

N° 2791.

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**ESPAGNE  
ET TCHÉCOSLOVAQUIE**

Convention d'extradition et d'assistance judiciaire en matière pénale.  
Signée à Madrid, le 26 novembre  
1927.

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**SPAIN  
AND CZECHOSLOVAKIA**

Convention regarding Extradition  
and Judicial Assistance in Criminal  
Matters. Signed at Madrid, No-  
vember 26, 1927.

<sup>1</sup> TRADUCTION. — TRANSLATION.

No. 2791. — CONVENTION <sup>2</sup> BETWEEN THE KINGDOM OF SPAIN AND THE CZECHOSLOVAK REPUBLIC REGARDING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT MADRID, NOVEMBER 26, 1927.

*French official text communicated by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this Convention took place August 29, 1931.*

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC and HIS MAJESTY THE KING OF SPAIN, being desirous of regulating legal relations between the two States as regards extradition and the transit of criminals and as regards judicial assistance in criminal matters, have decided to conclude for this purpose a Convention and have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Emil SPIRA, Doctor of Laws, Head of Department in the Ministry of Justice, and  
M. Karel HALFAR, Doctor of Laws, Head of the International Treaties Department in the Ministry of Foreign Affairs,

HIS MAJESTY THE KING OF SPAIN :

M. Vicente GONZALEZ-ARNAO Y AMAR DE LA TORRE, Resident Minister, Head of the Legal Section in His Ministry of State, Knight of the Order of Charles III, Commander of the Order of Isabella the Catholic,  
M. Juan GÓMEZ MONTEJO, Head of the First Division of the Technical Corps of Legal Advisers to His Ministry of Justice,

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

## CHAPTER I.

*Article 1.*

## EXTRADITION OF CRIMINALS.

The Contracting Parties undertake to hand over to each other on demand any person found in the territory of one of them and wanted by the police or sentenced by a Court of the other Party for any offence for which extradition may be granted by the law of the Party applied to :

(a) If such offence is, under the law of each State — or of a part or parts of each State — punishable by a sentence of imprisonment for one year at least or by any heavier

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

<sup>1</sup> Translated by the Secretariat of the League of Nations, for information.

<sup>2</sup> The exchange of ratifications took place at Prague, May 14, 1930.

penalty, or if the person required has been condemned for the same offence to imprisonment for six months at least or to any heavier penalty ;

- (b) If the offence was committed in the territory of the applicant State ;
- (c) If punishment of the offence is not, by the law of the State applied to, reserved for its own Courts.

If the offence was committed outside the territory of the applicant State, extradition shall only be granted if the law of the State applied to provides in similar circumstances for the punishment of such offences committed outside its territory.

Extradition shall also be granted in respect of attempts to commit, or of complicity in the said offences, when such attempts or complicity are punishable by the laws of both of the Contracting Parties.

#### *Article 2.*

In no case shall a Contracting Party be obliged to extradite one of its own nationals.

If the person required has demanded naturalisation in the State applied to before his extradition is asked for, the decision as to extradition may be postponed until the decision on the demand for naturalisation has been given.

#### *Article 3.*

##### NON-EXTRADITABLE OFFENCES.

Extradition shall not be granted :

- (a) For political or similar offences ;  
The State applied to shall alone decide whether an offence is of such a nature.  
An offence against the person of the Head of the State amounting to murder or homicide or attempted murder or homicide or complicity in any such offence shall not be deemed to be a political or similar offence.
- (b) For offences of a purely military nature ;
- (c) For offences that are strictly breaches of the press laws ;
- (d) For offences against the Customs, fiscal and other financial laws ;
- (e) For offences in respect of which a prosecution may only be instituted and may be withdrawn by the party wronged ;
- (f) If prosecution or punishment have become subject to limitation under the law in force in every part 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 judicial enquiry, or if on other legal grounds the prosecution cannot take place or the sentence cannot be enforced ;
- (g) If the person required is being prosecuted for the same offence in the State applied to, or if he has already been discharged from the proceedings or convicted or acquitted on the same charge, unless a resumption of the prosecution owing to fresh evidence is permitted by the law of that State.

