

N° 1523.

BELGIQUE ET ESTONIE

Convention d'extradition, signée à
Bruxelles, le 11 novembre 1926.

BELGIUM AND ESTONIA

Extradition Convention, signed at
Brussels, November 11, 1926.

¹ TRADUCTION. — TRANSLATION.

No. 1523. — EXTRADITION CONVENTION ² BETWEEN BELGIUM AND THE REPUBLIC OF ESTONIA. SIGNED AT BRUSSELS, NOVEMBER 11, 1926.

French official text communicated by the Belgian and Estonian Ministers for Foreign Affairs. The registration of this Convention took place August 24, 1927.

HIS MAJESTY THE KING OF THE BELGIANS and THE REPUBLIC OF ESTONIA, having determined to conclude a convention for the extradition of certain offenders, have for this purpose named as Plenipotentiaries :

HIS MAJESTY THE KING OF THE BELGIANS :

M. Emile VANDERVELDE, His Minister for Foreign Affairs ;

THE REPUBLIC OF ESTONIA :

M. Charles PUSTA, Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians ;

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

Article 1.

The Belgian and Estonian Governments undertake to deliver up to each other, under the circumstances and conditions established by the present Convention, persons other than their own nationals who have fled from Belgium to Estonia or from Estonia to Belgium, and who are accused or have been convicted of a crime or misdemeanour committed on the territory of the Party making application, provided that such persons have reached the age of sixteen at the time the offence was committed.

Nevertheless, when the crime or misdemeanour giving rise to the demand for extradition has been committed outside the territory of the country making requisition, the requisition may be granted provided that the laws of the country applied to permit the prosecution of the same offence when committed outside its territory.

Article 2.

The crimes and misdemeanours for which extradition may be granted are as follows :

- (1) Assassination, poisoning, parricide, infanticide, murder ;
- (2) Deliberate and premeditated assault or assault which has caused an apparently incurable disease, permanent incapacity for work, complete loss of the use of an organ, serious mutilation or unintended death ;

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 Tallinn, June 27, 1927.

- (3) The deliberate or culpable administering of substances capable of causing death or of seriously injuring health, but without intent to commit felony ;
- (4) Abortion ;
- (5) An act of immorality capable of giving rise to extradition under the laws of the two contracting countries ;
- (6) Bigamy ;
- (7) The abduction of minors ;
- (8) The abduction, receiving, removal, replacement or substitution of a child ;
- (9) The exposing or abandoning of a child ;
- (10) Association with criminals ;
- (11) Theft, extortion, swindling, abuse of confidence, fraud ;
- (12) Threatened attacks upon persons or property, when punishable by death, hard labour or solitary confinement ;
- (13) Offers or proposals to commit a crime or to be a party to it, or the acceptance of such offers or proposals ;
- (14) Attempts by private persons against the liberty of the individual and the inviolability of the domicile ;
- (15) Counterfeit currency, including the counterfeiting or altering of the currency, the uttering or putting into circulation of counterfeit or altered currency, and fraud in the choice of specimens for testing the standard and weight of coins ;
- (16) The counterfeiting or falsification of public bonds or bank notes and public or private securities ; the issuing or putting into circulation of such counterfeit or forged bonds or securities ; forgeries in writing or in telegrams and the use of such counterfeit, or forged falsified telegrams, bonds, notes or securities ;
- (17) The counterfeiting or falsification of seals, dies, marks, coupons for the conveyance of persons or things, postage or other adhesive stamps ; use of these counterfeit or forged articles ; abuse of genuine seals, stamps, dies and marks ; the malicious or fraudulent placing upon a work of art, or in a literary work or musical composition, of the name of an author or of any distinctive sign adopted by him to indicate his work ; the sale, offering for sale, possession in shops and introduction into the country for sale, of the said objects ;
- (18) Perjury and false statements by experts or interpreters ; subornation of witnesses, experts or interpreters ;
- (19) False swearing ;
- (20) Embezzlement and malversation by public officials, bribery of public officials ;
- (21) Fraudulent bankruptcy and fraud committed in bankruptcy ;
- (22) Deliberate obstruction of railway traffic by the placing of objects of any kind on the line, by interfering with the rails or their supports, by removing bolts or pins, or by the use of any other means calculated to stop the train or cause it to leave the rails ;
- (23) Arson ;
- (24) Destruction of buildings, steam engines or telegraphic apparatus ; the destruction or defacement of tombs, monuments, works of art, or public or private title deeds ; destruction of, or injury to, movable property by means of violence or threats, wilful or fraudulent destruction of or damage to goods or materials used in manufacture ;

