

N° 2001.

FRANCE ET SAINT-MARIN

Convention d'extradition. Signée à
Paris, le 30 avril 1926.

FRANCE AND SAN MARINO

Extradition Convention. Signed at
Paris, April 30, 1926.

¹ TRADUCTION — TRANSLATION.

No. 2001. — EXTRADITION CONVENTION BETWEEN FRANCE AND SAN MARINO. SIGNED AT PARIS, APRIL 30, 1926.

THE GOVERNMENT OF THE FRENCH REPUBLIC and THE GOVERNMENT OF THE REPUBLIC OF SAN MARINO, desiring to regulate in agreement the reciprocal extradition of criminals, have agreed upon the following Articles :

Article 1.

The High Contracting Parties undertake to deliver up to each other, in the circumstances and conditions laid down by the present Convention, any persons who are being proceeded against or who have been convicted for any of the crimes or offences specified in Article 2 below or for complicity therein, committed in the territory of one of the two Contracting Parties, and have taken refuge in the territory of the other Party.

Nevertheless, when the crime or offence forming the subject of a requisition for extradition has been committed outside the territory of the applicant country, the requisition may be granted when the laws of the country applied to authorise prosecution for the same offences when committed outside its territory, unless extradition for the same acts is requested, and can be obtained, by the Government of the country in which the acts have been committed.

Extradition between the two countries will always be subject to transit permission granted by the Italian Government.

The term " territory " employed in the present Article signifies, in the case of France, France herself, her colonies and possessions and territory coming under the jurisdiction of her consular officers.

Article 2.

The crimes and offences for which extradition shall be granted are :

- (1) Assassination ;
- (2) Parricide ;
- (3) Infanticide ;
- (4) Poisoning ;
- (5) Murder ;
- (6) Abortion ;
- (7) Rape ;
- (8) Indecent assault committed or attempted, with or without violence ;
- (9) Offences against public morals by habitually encouraging or facilitating unlawful carnal knowledge or corruption of young persons of either sex under the age of twenty-one ;
- (10) Abduction of minors ;
- (11) Exposing of children ;
- (12) Bigamy ;

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.

(13) Assault causing death or illness or incapacity to work lasting more than twenty days, or followed by mutilation, amputation or loss of the use of a limb, blindness, loss of an eye, or other permanent injuries; assault with premeditation, even in cases where the disablement occasioned is of less than twenty days' duration.

(14) Castration ;

(15) Assaulting and causing bodily hurt to an officer of the law in the exercise of his duties ;

(16) Conspiracy ;

(17) Threats against persons or property, with a view to obtaining money or the fulfilment of some other condition ;

(18) Extortion ;

(19) Detention or illegal confinement ;

(20) Arson ;

(21) Larceny ;

(22) Swindling ;

(23) Breach of trust, embezzlement, malversation of public funds ;

(23 b) Subornation of public officials ;

(24) Counterfeiting money, circulation and fraudulent utterance of counterfeit money, forgery of notes which are legal tender ;

Counterfeiting or falsification of public bills, banknotes, or public or private securities ; utterance, circulation or use of such counterfeit or forged bills, notes or securities. Counterfeiting or forgery of documents emanating from the sovereign power. Counterfeiting or falsification of seals of State and all stamps and marks authorised by the respective Governments, even where such fabrication, counterfeiting or falsification takes place outside the State applying for extradition ;

(25) Forgery of public documents (whether officially attested or of a commercial nature) or of private documents ;

(26) Use of forged documents ;

(27) False testimony, or false statements of experts ;

(28) Subornation of witnesses, experts and interpreters ;

(29) Malicious accusation ;

(30) Fraudulent bankruptcy ;

(31) Destruction of or interference with a railway line or telegraphic communications, with criminal intent ;

(32) Any destruction of or malicious damage or injury to movable or immovable property ;

(33) Barratry ;

(34) Piracy and cognate offences, unless the applicant State is able to punish such offences and elects to do so ;

(35) Mutiny by the crew of a ship ;

(36) Receiving stolen goods and harbouring criminals ;

(37) Resisting the police in connection with any other offence enumerated in the present Convention.

The foregoing definitions include attempts to commit any acts punishable under the laws of the applicant country, and also attempts to commit the crimes of larceny, swindling and extortion.

Extradition shall not be granted :

(1) In the case of persons sentenced after trial or by default, unless the penalty is at least two months' imprisonment ;

(2) In the case of persons charged, unless the maximum penalty for the offence alleged is, under the laws of the two countries, at least two years' imprisonment.

In all cases, extradition cannot be granted unless the offence for which extradition is demanded is punishable under the law of the country applied to.

Article 3.

The person surrendered may not be proceeded against or tried for any offence other than that forming the subject of the requisition for extradition, save in the following cases :

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

(2) If he has not left the country to which he was surrendered within a month of his final release ;

(3) If the offence is included in the present Convention, and the Government to which he has been surrendered has previously obtained the assent of the Government which granted extradition, which may, if it thinks fit, demand the production of the documents mentioned in Article 8.

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

Article 4.

Extradition shall not take place if, subsequently to the commission of the offences alleged, the conclusion of the prosecution or the conviction, exemption from prosecution or punishment has been acquired by lapse of time according to the laws of the State applied to.

Article 5.

Neither country shall be bound to surrender its own nationals.

