

N° 1412.

**BULGARIE
ET TCHÉCOSLOVAQUIE**

Convention pour l'extradition et
l'assistance judiciaire en matière
pénale, avec protocole final. Signés
à Sofia, le 15 mai 1926.

**BULGARIA
AND CZECHOSLOVAKIA**

Convention relating to Extradition
and Judicial Assistance in Criminal
Matters, with Final Protocol.
Signed at Sofia, May 15, 1926.

TEXTE TCHÈQUE. — CZECK TEXT.

No. 1412. — ÚMLUVA ¹ MEZI REPUBLIKOU ČESKOSLOVENSKOU A KRÁLOVSTVÍM BULHARSKÝM O VYDÁVÁNÍ ZLOČINCŮ A PRÁVNÍ POMOCI VE VĚCECH TRESTNÍCH, PODEPSANÁ V SOFII, DNE 15. KVĚTNA ROKU 1926.

Textes officiels bulgare et tchécoslovaque communiqués par le chargé d'affaires de Bulgarie à Berne et le délégué permanent de la République tchécoslovaque à la Société des Nations. L'enregistrement de cette convention a eu lieu le 9 mars 1927.

PRESIDENT REPUBLIKY ČESKOSLOVENSKÉ a JEHO VELIČENSTVO KRÁL BULHARŮ, přejíce si upravití právní styky mezi oběma státy pokud se týče vydávání a dopravy zločinců, jakož i právní pomoci ve věcech trestních, rozhodli se, že sjednají o tom úmluvu a jmenovali svými zmocněnci :

PRESIDENT REPUBLIKY ČESKOSLOVENSKÉ :

pana Bohdana PAVLŮ, mimořádného vyslance a zplnomocněného ministra republiky Československé v Sofii, a
pana JUDra. Emila SPIRU, odborového přednostu v ministerstvu spravedlnosti,

JEHO VELIČENSTVO KRÁL BULHARŮ :

pana Atanase D. BUROVA, ministra zahraničních věcí a kultů,

kterí, vyměnivše si své plné moci a shledavše je v dobré a náležité formě, shodli se na těchto ustanoveních :

HLAVA I.

Článek 1.

VYDÁVÁNÍ ZLOČINCŮ.

1. Smluvní strany se zavazují, že si navzájem na požádání vydají osoby, jež se zdržují na území jedné z nich a jež jsou stíhány anebo byly odsouzeny soudními instancemi druhé strany pro každý trestný čin, pro který lze povolití vydání podle zákonů dožádané strany, a

a) pokud zákony obou států — byť i jen v některé části území — naň ukládají trest na svobodě v trvání nejméně jednoho roku nebo trest těžší, nebo byla-li osoba vyžadovaná odsouzena pro týž čin ku trestu na svobodě v trvání nejméně šesti měsíců nebo ku trestu těžšímu ;

¹ L'échange des ratifications a eu lieu à Prague, le 19 février 1927.

TEXTE BULGARE. — BULGARIAN TEXT.

№ 1412. — КОНВЕНЦИЯ¹ ЗА ПРЕДАВАНЕ И СЪДЕБНА ПОМОЩЬ ПО УГЛАВНИ ДЪЛА СКЛЮЧЕНА МЕЖДУ ЧЕХОСЛОВАШКАТА РЕПУБЛИКА И ЦАРСТВО БЪЛГАРИЯ.

Bulgarian and Czechoslovak official texts communicated by the Bulgarian Chargé d'Affaires at Berne and the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this Convention took place March 9, 1927.

ПРЕДСЕДАТЕЛЯ НА ЧЕХОСЛОВАШКАТА РЕПУБЛИКА И НЕГОВО ВЕЛИЧЕСТВО ЦАРЯ НА БЪЛГАРИЯ, ржководени от желанието да уредят правните отношения между двете Държави относително предаването и превозването на престъпници, както и съдебната помощ по уголовни дѣла, решиха да сключат по този повод една конвенция и назначиха за пълномощници :

ПРЕДСЕДАТЕЛЯ НА ЧЕХОСЛОВАШКАТА РЕПУБЛИКА :

Господинъ Богданъ Павлу, Извънреденъ Пратеникъ и Пълномощенъ Министъръ на Чехословашката Република въ София, и

Господинъ Докторъ Емилъ Спира, Началникъ на Отдѣление въ Министерството на Правосъдието,

НЕГОВО ВЕЛИЧЕСТВО ЦАРЯ НА БЪЛГАРИЯ :

Господинъ Атанасъ Д. Буровъ, Министъръ на Външните Работи и на Изповѣданията ;

които, следъ като рамѣниха пълномощията си, намѣрени въ надлежна форма, се съгласиха върху следните постановления :

ГЛАВА I.

Членъ 1.