#### *Article 4.*

##### APPLICATIONS FOR EXTRADITION.

Applications for extradition shall be made through the diplomatic channel.

They shall be accompanied by a statement of the charge or a warrant of arrest or other equivalent document, or by the sentence passed on the person required. Originals or certified copies of these documents shall be furnished and shall state briefly the nature of the offence and its legal

title or denomination, and shall be accompanied by the text of the law of the applicant State relating to the offence and mentioning the punishment that may be awarded. As far as possible, a description of the person required shall be added, together with his photograph or other indications serving to establish his identity.

In the case of offences against property, mention shall be made of the amount of the actual damage sustained, or if possible, of the damage which the wrongdoer intended to cause.

*Article 5.*

The documents mentioned in the preceding Article shall be drawn up in the official language of the applicant State and in the form required by law in that State, and shall be officially sealed. They shall be accompanied by a translation in the official language of the State applied to, made or certified by a sworn interpreter and bearing his signature and seal, or by an official interpreter of the applicant Party.

*Article 6.*

ADDITIONAL EXPLANATIONS.

If there be doubt as to whether the offence in respect of which extradition is requested falls within the provisions of the present Convention, the applicant State shall be asked for explanations, and extradition shall not be granted unless the explanations supplied dispel such doubt.

In no case shall the applicant State be bound to furnish evidence of the guilt of the person required.

The State applied to may in each case fix a time limit for the supply of additional information ; but this time-limit may be extended if good reason be shown.

*Article 7.*

MEASURES FOR ENSURING EXTRADITION.

On the arrival of the application, together with the documents mentioned in Articles 4 and 5, the State applied to shall take the necessary steps to secure the person required and to prevent his escape, unless it appear at the outset that extradition cannot be granted.

*Article 8.*

PROVISIONAL ARREST.

In urgent cases the person required may be provisionally detained, even before the application for extradition has been submitted ; notice must be sent by letter or telegram and must mention the existence of a warrant of arrest or of a sentence and also the nature of the offence. This notice may be sent direct by the Court or competent authority of the applicant State to the competent authority of the State applied to. But a notice given by telegram must be confirmed within eight days by the applicant Party.

The competent authority of each of the Contracting Parties may, even in the absence of such notice, provisionally arrest any person found in their territory who has been reported by the authorities of the other Party or who figures in the usual gazettes or registers as wanted by the police.

An authority who arrests a person in accordance with the preceding paragraphs will inform without delay the authority who desired such arrest, and will mention the place of detention.

If within fifteen days from the date of dispatch of information in accordance with the above provisions, the authorities of the other Contracting Party have not stated that his extradition will be asked for, the person under arrest may be liberated.

*Article 9.*

The person arrested may also be set at liberty if the application for extradition and the relevant documents mentioned in Articles 4 and 5 have not been received within six weeks of the dispatch of the notice of arrest referred to in the third paragraph of the preceding Article.

When additional information is asked for in accordance with Article 6, the person detained may also be liberated if the State applied to is not furnished with such explanations within the suitable period fixed or prolonged by it.

*Article 10.*

RIVAL CLAIMS.

If the person whose extradition is asked for by one of the Contracting Parties is also claimed by one or more other States, the State applied to shall be free to deliver him either to the State of which he is a national or to the State on whose territory the offence was committed.

If the State of which the person is a national is not one of those applying for him, the State applied to may inform it of the applications received from other States and may fix a period of fifteen days for it to declare whether it desires to apply for extradition. Such application shall also be subject to the provisions of Article 9. Failing such application, the person shall be handed to the State in whose territory the most serious offence was committed or, if the offences are of equal gravity, to the State from which application was first received.

Nothing in these provisions shall affect any prior agreement entered into between one of the Contracting States and other States.

*Article 11.*

POSTPONEMENT OF EXTRADITION.

