

N° 2593.

FINLANDE ET ITALIE

Traité d'extradition et d'assistance
judiciaire en matière pénale. Signé
à Helsinki, le 10 juillet 1929.

FINLAND AND ITALY


Treaty regarding Extradition and
Legal Assistance in Criminal
Matters. Signed at Helsinki,
July 10, 1929.

¹ TRADUCTION — TRANSLATION.No. 2593. — TREATY ² BETWEEN FINLAND AND ITALY REGARDING EXTRADITION AND LEGAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT HELSINKI, JULY 10, 1929.

French official text communicated by the Finnish and the Italian Ministers for Foreign Affairs. The registration of this Treaty took place January 15, 1931.

THE PRESIDENT OF THE FINNISH REPUBLIC and HIS MAJESTY THE KING OF ITALY, being desirous of regulating questions relating to the extradition of criminals and legal assistance in criminal matters, and of concluding a Treaty for this purpose, have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE FINNISH REPUBLIC :

 M. Oskari MANTERE, President of the Council of Ministers, Acting Minister for Foreign Affairs ;

HIS MAJESTY THE KING OF ITALY :

Count Emilio PAGLIANO, His Envoy Extraordinary and Minister Plenipotentiary in Finland ;

Who, having communicated their full powers, found in good and due form, have agreed as follows :

Article 1.

The High Contracting Parties undertake to deliver up to each other, on requisition being made, those persons other than their own nationals who, being in the territory of the Party applied to, are being proceeded against or have been sentenced by the judicial authorities of the applicant Party for any of the offences mentioned in the following Article.

Article 2.

The Finnish Government may claim the surrender of persons who are being proceeded against or have been sentenced for an offence which, either in itself or as being accompanied by aggravating circumstances, may under Finnish law involve a penalty exceeding that of imprisonment, provided that the offence, had it been committed under identical circumstances in Italy, would be regarded under Italian law as an offence punishable by deprivation of personal liberty for a period of not less than one year.

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.

² The exchange of ratifications took place at Rome, October 7, 1930. Came into force November 7, 1930.

The Italian Government may claim the surrender of persons who are being proceeded against for an offence punishable under Italian law by deprivation of personal liberty for a period of not less than one year, or who have been sentenced to deprivation of personal liberty for a period of not less than six months, provided that the offence, had it been committed under identical circumstances in Finland, could have involved, either in itself or as being accompanied by aggravating circumstances, a penalty under Finnish law exceeding that of imprisonment.

The High Contracting Parties may further claim the surrender of persons who are being proceeded against or have been sentenced for complicity in one of the aforesaid offences or for attempting to commit such offence, provided that it is punishable or has been punished by a penalty as severe as those mentioned above.

Article 3.

Extradition shall not be granted :

- (1) For offences punishable exclusively under the Press laws ;
- (2) For purely military offences, when the act is punishable only under military law ;

(3) For political offences or acts connected with such offences, except where the ordinary offence connected with the political offence is of so serious a nature as to constitute the principal offence. In no case shall wilful homicide committed with premeditation, or the attempt to commit such crime, be considered as a political offence, unless committed in open affray.

In the cases referred to in the foregoing paragraphs, the authorities of the State applied to shall alone be competent to decide on the nature of the acts.

Article 4.

If the extradition of a person is demanded by more than one State at the same time and if the requisitions relate to the same offence, the State applied to shall decide to which State extradition shall be granted ; the extradition shall, however, as a rule be granted to the State in which the offence was committed, unless there are special reasons for surrendering the criminal to the State in which he possesses the right of citizenship.

Should more than one State have claimed the extradition of the same person for different offences, preference shall be given to the State in which the most serious offence was committed, provided there are no special reasons for surrendering him to another State. The State applied to may, when granting extradition, do so on the condition that the person claimed shall, on the expiry of his sentence or after his acquittal, be surrendered to another State.

Article 5.

Extradition shall not be granted if, after proceedings taken for the same offence before the authorities of the Party applied to, the accused was dismissed, or if the proceedings resulted in a final judgment.

Article 6.

Extradition may be refused :

- (1) If the authorities of the State applied to are, under its laws, competent to try the offence in question ;

(2) If the offence in question was committed in the territory of a third State and if the laws of the Party applied to do not allow of prosecution for such an offence committed abroad ;

(3) If, under the laws of the Party applied to, exemption from prosecution or punishment has been acquired by lapse of time.

