

N° 3047.

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**BRÉSIL ET ITALIE**

Traité d'extradition. Signé à Rio-de-  
Janeiro, le 28 novembre 1931.

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**BRAZIL AND ITALY**

Extradition Treaty. Signed at Rio  
de Janeiro, November 28, 1931.

## TEXTE PORTUGAIS. — PORTUGUESE TEXT.

Nº 3047. — TRATADO<sup>1</sup> DE EXTRADIÇÃO ENTRE O BRASIL E A ITALIA. ASSIGNADO NO RIO DE JANEIRO, EM 28 DE NOVEMBRO DE 1931.

*Italian and Portuguese official texts communicated by the Italian Minister for Foreign Affairs. The registration of this Treaty took place October 1st, 1932.*

SUA MAJESTADE O REI DA ITALIA e SUA EXCELLENCIA O SENHOR CHEFE DO GOVERNO PROVISORIO DA REPUBLICA DOS ESTADOS UNIDOS DO BRASIL, desejosos de tornar mais efficaz a assistencia que as duas Nações sempre se prestaram na repressão do crime, resolveram concluir um tratado de extradição de delinquentes, e, para esse fim, nomearam seus Plenipotenciarios, a saber :

SUA MAJESTADE O REI DA ITALIA :

o Senhor Cavalleiro Gran-Cruz Vittorio CERRUTI, seu Embaixador Extraordinario e Plenipotenciario no Brasil ; e

SUA EXCELLENCIA O SENHOR CHEFE DO GOVERNO PROVISORIO DA REPUBLICA DOS ESTADOS UNIDOS DO BRASIL :

O Senhor Doutor Afranio DE MELLO FRANCO, Ministro de Estado das Relações Exteriores ;

Os quaes, depois de se haverem communicado mutuamente seus plenos poderes, achados em boa e devida fórma, convieram nos artigos seguintes :

*Artigo I.*

As Altas Partes contractantes obrigam-se, nas condições do presente Tratado e de accôrdo com as formalidades legais em vigor em cada um dos dois Estados, a prender e a entregar uma á outra as pessoas que, processadas ou condemnadas pelas autoridades judicarias de um dos dois Paizes, se encontrem no territorio do outro.

*Artigo II.*

Será concedida a extradição dos autores, co-autores e cumplices de delictos communs, assim como das tentativas, aos quaes, de conformidade com as leis do Estado requerido, possa ser applicada pena restrictiva da liberdade pessoal, não inferior a um anno.

<sup>1</sup> The exchange of ratifications took place at Rome, September 10, 1932.

<sup>1</sup> TRANSLATION.No. 3047. — EXTRADITION TREATY BETWEEN BRAZIL AND ITALY.  
SIGNED AT RIO DE JANEIRO, NOVEMBER 28, 1931.

HIS MAJESTY THE KING OF ITALY and HIS EXCELLENCY THE HEAD OF THE PROVISIONAL GOVERNMENT OF THE REPUBLIC OF THE UNITED STATES OF BRAZIL, being desirous of rendering more effective the assistance which the two countries invariably accord to each other in the punishment of offences, have decided to conclude a Treaty for the extradition of offenders and have for that purpose appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF ITALY :

M. Vittorio CERRUTI, Cavaliere di Gran Croce, His Ambassador Extraordinary and Plenipotentiary in Brazil ;

HIS EXCELLENCY THE HEAD OF THE PROVISIONAL GOVERNMENT OF THE REPUBLIC OF THE UNITED STATES OF BRAZIL :

Dr. Afranio DE MELLO FRANCO, Minister for Foreign Affairs ;

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

*Article I.*

The High Contracting Parties undertake, in conformity with the present Treaty and with the laws in force in each of the two States, to arrest and surrender to each other any persons who are being proceeded against or have been convicted by the judicial authorities of one of the two countries and who may be in the territory of the other Party.

*Article II.*

Extradition shall be granted in the case of principals, partners and accessories in the commission of, or an attempt to commit, offences against the ordinary law of the land, provided that, under the laws of the State applied to, such offences are punishable with imprisonment in any form for a term of not less than one year.

*Article III.*

When the offence was committed outside the territory of the High Contracting Parties, the requisition for extradition may be complied with if the laws of the applicant State authorise prosecution for offences committed abroad.

*Article IV.*

The High Contracting Parties shall grant the extradition of their own nationals in the cases provided for in the present Treaty.

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

*Article V.*

Extradition shall not be granted :

- (1) For unpremeditated offences ;
- (2) For acts that are offences under the press laws only ;
- (3) For purely military offences, that is to say, acts which are not punishable except under military law ;
- (4) For offences against the free practice of any form of public worship ;
- (5) For political offences or acts accessory thereto, except where the act in respect of which proceedings are instituted is primarily an offence under the ordinary criminal law. In this case, when extradition has been granted, the surrender of the person concerned shall be subject to an undertaking by the applicant State that the political object or motive shall not entail any increase in the penalty.

The authorities of the State applied to shall alone be competent to judge of the political nature of offences.

*Article VI.*

Extradition shall moreover not be granted :

- (a) If, under the laws of the applicant State, exemption from prosecution or punishment has been acquired through limitation ;
- (b) If the accused person has to be tried in the applicant country by any but an ordinary Court or judge ;
- (c) If, in respect of the offence which gave rise to the requisition for extradition, the person whose extradition is requested has already been proceeded against and convicted or acquitted by the judicial authority of the State applied to.