If the person required is being prosecuted or has been convicted in the State applied to for an offence other than that forming the subject of the application for extradition, or if he is imprisoned there for other reasons, his extradition may be delayed until the prosecution is ended or until he has served his sentence, or until sentence has been remitted, or until for other reasons he is no longer detained.

Such postponement shall not prevent a decision regarding extradition being reached without delay, save in special circumstances of which the applicant State shall immediately be informed.

*Article 12.*

TEMPORARY HANDING OVER OF PERSONS APPLIED FOR.

If, by the postponement of the extradition mentioned in the preceding Article, the prosecution might under the law of the applicant State become subject to limitation or be otherwise seriously handicapped, the person required may, failing special reason to the contrary, be temporarily handed over, provided he be immediately returned on completion by the applicant State of the documents of prosecution for the purpose of which he was temporarily transferred.

*Article 13.*

## PERIOD FOR CARRYING OUT AN APPROVED EXTRADITION.

If extradition is granted, the applicant State shall as soon as possible obtain the necessary permissions for transit and shall be bound to take over the person required within three months of the date on which it was informed of the grant of extradition. After the expiration of this time, the individual in question may be set at liberty.

*Article 14.*

## EXTENSION OF THE EFFECTS OF EXTRADITION.

In respect of any other offence prior to that which gave rise to his extradition, a person extradited may only be prosecuted or punished in the State applying for his extradition or handed over to a third State :

(a) If the State granting extradition consents. Such consent may not be refused if extradition for the offence in question is provided for in the present Convention. The State granting extradition may require this consent to be applied for in the form prescribed for applications for extradition, and to be accompanied by the documents mentioned in Articles 4 and 5. The State obtaining permission shall inform the other of the result of the prosecution by forwarding a copy of the judgment ; or,

(b) If the individual within one week of his final discharge did not, though free to do so, leave the territory of the State to which he was delivered, or if he subsequently returned thereto.

*Article 15.*

## TRANSIT.

If an offender is extradited by one of the Contracting Parties to a third State, the other Party shall grant transit on production of the original or of a certified copy of one of the documents mentioned in Article 4.

The rules governing permission to extradite shall also apply to this transit.

Transit shall be effected by the authorities of the Party applied to, in the manner and by the route which it shall select.

## CHAPTER II.

*Article 16.*

## JUDICIAL ASSISTANCE IN CRIMINAL MATTERS.

The Contracting Parties will render each other judicial assistance. In particular, they will effect service of documents of criminal procedure on persons within their territory, will undertake the preliminaries to a trial such as hearing of witnesses and experts, giving judicial certificates, and making searches and seizures, and will supply each other with judicial documents and documentary evidence.

Judgments delivered and summonses to appear as accused issued by the Courts of one of the Contracting Parties against nationals of the other Party will not, however, be served on these latter. Nor can a national of one Party be interrogated as accused on the demand of the other Party.

Applications for judicial assistance shall be drawn up in the official language of the applicant State and shall be sealed with the seal of the applicant authority and shall be forwarded direct

by the Ministry of Justice of the applicant State to that of the State applied to, or, in criminal proceedings under military law, by the supreme authority for military justice. The provisions of Article 5 as regards translations shall also apply to the above application and to annexed documents.

In complying with applications for judicial assistance in criminal matters, regard shall be had to the laws of the State on whose territory the preliminary proceedings in question are to take place. Minutes relating thereto shall not be translated into the official language of the applicant State.

Judicial assistance in criminal matters may be granted within the limits provided by law in each State, even if there should, under the present Convention, be no obligation to extradite.

#### *Article 17.*

##### SUMMONING AND APPEARANCE OF PERSONS FROM THE OTHER CONTRACTING STATE.

If in a criminal matter pending before the Courts of one Contracting State the presence of a witness or expert from the territory of the other Contracting State is considered necessary or desirable, the authorities of the latter State will serve on him a notice addressed to him for the purpose.

The expenses incurred by a witness in attending in person shall be borne by the applicant State and the notice shall mention the sum payable for travelling expenses and subsistence, as well as the amount which may be advanced to him by the State applied to, subject to repayment by the applicant State.