Article 7.

The requisition for extradition shall be submitted through the diplomatic channel. A warrant of arrest issued by the competent foreign authority against the person claimed, or the judgment pronounced against him, shall be produced at the same time as the requisition for extradition. Should the offence complained of and the circumstances thereof not be clearly indicated in the documents mentioned above, the Party making application shall add thereto a legal document containing the necessary particulars. If the text of the articles of the criminal law applicable to the offence is not quoted *in extenso*, a copy of this text shall be annexed to the requisition. Should there be any doubt as to the identity of the person, evidence shall be furnished.

The documents to be produced shall be drawn up in the form prescribed by the laws of the applicant Party. In the absence of agreement to the contrary, they shall be legalised by the diplomatic agent and accompanied by a translation in the language of the Party applied to, certified correct by the diplomatic agent of the applicant Party or by a sworn translator of the Party applied to.

If the documents transmitted are incomplete or if supplementary information is thought necessary, the applicant State shall be asked to supply what is lacking within a reasonable period.

Article 8.

Unless extradition would appear to be *a priori* inadmissible, a person whose surrender is to be demanded shall be arrested provisionally before the requisition for extradition has been presented, if such provisional arrest is requested. The request for provisional arrest shall be submitted through the diplomatic channel or made direct to the proper authorities of the other Party by the consul of the applicant State who is competent *ratione loci*.

Provisional arrest shall also be granted when a person for whom a warrant of arrest has been published by the official organ of the one Party at the request of the competent authorities of the other Party and in the form prescribed shall be found in the territory of the former Party.

In urgent cases provisional arrest may be carried out on notification being given, even by telegraph, of the existence of a conviction or a warrant of arrest, or any other document equivalent to a warrant of arrest, provided that this notification states the nature and the gravity of the charge and the provisions of the criminal law which have been applied or are applicable.

The person provisionally arrested shall be released if the requisition for extradition has not been submitted within six weeks following the date of arrest, the day of arrest not being included.

Article 9.

If the person claimed is being proceeded against or has been sentenced by the authorities of the Party applied to for an offence other than that for which extradition is requested, extradition may be postponed, without prejudice to the decision to be taken immediately as regards the requisition, until the criminal proceedings are concluded or the sentence pronounced has been carried out or remitted.

Article 10.

Should proceedings in progress before the authorities of the Party applied to for a reason other than an infraction of the criminal law require the compulsory appearance or the detention of the

person claimed, extradition may be postponed until the proceedings are terminated or the detention is at an end.

Apart from these cases, the fact that extradition would prevent the person claimed from carrying out the obligations undertaken by him in the territory of the Party applied to cannot be put forward as a ground for refusing extradition. The rights of the persons concerned shall, however, be reserved, and these persons may maintain these rights subsequently before the competent authority.

Article 11.

When extradition has been granted and the person surrendered is to be conveyed by land, he shall be taken to a point on the frontier fixed by previous agreement with the third State which has undertaken the transit. If the person surrendered is to be conveyed by sea, he shall be taken to the port of the Party applied to at which he is to be placed on board.

If the applicant State does not make provision, in so far as it is concerned, for giving effect to the extradition within a period of one month from the date of notification of the granting of extradition, the person whose surrender was requested may be set at liberty.

Article 12.

¶ The provisions of Articles 1 to 6 and Article 10 shall also apply to the extradition by transit of persons who are surrendered to one of the High Contracting Parties by a third State or who are surrendered or re-surrendered to that State across the territory of the other Party, as well as to transit by sea and by any vessel belonging to the said Party.

Extradition by transit shall be effected by the authorities of the Party applied to, by the means most convenient to it.

Article 13.

Articles found in the possession of the person at the time of his arrest shall be seized.

The articles seized shall be handed over to the applicant State at the same time as the person surrendered, unless the rights of third persons prevent this. The same provision shall apply to the articles received with a person surrendered by transit. These articles shall be handed over even if the person claimed cannot be delivered up owing to his death or for some other reason personal to him.

Article 14.