- (25) Destruction or devastation of crops, plants, trees or shoots ;
- (26) Destruction of agricultural implements ; destruction or poisoning of cattle or other animals ;
- (27) Opposition to the execution of public works ;
- (28) Abandonment of a merchant or fishing vessel by the captain, except in cases provided for by the laws of the two countries ;
- (29) Stranding, loss or destruction by the captain or officers and crew ; appropriation of any ship or merchant or fishing vessel by the captain ; unnecessary jettisoning or destruction of all or part of the cargo, provisions or effects on board ; altering the course ; the unnecessary raising of money on the ship or on the ship's provisions or stores ; the pledging or offering for sale of merchandise or food and the insertion in the accounts of fictitious damage or expenditure ; the sale of the ship without special authority, except in the event of unseaworthiness ; pilferage ; the adulteration of food or the alteration of merchandise effected on board by admixture of noxious substances ; attack upon or resistances to the captain by more than one-third of the crew, accompanied by violence or assault ; the refusal to obey orders issued by the captain or officer in command, in the interests of the safety of the vessel or cargo, when accompanied by assault ; conspiracy against the safety, liberty or authority of the captain ; seizure of the vessel by crews or passengers by the use of fraud or violence against the captain ;
- (30) Receiving of articles obtained by means of one of the crimes or misdemeanours covered by the present Convention ;
- (31) Traffic in slaves ;
- (32) Resistance by captains or crews to the orders of officers acting in virtue of Articles 42 *et seq.* of the General Act ¹ of the Conference of Brussels, dated July 2, 1890 ;
- (33) Offences against the regulations prohibiting the use of fire-arms and ammunition contained in Articles 8 and 9 of the said General Act.

The foregoing classes of offences shall include complicity in and attempts to commit such offences, when punishable under the laws of both countries.

In all cases and for all crimes and misdemeanours extradition may not take place unless the corresponding offence is punishable under the laws of the country to which the demand is made.

Extradition will not be granted for the above-named acts unless they are punishable with at least one year's imprisonment in both contracting countries.

Article 3.

Extradition shall not take place :

- (1) If, subsequently to the acts alleged or to the last stage in the proceedings, or to the sentence, exemption from prosecution or punishment has been acquired by lapse of time under the laws of the country in which the accused person has taken refuge at the time when his surrender might take place ;
- (2) When the requisition for extradition is based upon an offence in respect of which the person claimed has been prosecuted and discharged, or is still being proceeded against, or has already been judged, in the country to which the requisition for surrender is made.

Article 4.

If the person claimed is being proceeded against or has been convicted in the country applied to for an offence other than that for which extradition is requested, the extradition may be deferred

¹ *British and Foreign State Papers*, Vol. 82, page 55.

until the conclusion of the proceedings and, in the event of a conviction, until he shall have undergone his sentence. Should he be proceeded against or detained in the same country by reason of obligations contracted towards private persons, his extradition shall, nevertheless, take place, subject to the right of such persons to present their claims before the competent authority later.

Article 5.

Extradition shall not be granted if the offence for which it is requested is regarded by the Party applied to as a political offence, or an act connected with a political offence.

An alien whose extradition has been granted may not be proceeded against or punished for any political offence committed prior to the surrender, nor for any act connected with a similar offence, nor for any crimes or misdemeanours not covered by the present Convention.

An offence committed or attempted against the person of the head of a foreign State or the members of his family shall not be considered to be a political offence or an act connected with a political offence when it constitutes murder, assassination or poisoning.

Nevertheless, the surrendered person may, in the following cases, be proceeded against or, if he has been given an opportunity of being heard, may be punished for an offence other than that for which extradition was granted :

(1) If he has asked to be judged or to serve his sentence, in which case his request shall be communicated to the Government which surrendered him ;

(2) If he has failed to leave the country to which he was surrendered within the month following his final release ;

(3) If the offence is covered by the Convention and if the Government to which he has been surrendered has previously obtained the approval of the Government granting extradition. The latter may, if it deems fit, require the production of one of the documents mentioned in Article 7 of the present Convention.

Re-extradition to a third country shall be subject to the same regulations.

Article 6.

The requisition for extradition must always be made through the diplomatic channel.

Article 7.

Extradition shall be granted on the production, either in the original or in a certified copy, of the judgment or sentence, or the decree of the *Chambre du Conseil*, the order of the *Chambre des mises en accusation* or the writ issued by the competent judge, expressly ordering or authorising as of full right the bringing of the detained or accused person before the criminal courts. Extradition shall also be granted on the production of the warrant of arrest or any other document having the same validity issued by the competent foreign authority, provided that these documents contain an exact description of the act in respect of which they have been issued.

These documents shall be legalised by the Minister for Foreign Affairs of the applicant State and, when necessary, by the diplomatic or consular agent of the said State. They shall be accompanied by a copy of the text of the law applicable to the subject of the charge, and, if necessary, by a translation in French, and, whenever possible, by a description of the person claimed, or of any other indications calculated to establish his identity.

Article 8.

In urgent cases, provisional arrest shall be effected on notification by post or telegraph of the existence of one of the documents mentioned in Article 7, provided, however, that such notification is regularly furnished to the Minister for Foreign Affairs of the country applied to.

