

N° 2224.

BELGIQUE ET PARAGUAY

Convention d'extradition. Signée à
Montevideo, le 20 janvier 1926.

BELGIUM AND PARAGUAY

Extradition Convention. Signed at
Montevideo, January 20, 1926.

¹ TRADUCTION. — TRANSLATION.

No. 2224. — EXTRADITION CONVENTION BETWEEN BELGIUM AND THE REPUBLIC OF PARAGUAY. SIGNED AT MONTEVIDEO, JANUARY 20, 1926.

HIS MAJESTY THE KING OF THE BELGIANS and HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF PARAGUAY, having considered it desirable, for the purpose of ensuring the uniform, prompt and effective administration of justice and the prevention and punishment of crime, to conclude a treaty for the reciprocal extradition of malefactors, have appointed for this purpose as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BELGIANS :

M. Henry KETELS, Commander of the Orders of Leopold and the Crown, His Envoy Extraordinary and Minister Plenipotentiary at Asunción ;

HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF PARAGUAY :

Dr. LISANDRO DÍAZ LEÓN, Envoy Extraordinary and Minister Plenipotentiary at Montevideo ;

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

Article 1.

The High Contracting Parties undertake to deliver up to each other, in accordance with the provisions of the present Convention, persons who are accused of any of the punishable offences specified in Article 3 of the present Convention or are being proceeded against or have been convicted by the judicial authorities of either of the High Contracting Parties for such offences, if they were committed in the territory of the State making application.

When the offence giving rise to the request for extradition has been committed in the territory of a third country, the request 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.

In no case and under no pretext whatsoever shall the High Contracting Parties be required to deliver up their nationals by birth or naturalisation.

Article 3.

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

- (1) Murder, assassination, parricide, infanticide, poisoning ;
- (2) Voluntary abortion ;

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

(3) Deliberate and premeditated assault or wounding causing unintended death, a disease which may prove incurable, permanent incapacity for work, complete loss or deprivation of the use of a member or an organ, or serious mutilation ;

(4) The deliberate and culpable administering of substances capable of causing death or of seriously injuring health, but without intent to cause death ; ;

(5) Indecent assault, without violence or threats, on or with the aid of the person of a minor of either sex who has not completed his or her sixteenth year.

Indecent assault, without violence or threats, by a relative in the ascending line on or with the aid of the person of a minor of either sex even if he or she is over sixteen but is not emancipated by marriage.

Offences committed against morals by encouraging, aiding or abetting, in order to gratify the passions of another, the debauching, corruption or prostitution of a minor of either sex ; procuring, enticing or leading away for immoral purposes, a woman or girl of full age, when the act was committed by fraud or by violence, threats, abuse of authority or any other means of compulsion, in order to gratify the passions of another ; detention of a person in a disorderly house against her will or coercion for immoral purposes of a person of full age ;

(6) Bigamy ;

(7) Offences against personal liberty ;

(8) The abduction of minors ; the abduction, receiving, removal, replacement or substitution of children of either sex ; the exposing or abandon of a child ;

(9) The falsification, counterfeiting or altering of currency, Government securities or bonds, bank-notes or other public securities which are legal tender ; knowingly putting into circulation, issuing and making use of any forged securities ; the falsification of official documents, postage stamps, seals, dies and any other mark of the State, and knowingly making use of such forged objects ;

(10) The counterfeiting, falsification or altering of public and private documents, bills of exchange or other negotiable instruments and knowingly making use of the said counterfeit, forged or altered documents, bills or instruments ;

(11) False witness or false statements by experts or interpreters ; subornation of witnesses, experts or interpreters ; perjury in civil or criminal matters ;

(12) Bribery of public officials ;

(13) Embezzlement or malversation of public funds ; unlawful exaction by public officials ;

(14) Arson ;

(15) Destruction of buildings, steam engines or telegraphic apparatus ;

(16) Theft, extortion ;

(17) Piracy and other misdemeanours committed at sea which are extraditable offences according to the legislation of the two countries ;

(18) Swindling ;

(19) Breach of trust ;

(20) Fraudulent bankruptcy and fraud committed in bankruptcy ;

(21) Receiving of articles obtained by means of one of the crimes or offences mentioned in the present Convention.

In all these cases, complicity in and attempts to commit such offences shall be sufficient ground for extradition, provided they are punishable under the penal laws of the contracting countries.

Extradition shall be granted for the above-named offences when the acts alleged may involve a penalty of at least one year's imprisonment under the laws of the Contracting Parties.

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

Article 4.

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 as an act connected with a political offence.

It is expressly stipulated that an alien whose extradition has been granted may not be proceeded against or punished for any political offence committed prior to his extradition, nor for any act connected with such an offence, nor for any crimes or misdemeanours not covered by the present Convention.

An attack made or attempted upon the person of the head of a foreign State shall not be regarded as a political offence or as 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 brought to trial or to serve his sentence, in which case his request shall be communicated to the Government surrendering him ;
- (2) If he has failed to leave the country to which he was surrendered within one month after 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 thinks fit, require the production of one of the documents mentioned in Article 9 of the present Convention.

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

Article 5.

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 request 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 tried in the country to which the request for surrender is made.

Article 6.

Extradition shall only be granted on condition that the person surrendered is not tried by an exceptional court.

Article 7.