ПРЕДАВАНЕ НА ПРЕСТЪПНИЦИ.

1. Договорящите Страни се задължаватъ да си предаватъ взаимно, при поискване, лицата, намиращи се върху територията на едната отъ тѣхъ и които се преследватъ или сж осждени отъ съдебните власти на другата Страна, за всѣкакво престѣпление, за което предаването може да бжде допустнато отъ законитѣ на замолената Държава :

а) Ако това престѣпление споредъ законитѣ на двете Държави, — макаръ тѣзи закони и да се прилагатъ само въ нѣкои части отъ тѣхната територия — е наказуемо съ лишаване отъ свобода поне за една година или съ нѣкое по-тежко наказание, или пъкъ ако лицето, чието предаване се иска, е било осждено за същото престѣпление съ лишаване отъ свобода най-малко за 6 месеца или на нѣкое потежко наказание ;

¹ The exchange of ratifications took place at Prague, February 19, 1927.

¹ TRANSLATION.

No. 1412. — CONVENTION BETWEEN BULGARIA AND CZECHOSLOVAKIA RELATING TO EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT SOFIA, MAY 15, 1926.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC and HIS MAJESTY THE KING OF BULGARIA, 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 PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Bohdan PAVLŮ, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic at Sofia ; and
Dr. Emil SPIRA, Head of Department in the Ministry of Justice at Prague ;

HIS MAJESTY THE KING OF BULGARIA :

M. Athanase BOUROV, Minister for Foreign Affairs and Public Worship ;

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

CHAPTER I.

Article 1.

EXTRADITION OF CRIMINALS.

1. The Contracting Parties undertake to surrender to each other, on request, persons who are in the territory of one Party and who are being proceeded against or have been convicted by the 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 only to 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.

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.

¹ Translated by the Secretariat of the League of Nations.

Article 2.

1. The Contracting Parties shall not surrender their own nationals.
2. If, before the offence was committed, the person claimed has made application for naturalisation in the State applied to, the decision with regard to the request for extradition may be postponed until a decision has been reached with regard to the application for naturalisation.

Article 3.

NON-EXTRADITABLE OFFENCES.

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, or on that of the Queen of Bulgaria or the heir to the throne of Bulgaria or his wife, shall not be deemed to be a political offence or 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 only be discontinued when the complainant withdraws his complaint.

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

(g) If proceedings have also been instituted against the person claimed for the same offence in the country applied to, or if proceedings in that country have been stopped, or if he has already been pardoned, convicted or acquitted in respect of the same offence, unless the law of the country in question allows 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 applies to 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 the documents sent 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, made, or certified correct, either by a competent authority or by a sworn interpreter, who shall sign and seal them, or by an official interpreter of the applicant Party, 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 doubt.

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 15 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.

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 received first.

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 served 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 a decision being given without delay in regard to the extradition.

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, of his own accord, and within one month after judgment was given there, left the territory of the State to which he was surrendered, or, in the event of conviction, after he has served his sentence or has been pardoned ; or if he returns to the territory subsequently.

3. If the State which has given its consent in conformity with paragraph 2 so requests, the other State shall inform it 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 following the date on which extradition was granted, the applicant 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.

JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. GENERAL PROVISIONS.

Article 15.

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 persons subject to military law, by the highest military judicial authority of the applicant State to the highest judicial authority of the State applied to. 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 laws 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.

WHEN JUDICIAL ASSISTANCE MAY BE REFUSED.

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, the authorities of the latter shall call upon such person to comply with the subpoena served on him by them, on behalf of the Courts of the first State.

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, 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 person whose attendance is required 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 articles of a similar nature 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 enumerated 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 quarterly, through the diplomatic channel, all sentences having acquired 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 of 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 or 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, 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 exceptions to this rule; these expenses shall be reimbursed by the applicant State. Similarly, the applicant State shall bear the expenses of temporary surrender and of the return journey mentioned in Article 12 of the present Convention, and also the expenses of conveyance in transit 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 Czechoslovak and Bulgarian, both texts being equally authentic, shall be ratified, and the instruments of ratification shall be exchanged at Prague as soon as possible.

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 Sofia, the fifteenth day of May, One thousand nine hundred and twenty-six.

(L. S.) Bohdan PAVLŮ.

(L. S.) A. D. BOUROV.

(L. S.) Dr. Emil SPIRA.

ADDITIONAL PROTOCOL.

The Plenipotentiaries of the Czechoslovak Republic and the Kingdom of Bulgaria, 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 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.

The present Protocol shall form an integral part of the present Convention.

In faith whereof the Plenipotentiaries have signed this Additional Protocol.

Done in duplicate at Sofia, May 15, 1926.

Bohdan PAVLŮ.

A. D. BOUROV.

Dr. Emil SPIRA.