*Article VII.*

Extradition may be refused if the authorities of the State applied to are competent under their own laws to try the offence.

Should the person whose extradition is requested be liable, under the laws of the applicant State, to the death penalty, extradition shall be granted solely on condition that such penalty shall be commuted to that of imprisonment.

If the person whose extradition is requested is being proceeded against or is serving a sentence for another offence committed in the State applied to, his extradition may be granted but his surrender shall be deferred until the conclusion of the proceedings or until he has fully served his sentence.

*Article VIII.*

No person whose extradition has been granted may be tried or punished for any other offence committed prior to the requisition unless either the applicant State seeks and obtains the consent of the State applied to or, when he has served his sentence or been acquitted in respect of the offence for which he was extradited, the person in question remains for more than thirty days within the territory of the applicant State or returns thereto.

Moreover, no person who has been extradited may, without the consent of the State applied to, be surrendered to any third State which may claim him.

*Article IX.*

Requisitions for extradition shall be made through the diplomatic channel and shall be accompanied :

(1) By a certified copy or transcription of the sentence of conviction, even if the person was convicted by default, or of the warrant of arrest or any other document connected with the criminal proceedings and issued by the competent judge and which has the effect of a warrant ; this document must state exactly the nature and gravity of the alleged offence and the place where and date when the offence was committed ;

(2) By a copy of the text of the laws that have been or may be applied in the case, including the laws relating to exemption from prosecution and from punishment through limitation ;

(3) If possible, by a description and photograph of the person whose extradition is requested and any other particulars which might assist in establishing his identity.

The requisition and the documents relating thereto shall be drawn up in the official language of the applicant State but may be accompanied by a duly certified translation in the language of the State applied to.

*Article X.*

The requisition for extradition, duly accompanied by the documents in support thereof, must be complied with as soon as it is received by the State applied to.

A person who is arrested for the purpose of being extradited shall remain in custody until a decision has been reached concerning the request for his extradition and, if the request is granted, until he is surrendered to the authorities of the applicant State.

In urgent cases, the State applied to may allow provisional arrest on receipt of a request, if necessary telegraphic, from the competent authority of the applicant State or from the diplomatic agents of that State ; the request must also contain a declaration certifying the existence of one of the documents mentioned in paragraph (1) of the preceding Article.

In such cases the person placed under provisional arrest shall be released if the State applied to has not received the request and the relevant documents within sixty days following the date of arrest.

The expiry of the period of provisional arrest shall not prevent the extradition proceedings taking their course if the request and the relevant documents are received subsequently.

*Article XI.*

If the extradition of a person is requested by several States and if the requisitions relate to the same offence, the extradition shall be granted to the State in whose territory the offence was committed.

If several States have requested the extradition of the same person in respect of different offences, preference shall be given to the State in whose territory the offence which the State applied to considers to be the most serious was committed.

In the case of offences of equal gravity, preference shall be determined by priority of requisition.

The State applied to may, when granting extradition, stipulate that the person claimed shall, on the expiration of his penalty or on his acquittal, be surrendered to another State.

These rules concerning preference shall not be followed if the State applied to is bound under the terms of an earlier treaty to observe a different order of preference.

In every case the authorities of the two High Contracting Parties shall decide in what port of embarkation the surrender of the person whose extradition is requested shall take place.

*Article XII.*

When extradition has been granted, if, within twenty days after being notified that the person whose extradition is requested is at the disposal of the applicant State, the diplomatic agent of that State has not made arrangements for the person in question to be taken in charge, that person shall be released and may not be arrested again on the same grounds.

*Article XIII.*

All money and effects found at the time of arrest in the possession of the person whose extradition is requested shall be seized and surrendered to the applicant State at the same time as the person whose extradition is requested. Money and effects of which the arrested person was legitimately in possession shall be handed over, should they come into the hands of the authorities after the arrest, even if they were in the possession of third parties. These effects shall be delivered up even if, owing to the escape or death of the offender, extradition cannot take place.

The rights of third parties not implicated in the offence on account of which extradition was requested over any of the confiscated articles shall be reserved; these articles must, with the agreement of the authorities of the Party applied to, be restored to them on the conclusion of the proceedings, or even earlier if the course of the proceedings so permits.

*Article XIV.*

Permission for the transit across the territory of the High Contracting Parties of persons who are being surrendered by another State shall be granted immediately on receipt of a request submitted in accordance with Article 9 of the present Treaty.

Such permission shall be given, without any judicial formality by the competent Ministry of the country of transit, provided that the offence is not one of those referred to in Articles 5 and 6, and that no serious reasons of public order form an obstacle.

The person under arrest shall be conveyed under the escort of agents of the country of transit.

*Article XV.*

All expenses occasioned by the requisition for extradition in the territory of the State applied to shall be borne by that State. All transit expenses shall be borne by the applicant State.

*Article XVI.*

The present Treaty is drawn up in two originals, one in the Italian language and the other in the Portuguese language, both texts being equally authentic.

*Article XVII.*

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

It shall enter into force on the first day of the month following that in which the exchange of ratifications takes place.

Either High Contracting Party may denounce it at any time; in such case it shall cease to be in force six months after the day on which it was denounced.

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

Done at Rio de Janeiro on the twenty-eighth day of November, one thousand nine hundred and thirty-one.

(L. S.) V. CERRUTI.

(L. S.) Afranio DE MELLO FRANCO.