third parties to the articles in question shall be reserved, and such articles shall, at the end of the trial, be returned as soon as possible and free of cost to the State to which application is made.

4. The State which has been asked to deliver up these articles may keep them temporarily if it considers them necessary for the purposes of a criminal investigation. It may also, when handing them over, reserve to itself the right to have them restored for the same purpose, undertaking in its turn to restore them as soon as possible.

Article 18.

COMMUNICATION OF CONVICTIONS AND EXTRACTS FROM THE JUDICIAL RECORD OF PREVIOUS CONVICTIONS.

1. The Contracting Parties undertake to communicate to each other quarterly through the diplomatic channel, convictions having the force of law or extracts from all definitive judgments, including conditional sentences, pronounced by their judicial authorities against nationals of the other Party, in so far as they are entered, according to the laws in force, in their records of previous convictions or judicial registers.

2. They shall also communicate to each other any further decisions concerning the said judgments which are entered in the record of previous convictions or judicial registers.

3. The authorities of either of the Contracting Parties responsible for keeping the records of previous convictions or judicial registers, shall furnish without charge to the authorities of the other Party, upon their request forwarded direct, information based on the records of previous convictions or the judicial registers concerning particular cases.

Article 19.

COSTS OF LEGAL ASSISTANCE IN CRIMINAL MATTERS.

1. The expenses occasioned by a requisition for extradition or any other legal assistance in criminal matters, shall be borne by the Party on whose territory they were incurred.

The authorities of the Party to which application is made shall, however, communicate to the Party making application the amount of these expenses with a view to their reimbursement by the person liable to pay them. The amounts collected from the latter shall be the property of the State to which application is made.

2. Nevertheless, fees paid for expert opinions of any kind and the expenses occasioned by the summoning or appearance of persons in detention in the territory of the State to which application

is made shall form an exception to this rule, and shall be reimbursed by the State making application. Similarly, the costs of the conveyance and subsistence, during the crossing of intermediate territories, of persons whose extradition or temporary surrender has been granted shall be borne by the State making application.

The State making application shall also bear the cost of temporary surrender and that of the return journey mentioned in Article II, paragraph 3, of the present Convention.

CHAPTER III.

Article 20.

FINAL PROVISIONS.

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

2. It shall come into force one month after the exchange of ratifications and shall remain in force until one of the Contracting Parties notifies the other six months in advance of its intention to terminate the Convention.

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

Done in duplicate at Bucharest on May 7, 1925.

(L. S.) Z. FIERLINGER

(L. S.) I. G. DUCA.

(L. S.) Dr E. SPIRA

ADDITIONAL PROTOCOL.

The Plenipotentiaries of the Czechoslovak Republic and the Kingdom of Roumania, on proceeding to sign the Convention relating to extradition and legal assistance in criminal matters, declare they are in agreement on the following points :

(1) *With regard to Article 3* ; whereas the Roumanian criminal code does not provide for the death penalty, the extradition of a criminal who, according to the Czechoslovak criminal code is liable to this penalty, can only be granted if the Czechoslovak authorities undertake in each particular case by means of a formal declaration not to carry out the capital sentence which may be pronounced.

(2) *With regard to Article 18* ; the Contracting Parties shall communicate to each other a list of the authorities who are responsible for keeping the records of previous convictions or judicial registers and who are bound to give the information required.

(3) This Protocol shall form an integral part of the present Convention.

In faith whereof, the Plenipotentiaries have signed this additional Protocol.

Done in duplicate at Bucharest on May 7, 1925.

Z. FIERLINGER.

I. G. DUCA.

Dr E. SPIRA.