Persons claimed who are being proceeded against or are serving a sentence for an offence other than that which has given rise to the request for extradition shall not be delivered up until final judgment has been given in the country applied to and, in case of conviction, until they have served their sentence or have been pardoned.

Extradition may be granted even if the person claimed is thereby prevented from carrying out obligations contracted towards private persons in the State of refuge.

Nevertheless, the persons concerned shall retain all their rights and may substantiate them before the competent tribunal.

Article 8.

When a person is claimed simultaneously by several States, the State applied to shall decide freely to which country he is to be surrendered.

Article 9.

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

Where there is no diplomatic representative, the request for extradition shall be sent by the Ministry of Foreign Affairs of one of the Contracting Parties to the Ministry of Foreign Affairs of the other Party.

Extradition shall be accorded only on production, either in the original or in a certified copy, of the sentence or warrant of arrest, or of any other document having the same force as the said warrant or sentence.

These documents, which shall be drawn up in the form and according to the rules laid down in the laws of the applicant State, shall specify the nature of the offence and of the punishment therefor, and shall be accompanied by a legalised copy of the text of the law applicable to the act in respect of which extradition has been requested and also, whenever possible, by a description of the person claimed or any other particulars calculated to establish his identity.

Article 10.

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 9, provided always that such notification is duly made to the Ministry of Foreign Affairs of the country applied to.

This arrest shall be optional if the request 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 discontinued if, within three months of his arrest, the accused has not received one of the documents mentioned in Article 9 of the present Convention.

Article 11.

When, in any criminal case of a non-political character, one of the two Governments deems it necessary for witnesses domiciled in the territory of the other Party to be heard or any other judicial examination to be held, a "commission rogatoire" shall be sent for this purpose through the channel specified in Article 9, and effect shall be given thereto subject to the laws of the country applied to.

Nevertheless, "commissions rogatoires" for the purpose of effecting either a domiciliary search or the seizure of the *corpus delicti* or of articles serving as proof of the crime may only be executed in respect of an act mentioned in Article 3, and subject to the reservation made in the last paragraph of Article 16 below.

The two Contracting Governments reciprocally waive all claim to the refund of expenses resulting from the execution of "commissions rogatoires", except in the case of the fees of experts in criminal or commercial cases or cases of medical jurisprudence.

Neither may any claim be made for the cost of any judicial acts carried out of their own accord by the magistrates of either country for the prosecution or verification of offences committed in their territory by a foreigner who is subsequently proceeded against in his own country.

Article 12.

If in a penal case of a non-political nature the personal attendance of a witness is considered necessary or desirable, the Government of the country in which he resides shall request him to comply with the summons and, if he consents, the applicant Government shall grant him, as from the time he leaves his residence, travelling expenses and a subsistence allowance at the rates in force in the country in which he is to appear, unless the applicant Government considers it expedient to accord the witness a higher allowance.

No person, whatever his nationality, who, when summoned as a witness in one of the two countries, voluntarily attends in the courts of the other country, may be prosecuted or detained for crimes or offences or civil police court, or criminal convictions prior to his leaving the country applied to or on the ground of complicity in the acts forming the subject of the case in which he is a witness.

Article 13.

If in a non-political criminal case the Government of either country 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, after being forwarded through the diplomatic channel, shall be served on the person concerned at the request of the Public Prosecutor's department in his place of residence, through a competent official, and the original, certifying that notification has been effected, shall be returned through the same channel to the applicant Government, without refund of expenses.

Article 14.

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 diplomatic channel 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 occasioned, within the limits of their respective territories, by the despatch and return of articles serving as proof of the crime and documents.

Article 15.

It is expressly laid down that transit through the territory of either Contracting Party of a person surrendered by a third Power to the other Party and who is not a citizen of the country of transit, shall be granted on the mere production through the diplomatic channel of the original or a certified copy of one of the documents mentioned in Article 9, provided that the offence on which the extradition is based is included in the present Convention and does not come under the provisions of Article 4, paragraph 1 and Article 5.

The person surrendered shall be conveyed by the most rapid route in the custody of agents of the country applied to and at the expense of the applicant Government.

Article 16.

There shall be delivered up, together with the person claimed, all objects which are connected with the commission of the punishable act or which have been obtained by means of that act, and also articles that may serve as proof of the offence.

These articles shall be delivered up even if, through the death or escape of the offender, the extradition cannot take place.

All objects of the same kind, concealed or deposited by the accused in the State of refuge and subsequently discovered, shall likewise be surrendered.

Nevertheless, the rights which third parties may have over these objects shall be reserved, and such objects shall be returned to them free of charge after the trial.

Article 17.

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 previous Article, shall be borne by the two States, within the limits of their respective territories.

The cost of conveyance and other expenses incurred in the territory of intermediate States shall be borne by the applicant State.

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

Article 18.

The Contracting Parties undertake to communicate to each other all judgments or sentences for crimes or misdemeanours of all kinds pronounced by the courts of one State against nationals of the other. Such communications shall be made by the despatch of an extract of the final judgment or sentence through the diplomatic channel.

Article 19.

The present Convention shall come into force ten days after 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 at Brussels.

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

Done at Montevideo, this twentieth day of January, one thousand nine hundred and twenty-six.

(L. S.) (*Signed*) KETELS.

(L. S.) (*Signed*) LISANDRO DÍAZ LEÓN.

After agreement between the two Governments, the exchange of ratifications took place October 10, 1929, at Asunción and not at Brussels, as agreed in the Convention.