

N° 1495.

**ESTONIE
ET TCHÉCOSLOVAQUIE**

Convention d'extradition et d'assistance judiciaire en matière pénale, avec protocole additionnel. Signés à Tallinn, le 17 juillet 1926.

**ESTONIA
AND CZECHOSLOVAKIA**

Convention relating to Extradition and Judicial Assistance in Criminal Matters, with Additional Protocol. Signed at Tallinn, July 17, 1926.

¹ TRANSLATION.

No. 1495. — CONVENTION BETWEEN THE REPUBLIC OF ESTONIA AND THE REPUBLIC OF CZECHOSLOVAKIA RELATING TO EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT TALLINN, JULY 17, 1926.

The GOVERNMENT OF THE ESTONIAN REPUBLIC and THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC, being desirous of regulating judicial relations between the two countries with regard to the extradition and conveyance of criminals and judicial assistance in criminal matters, have decided to conclude a Convention for this purpose and have appointed as their Plenipotentiaries :

THE GOVERNMENT OF THE ESTONIAN REPUBLIC :

Professor Antoine PIIP, Minister for Foreign Affairs ;

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Dr. Emil SPIRA, Head of Department in the Ministry of Justice ;

Dr. Karel HALFAR, Counsellor, Ministry of Foreign Affairs ;

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

CHAPTER I.

Article 1.

EXTRADITION.

1. The Contracting Parties undertake to surrender to each other, on request, persons who happen to be in the territory of one Party and who are being proceeded against or have been convicted by the regular judicial authorities of the other Party for an extraditable offence under the law of the Party applied to :

(a) Provided the offence in question is punishable under the laws of both States — even if these laws are applicable to only part of their territory — with at least one year's imprisonment or a heavier penalty, or if the person claimed has already been sentenced for an identical offence to at least six months' imprisonment or to a heavier penalty ;

(b) Provided the offence has been committed outside the territory of the State applied to ;

(c) And provided the institution of proceedings in connection with the offence is not, under the law of the State applied to, a matter solely within the competence of its own judicial authorities.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

2. Extradition shall also be granted for attempts to commit the above offences or for complicity therein, when such acts are punishable under the laws of both Contracting Parties.

Article 2.

The Contracting Parties shall not surrender their own nationals.

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 applied to shall alone be competent to decide whether an offence is of this nature. An attack on the person of the Head of either Contracting State shall not be considered as a political offence or as an act connected with such an offence when the attack amounts to homicide (assassination) or an attempt to commit such crime or complicity therein ;

(b) For purely military offences ;

(c) For press offences in the strict sense of the term ;

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

(e) For offences in respect of which proceedings can only be instituted on the complaint of the injured party, and can be discounted when the complainant withdraws his complaint ;

(f) If immunity from prosecution or punishment has been acquired through prescription under the laws in force in all parts of the territory of one of the Contracting Parties or under the laws of the State in which the offence was committed, before the accused has been arrested or committed for examination, or if it is impossible to take proceedings against him or carry out sentence for other legal reasons ;

(g) If proceedings have also been instituted against the person claimed for the same offence in the country applied to or if proceedings against him in that country have been stopped, or if he has already been convicted or acquitted in respect of the same offence, or has been pardoned, unless the laws of the country in question allow the reopening of criminal proceedings in consequence of new facts.

Article 4.

REQUEST FOR EXTRADITION.

1. The request for extradition shall be made through the diplomatic channel. It shall be accompanied by the indictment, the warrant of arrest or other equivalent judicial act or the judgment pronounced against the person claimed. These documents should indicate briefly the offence in question and its particular character and denomination, and should be accompanied by a certified text of the penal law of the applicant State which covers the offence, with a statement of the penalty involved.

2. In the case of offences against property, the amount of the damage actually caused, or of the damage which the offender purposed to cause, shall be indicated.

3. The originals of these documents in support of the request, or copies certified by the Courts or by any other competent authority of the applicant State, shall be attached to the request ; they shall, whenever possible, be accompanied by a description of the person claimed, his photograph or other particulars which might help to establish his identity.

Article 5.

LANGUAGE TO BE EMPLOYED.