Nevertheless, the High Contracting Parties undertake to proceed against and try, according to their laws, any of their nationals who have taken refuge in their territory after committing in the territory of the other Party an offence specified in the present Treaty.

If the same person is claimed by two States for separate crimes or offences, the Government applied to shall decide the matter in the light of the relative gravity of the several offences alleged ; if the gravity is the same in each case, preference shall be given in the first place to the Government of the country of which the fugitive is a national, and, in the second place, to the Government whose claim is earliest in date.

Article 6.

If the person claimed is being proceeded against or has been convicted in the State applied to, his extradition may be deferred until the prosecution is discontinued, or he is discharged or acquitted, or has served his sentence.

Article 7.

If the person claimed is being proceeded against or kept in custody in connection with obligations which he has entered into with private persons, his extradition shall take place, subject however to the right of such private persons subsequently to establish their claims before the competent authority.

Article 8.

Requisitions for extradition shall be transmitted through the diplomatic channel (or failing this, through the consular channel) or direct — in the case of the Republic of San Marino by the Secretary of State for Foreign Affairs, and, in the case of the French Republic, by the Minister for Foreign Affairs.

Extradition shall be accorded only on production of the following documents :

(1) A sentence or a writ formally ordering, or amounting to an authoritative order, that the accused be sent for trial before the criminal courts, or a warrant of arrest or any other document having the same force.

(2) A statement setting out in detail the acts alleged.

The originals or certified copies of the documents enumerated in the two preceding paragraphs shall be produced.

(3) The description of the person claimed or any distinguishing characteristics likely to be of use in establishing his identity.

(4) The text of the law or penal provisions applicable to the offence alleged.

Article 9.

In urgent cases, the provisional arrest of the accused person shall be effected upon receipt of postal or telegraphic notice of the existence of a warrant of arrest, provided that such notice be given in conformity with the first paragraph of Article 8.

In all cases, the foreigner shall be set at liberty if, within twenty-one days after his arrest, one of the documents enumerated in the second paragraph of Article 8 is not communicated to him.

Arrest shall be effected in the manner and according to the rules laid down by the laws of the Government applied to.

Article 10.

Articles seized which may serve as proof of the crime, and all articles deriving from the crime or offence in respect of which extradition is demanded shall, at the discretion of the competent authority, be given up to the applicant Government even where extradition, after being granted, cannot actually take place owing to the death or subsequent disappearance of the person claimed.

Such articles shall include all objects which the accused person may have hidden or deposited in the country and which are subsequently discovered.

These stipulations however shall not affect the rights to the objects mentioned in the present Article acquired by third persons who are not involved in the proceedings.

Article 11.

Expenses occasioned by the arrest, custody and transport of the person whose extradition has been granted, and the cost of the despatch and transport of the articles to be restored or given up under the terms of the preceding Article, shall remain a charge upon the two States, within the limits of their respective territories.

Article 12.

It is formally stipulated that extradition, by transit through the respective territories of the Contracting States, of a person surrendered to the other Party, shall be granted simply upon

production of the original or a certified copy of one of the writs etc., mentioned in Article 8 above (according to the particular case), provided that the offence giving rise to the requisition for extradition is included in the present Convention and does not come under the provisions of Article 3 (last paragraph), Article 4 and Article 5.

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

Article 13.

When, in any criminal case of a non-political character, one of the two Governments deems it necessary for witnesses domiciled in the other State 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 8, first paragraph, and effect shall be given thereto subject to the laws of the Party applied to.

"Commissions rogatoires" sent by the competent foreign authority to the end that a search of premises or seizure may be effected shall not be executed except in the case of one of the offences enumerated in Article 2 and subject to the reservation specified in the last paragraph of Article 10.

The respective Governments agree not to submit any claim for restitution of expenses occasioned by the execution of a "commission rogatoire", except in the case of expert opinion which may involve a number of hearings.

Article 14.

In a criminal case of a non-political character, when the service of a writ or judgment upon a person residing in the territory of the other country appears necessary to the Government of one of the two Contracting Parties, the document transmitted through the channel specified in Article 8, first paragraph, shall be served personally, on the request of the Commissioner of Law of the Republic of San Marino and of the Public Prosecutions office of the place of residence in France, by a competent official, and the original document confirming such service shall be returned through the same channel to the applicant Government, without repayment of costs.

Article 15.

When, in a criminal case of a non-political character brought in one of the two countries, production of articles serving as proof of the crime or documents in the hands of the authorities of the other country is deemed advisable, application shall be made through the channel specified in Article 8, first paragraph, and effect shall be given thereto, unless there are any particular objections and subject to the obligation to return the articles.

The Contracting Parties undertake to make no claim in respect of expenses occasioned within the limits of their respective territory by 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 repayment of costs, records of sentence for crimes and offences of every kind pronounced by the courts of either of the two States against nationals of the other State. This shall be done by despatch to the Government of the country of which the convicted person is a national, of a bulletin or copy, through the channel specified in Article 8, first paragraph.

The two Governments shall issue the necessary instructions to their respective authorities.

Article 17.

The present Convention shall be ratified and the ratifications shall be exchanged as soon as possible. It shall come into force twenty days after the exchange of the ratifications.

It shall apply to crimes and offences committed before it came into force. Either of the High Contracting Parties shall be entitled to terminate it at any time, after six months' notice has been given.

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

Done in duplicate in Paris on April 30, 1926.

(L. S.) (Signed) A. BRIAND.

(L. S.) (Signed) E. GARDA.