No witness or expert of whatever nationality who, being in the territory of one of the Contracting Parties, shall be summoned to appear by the other Party, and who shall voluntarily appear before the Courts of that Party, shall be prosecuted or detained in respect of previous offences or on the ground of complicity in the matter forming the subject of the proceedings in which he appears.

Such persons shall however lose this privilege if, although free to do so, they do not leave the territory of the applicant State within one week of the moment when their presence is no longer required by the Court.

If the person summoned is imprisoned in the territory of the State applied to, his production may be asked for, subject to the undertaking that he be sent back as soon as possible. Such a request shall only be refused on special grounds, such as an express objection on the part of the prisoner.

Under the same conditions, permission shall be granted for a prisoner in a third country for transit in going and returning across the territory of one of the Contracting Parties, if the other Party should wish to confront him with an accused or to hear him as witness.

#### *Article 18.*

##### TRANSMISSION OF INCRIMINATING ARTICLES.

The authorities of the two Contracting Parties shall transmit to one another on request any objects which an accused person may have obtained by his offence or which may serve as evidence, even in cases where such objects may be liable to seizure or confiscation.

If such objects are in the possession of the offender at the time of his extradition or transit, they shall as far as possible be handed over at the time of his extradition or transit. They shall be handed over even if the extradition already approved cannot be carried out owing to the death or escape of the accused. Any objects of the same nature which the accused may have hidden or deposited in the country granting extradition, and which may be subsequently discovered, shall also be handed over.

The rights that third parties may have acquired over the objects in question are reserved ; such objects must at the end of the trial be returned as soon as possible and free of cost to the State applied to.

The State requested to hand over such objects may retain them provisionally if it thinks them necessary for a prosecution. It may also, when forwarding them, require that they be returned for the same purpose, while undertaking in its turn to send them back as soon as possible.

*Article 19.*

## COMMUNICATION OF SENTENCES AWARDED AND OF EXTRACTS FROM CRIMINAL RECORDS.

The Contracting Parties shall inform each other every three months of all sentences that have become operative, or send extracts from all final awards, including conditional awards, pronounced by their Courts against nationals of the other Party, so far as, under the laws in force, they appear in their criminal or judicial records.

They shall also transmit subsequent decisions relating to the same awards and entered in the criminal or judicial records.

The authorities of one of the Contracting Parties in charge of the criminal or judicial records shall supply the authorities of the other Party, at their request, with information from the criminal or judicial records concerning particular cases, free of charge.

The above communications shall be interchanged direct between the Ministry of Justice or the Ministry of National Defence at Prague, on the one hand, and the Ministry of Reprieve and Justice at Madrid, on the other hand, according to circumstances.

*Article 20.*

## COSTS OF ASSISTANCE IN CRIMINALS MATTERS.

The costs of applications for extradition or any other judicial assistance in criminal matters shall be borne by the Party in whose territory they are incurred.

The authorities of the Party applied to shall, however, inform the applicant Party of the amount of such costs, with a view to their being paid by the persons liable for them.

There shall be an exception in the case of expenses of any expert enquiry, and of the costs of summoning or causing to appear witnesses that are in prison in the territory of the State applied to, and also costs of transit. All such expenses shall be borne by the applicant State.

The applicant State shall also bear the cost of the temporary handing over and return mentioned in Article 12 of the present Convention.

## CHAPTER III.

*Article 21.*

## FINAL PROVISIONS.

The present Convention shall be ratified and exchange of ratifications shall take place at Prague as soon as possible.

The Convention shall come into force one month after the exchange of ratifications and shall remain in force until one of the Contracting Parties shall have given the other six months' notice of abrogation.

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

Done in duplicate at Madrid, this 26th day of November, 1927.

(L. S.) Dr. Emil SPIRA.

(L. S.) Vicente GONZÁLEZ-ARNAO.

(L. S.) Dr. Karel HALFAR.

(L. S.) Juan GÓMEZ-MONTEJO.