The documents mentioned in the preceding Article shall be drawn up in the official language of the applicant State in the form required by its laws and shall bear its official seal. Translations in the official language of the State applied to or in French, made or certified correct either by a competent authority or by a sworn or official interpreter of the applicant State, who shall sign and seal them, shall be attached thereto.

Article 6.

ADDITIONAL EXPLANATIONS.

Should there be any doubt whether the offence which forms the subject of the proceedings comes within the provisions of the present Convention, the applicant State shall be asked to furnish explanations, and extradition shall only be granted when the explanations furnished are of a nature to dispel such doubts.

Article 7.

MEASURES TO ENSURE EXTRADITION.

On receipt of the request for extradition, together with the documents mentioned in Articles 4 and 5, the State applied to shall take all necessary steps to arrest the person claimed and prevent his escape unless extradition should appear to be *a priori* inadmissible.

Article 8.

PROVISIONAL ARREST.

1. In urgent cases, the person claimed may be taken into provisional custody, even before the request for extradition has been submitted, on notification by post or telegraph, provided reference is made in such notification to a warrant of arrest or a judgment, and that the nature of the offence is also indicated. This notification may be addressed direct by the Court or competent authority of the applicant State to the competent authority of the State applied to.

2. The competent authorities of each of the Contracting Parties may, even in the absence of such notification, provisionally arrest 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 effected the arrest of the person, in conformity with paragraphs 1 and 2, shall at once inform the authority applying for this arrest or the authority which is taking proceedings against the person referred to in the notification published in the police bulletins or registers, at the same time mentioning the place in which he is being kept in custody.

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 intimated that it will ask for the surrender of the person arrested, the latter may be set at liberty.

Article 9.

1. Should the request for extradition, accompanied by the documents in support mentioned in Articles 4 and 5, not be received within six weeks from the date on which in accordance with paragraph 3 of the preceding Article, the intimation of arrest was despatched, the person arrested may be set at liberty.

2. In cases where additional explanations have been asked for under Article 6, the person arrested may also be set at liberty if such explanations are not furnished to the State applied to within an appropriate period fixed by the latter. This period may, on receipt of a reasoned request, be prolonged provided, however, that the total period of provisional custody does not exceed two months.

Article 10.

REQUEST FOR EXTRADITION SUBMITTED BY MORE THAN ONE STATE.

1. Should the person whose extradition is requested by one of the Contracting Parties also be claimed by one or more other States, the State applied to may surrender him either to the State of which he is a national, or to the State in whose territory the offence was committed.

2. If the State of which the person in question is a national is not one of the applicant States, the State applied to may inform it of the applications received from the other States, granting it a period of 15 days within which it may declare whether it also intends to apply for extradition. The provisions of Article 9, paragraph 1, shall also be applicable to its request for extradition. Otherwise, the person claimed shall be surrendered to the State in whose territory the most serious offence was committed, or, if the offences are of equal gravity, to the State whose request for extradition was first received.

3. These provisions shall not affect any obligations which either of the Contracting Parties may have previously assumed towards third States.

Article 11.

POSTPONEMENT OF EXTRADITION.

1. If proceedings are in progress against the person claimed, or if that person has already been sentenced in the territory of the State applied to for an offence other than that leading to the request for extradition, or if he is being kept there in custody for other reasons, his extradition may be postponed until the proceedings are concluded, or, in the event of his conviction, until he has purged his sentence or until the sentence has been remitted or he ceases for other reasons to be kept in custody.

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

Article 12.

TEMPORARY SURRENDER.

If the postponement of extradition as mentioned in paragraph 1 of Article 11 might, under the law of the applicant State, lead to prescriptive immunity, or in any other way seriously hinder the prosecution, the person claimed may, unless special considerations render such a course undesirable, be surrendered temporarily, provided he be sent back as soon as the judicial investigation on account of which his temporary surrender was requested, has been concluded in the applicant State.

Article 13.

LIMITS TO THE RIGHT OF EXTRADITION.

1. An extradited person may not be proceeded against or sentenced in the State to which extradition has been granted, or surrendered to a third country, for an offence committed before his extradition, other than that for which his extradition was granted.