This arrest shall be optional if the requisition has been made direct to a judicial or administrative authority in one of the two countries.

Provisional arrest shall take place in the form and in accordance with the regulations established by the laws of the Government applied to. It shall be annulled if within three weeks of his arrest the accused has not received one of the documents mentioned in Article 7 of the present Convention.

Article 9.

In extradition cases all articles obtained as a result of the crime or misdemeanour, or which may serve as proof, found in the possession of the person claimed at the time of his arrest or discovered later, shall be seized and handed over to the applicant State if the competent authorities of the State applied to so decree.

These articles may be handed over even if extradition cannot take place owing to the escape or death of the person claimed.

Nevertheless, any rights to the said articles which may have been acquired by third parties shall be reserved, such articles being, if necessary, restored to them free of charge at the conclusion of the proceedings.

Article 10.

The expenses occasioned by the arrest, maintenance and conveyance of the person whose extradition has been granted, together with the cost of consigning and transporting objects which have to be restored or surrendered under the preceding Article, shall be borne by the two States within the limits of their respective territories.

The cost of conveyance or other expenses incurred on the territory of intermediate States shall be borne by the State applying for extradition.

The person to be surrendered shall, if necessary, be escorted to the port designated by the applicant Government and be placed on board at that Government's expense.

Article 11.

The extradition by transit through the respective territories of the Contracting States of person not belonging to the country of transit shall be granted on the production either in the original or in a certified copy, of one of the documents mentioned in Article 7, provided that the act for which extradition is granted is included in the present Convention and does not come under the provisions of Articles 3 and 5.

The expenses of transit shall be borne by the applicant Party.

Article 12.

If the proceedings in connection with a penal case of a non-political nature require the attendance in Court of persons in one of the two countries, or if any other judicial enquiry is deemed necessary, letters rogatory, if necessary accompanied by a French translation, shall be addressed for this purpose through the official channel, without prejudice to later recourse to the diplomatic or consular channels, and unless the Government applied to states that it is impossible, they shall be executed in conformity with the laws of the country in which the witness is to appear or the judicial enquiry is to be made.

Nevertheless, letters rogatory for the purpose of effecting either a domiciliary search or for the seizure of the *corpus delicti* or of articles serving as proof of the crime may only be executed for one of the acts mentioned in Article 2 and subject to the reservation expressed in the last paragraph of Article 9 above.

The respective Governments renounce all claims to the refund of expenses resulting from the execution of letters rogatory in penal matters, even in the case of expert enquiries, provided, however, that such enquiries have not occupied more than one sitting.

Article 13.

If in penal cases of a non-political nature the Government of one of the two countries deems it necessary that notification of a summons or of a judgment should be made to a person residing in the territory of the other country, the document shall be forwarded through the official channel, without prejudice to subsequent recourse to the diplomatic or consular channels, accompanied if necessary by a French translation, and shall be served on the person concerned at the request of the prosecuting authorities in the place where he is residing, through a competent official, and the original document showing that notification has been made shall be sent back by the same channel to the applicant Government, without refund of expenses.

Article 14.

If in a penal case of a non-political nature the personal attendance of a witness is required in Court, the Government of the country in which the witness resides shall transmit to him the subpoena calling upon him to appear.

With regard to the allowance to be paid to the witness, an agreement shall be concluded in each particular case between the applicant Government and the Government applied to.

No witness, whatever his nationality who, when subpoenaed in one of the two countries, voluntarily appears before the Courts of the other country may be prosecuted or detained in that country for previous acts or criminal convictions or on the ground of complicity in the acts forming the subject of the case in which he is a witness.

Article 15.

If, in a penal case of a non-political nature which is being investigated in one of the two countries, it is deemed necessary or expedient to obtain articles serving as proof of the crime or documents which are in the hands of the authorities of the other country, application shall be made for them through the official channel, without prejudice to subsequent recourse to the diplomatic or consular channels, and the request shall be granted unless there are special objections thereto, and subject to the obligation to return such articles and documents.

The contracting Governments renounce all claims to the refund of expenses resulting within the limits of their respective territories from the despatch and return of articles serving as proof of the crime and documents.

Article 16.

The two Governments undertake to communicate to each other, without refund of expenses, sentences for crimes or misdemeanours of all kinds pronounced by the Courts of either of the two States against nationals of the other State.

Such communication shall be made by the despatch through the diplomatic channel of a bulletin or extract of the final decision, accompanied if necessary by a French translation, to the Government of the country to which the convicted person belongs.

Article 17.

The present Treaty shall enter into force ten days after its publication in the forms prescribed by the laws of the two countries.

Each of the Contracting Parties may denounce it at any time by giving the other Party six months' notice of its intention.

It shall be ratified and the ratifications shall be exchanged as soon as possible.

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

Done in duplicate at Brussels, November 11, 1926.

(L. S.) E. VANDERVELDE.

(L. S.) C. PUSTA.

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