☛ A person surrendered may not be proceeded against, punished or surrendered to a third State on account of an offence committed prior to extradition unless the extradition was granted for this offence or unless the Party applied to gives his consent to the proceedings or the execution of the sentence.

If it is found that the legal character of the acts for which extradition was granted is so modified during the proceedings as to render it doubtful whether the acts justify the requisition for extradition, the proceedings may only be continued with the consent of the Party to whom application has been made.

If in the case referred to in paragraph 1 the person surrendered states that he consents to the proceedings or the sentence or, if in the case referred to in paragraph 2, he states that he consents to the continuation of the proceedings, the applicant Party may communicate such statement along with his request for consent. If in this last case the Party applied to does not give his consent, or if such a statement has not been communicated, the request for consent shall be submitted in the same way as the requisition for extradition, and consent may be refused for the same reasons as extradition.

No person surrendered by either High Contracting Party to the other may be proceeded against for the offence for which he has been surrendered before a court which is invested only temporarily or in special circumstances with exceptional powers to deal with such cases.

Article 15.

The restrictions laid down in the preceding Article as regards the prosecution of the person surrendered or the execution of the sentence shall not apply if the person surrendered has not left the territory of the other Party within thirty days after his definitive release from confinement, or if he returns to the said territory.

Article 16.

The expenses occasioned by the arrest, confinement and maintenance of a person whose extradition or provisional arrest has been requested, and the cost of this conveyance to the frontier station selected or to the port of embarkation shall be borne by the Party applied to. The same shall apply as regards the cost of seizing and keeping the articles seized at the time of the arrest and the cost of despatching the articles to be handed over with the person claimed.

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

Article 17.

If during the proceedings in a criminal case of a non-political nature it is deemed to be necessary to hear persons who are in one of the two countries or to proceed to any other act connected with the investigation of the case, letters of request shall be addressed for this purpose through the diplomatic channel and, unless the Government applied to finds that it is impossible to give effect thereto, they shall be executed in conformity with the laws of the country in which the person is to be heard or the act to be performed.

The High Contracting Parties shall waive all claim to the refund of expenses occasioned by the execution of letters of request in criminal matters, even where expert opinions are taken, always provided that such enquiries have not occupied more than one sitting.

Article 18.

If in a criminal case of a non-political nature the personal attendance of a witness is required, the Government of the country in which the witness resides shall urge him to comply with the summons addressed to him.

With regard to the allowances 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 summoned in one of the two countries appears of his own free will before the Courts of the other country, may be prosecuted or detained in that country for previous criminal acts or convictions, or on the ground of complicity in the acts forming the subject of the case in which he is a witness, provided that his stay in that country is for the purpose of appearing as a witness or that he is legitimately prevented from leaving the said country.

Article 19.

If in a criminal case of a non-political nature which is being investigated in one of the two countries it is deemed necessary or desirable to obtain articles serving as proof of the crime or

documents which are in the hands of the authorities of the other country, a request therefor shall be made through the diplomatic channel and such request shall be complied with unless there are special objections thereto, and subject to the obligation to return the articles and documents.

The High Contracting Parties shall waive all claim 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 20.

The Finnish Government undertakes to communicate to the Italian Government the final sentences, including conditional sentences, passed on Italian citizens and entered in the Finnish judicial records.

Similarly, the Italian Government undertakes to communicate to the Finnish Government the final sentences for offences, including conditional sentences, passed by its judicial authorities on Finnish citizens.

The High Contracting Parties shall also communicate to each other subsequent decisions concerning the said sentences entered in the criminal records.

The authorities of each of the High Contracting Parties responsible for keeping the criminal records shall supply the authorities of the other Party, upon receipt of a request made through the diplomatic channel, with information regarding particular cases based on the criminal records.

The above-mentioned communications shall be made through the diplomatic channel without refund of expenses.

It is agreed that the communications referred to in the preceding paragraphs shall apply to sentences which shall become final one month after the entry into force of the present Treaty.

Article 21.

The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

It shall come into force one month after the date of the exchange of ratifications and shall also apply to offences committed before its entry into force.

Each of the High Contracting Parties may denounce it at any time ; in such case it shall cease to take effect on the expiry of a period of six months from the date of denunciation.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done in duplicate at Helsinki, July 10, 1929.

(L. S.) Oskari MANTERE.

(L. S.) PAGLIANO.