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

(*a*) If the State granting extradition subsequently consents to this course. Such consent may not be refused if the offence is an extraditable one under the present Convention. The State which has surrendered the offender may require that such consent be requested in the manner laid down for requests for extradition, with the documents in support mentioned in Articles 4 and 5 ;

(*b*) If the person in question has not, within forty-eight hours after judgment was given there, left the territory of the State to which he was surrendered, though he was free to do so, or in the event of conviction, after he has purged his sentence, or has been pardoned ; or if he returns to the territory subsequently.

3. The State whose request for extradition has been granted in conformity with paragraph 2 (*a*) shall inform the other State of the final result of the proceedings and shall transmit to it a certified copy of the judgment.

Article 14.

CONVEYANCE OF CRIMINALS IN TRANSIT.

1. If an offender is to be extradited by one of the Contracting Parties to a third State, the other Party shall on request allow the offender to be conveyed through its territory.

2. The provisions relating to the authorisation of extradition shall also apply to such cases of conveyance in transit.

3. Conveyance in transit shall be effected by the agents of the Party applied to, under such conditions and by such route as that Party may determine.

4. If, within one month from the date on which the applicant State has been informed that extradition has been granted, this State has not produced authority for conveyance in transit from the State through whose territory the person claimed is to be conveyed, the extradition shall be annulled.

CHAPTER II.

Article 15.

JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. GENERAL PROVISIONS.

1. In criminal matters the Contracting Parties shall afford each other judicial assistance. They shall provide for the service of writs in connection with penal proceedings upon persons who are in their territories ; they shall institute judicial investigations, such as the examination of witnesses and experts, the taking of affidavits, the conducting of searches, and the seizure of objects ; they shall transmit to each other all judicial acts and exhibits.

2. Sentences and summonses to appear for trial, delivered by the Courts of one Contracting Party in respect of nationals of the other Party, however, shall not be served on these nationals. Similarly, a national of one Contracting Party may not be examined as an accused person at the request of the other Party.

3. The request for judicial assistance shall be drawn up in the official language of the applicant State, shall bear the seal of the authority making application, and shall be transmitted direct by the Ministry of Justice of the applicant State to the Ministry of Justice of the State applied to, or in the case of proceedings under military law to the highest military judicial authority. The provisions of Article 5 regarding translation shall also apply to this request, and to the documents attached thereto.

4. The action to be taken on a request for judicial assistance in criminal matters shall be subject to the law of the State in whose territory the required examination is to take place. The record of proceedings shall not be translated into the official language of the applicant State.

Article 16.

Judicial assistance in criminal matters may be refused when, according to the provisions of the present Convention, there is no obligation to grant the extradition of the person against whom proceedings have been instituted.

Article 17.

SUMMONING AND ATTENDANCE IN COURT IN ONE STATE OF PERSONS WHO ARE IN THE TERRITORY OF THE OTHER CONTRACTING STATE.

1. Should it be considered necessary or desirable, in a criminal case pending before the Courts of one Contracting State, to secure the attendance in Court of a witness or expert who is in the territory of the other Contracting State, and should the Courts summon such witness or expert through the Courts of the other State, the latter Courts shall serve a subpoena on him, but shall leave him free to decide whether he will attend.

2. The expenses connected with the attendance in Court of a witness or expert shall be borne by the applicant State, and the subpoena shall indicate the sum to be allocated to the witness or expert by way of travelling expenses and subsistence allowance ; it shall also indicate the sum which may be advanced to him by the State applied to, provided the applicant State repays these sums as soon as the person summoned has declared his willingness to comply with the subpoena.

3. No witness or expert, whatever his nationality, who is in the territory of one of the Contracting Parties, and who, when summoned by that Party in accordance with paragraph 1, voluntarily attends in the Courts of the other Party, may be prosecuted or detained in the territory of the latter for previous criminal offences or convictions, or on the ground of complicity in the offence forming the subject of the case in which he is concerned.

4. Such persons, shall, however, forfeit the above privilege should they fail of their own free will to leave the territory of the applicant State within three days from the date on which their attendance in Court has ceased to be necessary.

5. Should the witness summoned in accordance with paragraph 1 be in custody in the territory of the State applied to, a request may be made for his attendance in Court if assurances are given that he will be sent back at the earliest possible date. A request of this kind may only be refused for special reasons ; for instance, if the person in question expressly declares that he is opposed to such a proceeding .

6. Similarly, subject to the above conditions, the conveyance and return, through the territory of one of the Contracting Parties, of a person in custody in a third country, shall be permitted, if the other Contracting Party considers it necessary to confront him with the accused or to take his verbal evidence.

Article 18.

DELIVERY OF EXHIBITS.

1. The authorities of one of the Contracting Parties shall, on request, deliver up to the authorities of the other Party the articles which an accused person may have obtained as a result of his offence or which may constitute exhibits ; this shall apply even when the objects in question are liable to seizure or confiscation.

2. If these articles are in the possession of the accused at the time of his extradition or conveyance in transit, they shall, as far as is practicable, be handed over at the time when extradition or conveyance in transit takes place. They shall be delivered up, even when extradition, though granted, cannot take place owing to the death or escape of the accused. This provision shall also apply to all the articles specified in paragraph (1) which the accused may have concealed or deposited in the country granting extradition, and which may be subsequently discovered.

3. Nevertheless, the rights which third parties may have acquired over these articles shall be reserved and after the trial such articles shall be returned as soon as possible and free of charge to the State applied to.

4. The State which has been asked to deliver up the articles in paragraphs 1 and 2 may retain them temporarily if it requires them in connection with criminal proceedings. It may also, when handing them over, reserve its right to have them restored for the same purpose, undertaking in turn to restore them as soon as possible.

Article 19.

COMMUNICATION OF CONVICTIONS AND EXTRACTS FROM CRIMINAL RECORDS.

1. The Contracting Parties undertake to communicate to each other half-yearly, through the diplomatic channel, all sentences having the force of *res judicata* or extracts from all final judgments, including conditional sentences, pronounced by their judicial authorities against nationals of the other Party, so far as these are entered, under the existing law of the country, in their records of previous convictions or records of the Courts.

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

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

Article 20.

EXPENSES OF JUDICIAL ASSISTANCE IN CRIMINAL MATTERS.

1. Expenses occasioned by requests for extradition or any other judicial assistance in criminal matters shall be borne by the Party in whose territory they were incurred. The authorities of the Party applied to shall, however, inform the applicant Party of the amount of these expenses with a view to their reimbursement by the person liable to pay them. Any sums collected from the latter shall belong to the State applied to.

2. Nevertheless, the expenses mentioned in Article 17, paragraph 2, fees paid for expert opinions of any kind, and the expenses occasioned by the summoning or attendance in Court of persons in custody in the territory of the State applied to, shall be excepted to this rule ; these expenses shall be reimbursed by the applicant State. Similarly, the applicant State shall bear

the expenses of the temporary surrender and of the return journey of the persons mentioned in Article 12, and also the expenses of conveyance and maintenance during the passage through intermediate territories of persons whose extradition or temporary surrender has been granted.

CHAPTER III.

Article 21.

FINAL PROVISIONS.

1. The present Convention, drawn up in Estonian and Czechoslovak, both texts being equally authentic, shall be ratified, and the instruments of ratification shall be exchanged as soon as possible at Tallinn.

2. It shall come into force one month after the exchange of ratifications and shall remain in force until six months after one of the Contracting Parties has notified the other 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 Tallinn on July 17, 1926.

(L. S.) A. PIIP.

(L. S.) Dr. Emil SPIRA.

(L. S.) Dr. Karel HALFAR.

ADDITIONAL PROTOCOL

The Plenipotentiaries of the Estonian Republic and the Czechoslovak Republic, on proceeding to sign the Convention relating to extradition and judicial assistance in criminal matters, declare that they have agreed that the Contracting Parties shall exchange a list of the authorities who are responsible for keeping the records of previous convictions or the records of the Courts and for giving the information required, as well as a list of the frontier stations at which extradited persons shall be received or handed over, and the authorities responsible for these proceedings

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 Tallinn on July 17, 1926.

A. PIIP.

Dr. Emil SPIRA.

Dr. Karel HALFAR.