

N° 2969.

**PAYS-BAS
ET TCHÉCOSLOVAQUIE**

Convention d'extradition et d'assistance judiciaire en matière pénale.
Signée à Prague, le 4 décembre
1931.

**THE NETHERLANDS
AND CZECHOSLOVAKIA**

Convention regarding Extradition
and Judicial Assistance in Criminal
Matters. Signed at Prague, De-
cember 4, 1931.

¹ TRADUCTION. — TRANSLATION.

No. 2969. — CONVENTION ² BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE CZECHOSLOVAK REPUBLIC REGARDING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT PRAGUE, DECEMBER 4, 1931.

French official text communicated by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations and by the Netherlands Minister at Berne. The registration of this Convention took place May 19, 1932.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC and HER MAJESTY THE QUEEN OF THE NETHERLANDS, having agreed to conclude a convention for the extradition of certain offenders, extradition in transit and judicial assistance in criminal matters, have appointed for that purpose as their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Edvard BENEŠ, Minister for Foreign Affairs ;

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

His Excellency M. Hendrik MULLER VAN WERENDYCKE, Doctor of Science, Doctor of Laws honoris causa, Her Envoy Extraordinary and Minister Plenipotentiary ;

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

CHAPTER I.

EXTRADITION OF CERTAIN OFFENDERS.

Article 1.

The Contracting Parties undertake to surrender to each other, in accordance with the rules laid down in the Articles which follow, all persons who have been convicted of or who are charged with any of the offences enumerated in Article 2 when committed outside the territory of the State from which extradition is requested, provided that, under the laws of the State applied to, the offence, with the exception of minor offences, is also included among punishable acts enumerated hereinafter. Nevertheless, when the

General provisions.

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 The Hague, April 29, 1932.

act which has given rise to the requisition for extradition has been committed outside the territory of the Government making application, the requisition shall only be granted if the laws of the country applied to authorise proceedings in respect of the same offences committed outside its territory.

The Contracting Parties reserve the right to refuse to surrender the subjects of a third State when that State is at war with the State making the application.

In no case shall the Contracting States surrender their own nationals.

Article 2.

The punishable offences which may give rise to a requisition for extradition are the following :

Offences
for which
extradition
shall be
granted.

(1) (a) Any offence committed or attempted against the life or liberty of the King, the Queen Regnant, the Regent, the President of the Republic or another Head of a friendly State, or undertaken with the object of rendering them incapable of governing ;

(b) An offence committed or attempted against the life or liberty of the Queen, non-regnant, the heir presumptive to the throne or a member of the royal family ;

(2) Wilful homicide or murder, wilful homicide or murder of a child ;

(3) Threats made in writing and laying down definite conditions, in so far as the laws of the two countries allow extradition on this ground ;

(4) Abortion procured by the pregnant woman or by other persons ;

(5) Blows dealt or wounds inflicted maliciously and with premeditation, causing an apparently incurable disease, permanent incapacity for personal work, the loss of the complete use of an organ, serious mutilation or unintended death ;

(6) Rape ; indecent assault ; extra-conjugal sexual relations with a girl or married woman under fourteen years of age or with a woman over that age when, to the knowledge of the offender, she has fainted or is unconscious, immoral acts when, to the knowledge of the offender, the person with whom he commits such acts has fainted or is unconscious or when the said person has not reached the age of fourteen ; incitement of a person under that age to commit immorality or to allow immoral acts to be committed upon his or her person or to have extra-conjugal sexual relations with a third party ; immoral acts committed by a person of full age with a person under age of the same sex ; immoral acts committed with persons placed under the care or authority of the person committing such acts, traffic in women and traffic in minors of the male sex ;

(7) Incitement of minors to immorality and any act intended to encourage the corruption of minors ;

(8) Bigamy ;

(9) Abduction, receiving, removal, replacing or substitution of a child ;

(10) Abduction of minors ;

(11) Counterfeiting or altering coinage, paper currency or bank notes undertaken with the intention of uttering or causing to be uttered such coinage, paper currency or bank notes as genuine and unaltered, or wilfully uttering counterfeit or altered coinage, paper currency or bank notes ; the uttering, possession or introduction from abroad of coinage, paper currency or bank notes with the intention of putting them into circulation as being neither forged nor

altered whether the offender counterfeited or altered them himself or knew at the time when he received them that they were forged or altered ;

(12) Counterfeiting or altering of State seals, and marks or stamps regarded as being such, provided the laws of the two countries allow extradition on this ground ;

(13) Forgery of documents and deliberate use of forged or altered documents ;

(14) Perjury ;

(15) Corruption of public officials, extortion, embezzlement by officials or persons regarded as such ;

(16) Maliciously lighting a fire which may endanger property or human life ; arson with intent to procure for the offender or some other person an unlawful profit to the detriment of the insurer or the legal holder of a bottomry contract ;

(17) Illegal and malicious destruction of a building belonging wholly or partly to another person or of a building or construction when the said act may endanger property or human life ;

(18) Joint acts of violence committed in public against persons or property ;

(19) An illegal act committed with the intention of sinking, stranding or destroying a vessel or rendering it unfit for use or damaging it, when the said act may endanger human life ;

(20) Mutiny of the passengers on board a vessel against, or refusal to obey, the captain and mutiny of the crew against, or refusal to obey, their officers ;

(21) Maliciously endangering a railway train ;

(22) Larceny ;

(23) Swindling ;

(24) Misuse of a signed but incomplete document ;

(25) Embezzlement ;

(26) Fraudulent bankruptcy.

Included in the above are attempts to commit the foregoing offences and participation therein.

Article 3.

Extradition shall not take place :

(1) So long as proceedings against the person applied for are being taken for the same offence in the country from which extradition is requested, or if the person in question has been finally convicted, discharged, acquitted or pardoned in that country in respect of the said offence ;

(2) If, under the laws of the country from which extradition is requested immunity from prosecution or punishment has been acquired by lapse of time before the person claimed is arrested or, if the arrest has not yet taken place before he is called before the court to be heard ;

(3) If, under the law of the State applied to, the right to take proceedings is reserved for its own Courts, provided that the proceedings take place therein within one year from the date on which the State applied to received the requisition for extradition.

**Offences
for which
extradition
may not
be granted**

Article 4.

If the person claimed is being proceeded against or is under punishment for an offence other than that which gave rise to the requisition for extradition, his extradition shall only be granted after the proceedings are concluded in the country from which extradition is requested and, in the event of his conviction, after he has served his sentence or he has been pardoned. Nevertheless, a person who is claimed may be delivered up temporarily in order that he may appear before the Courts of the country making application, on condition that he be sent back as soon as the proceedings are concluded.

Postponement of the handing over of persons : who have been surrendered ; temporary handing over.

Article 5.

It is expressly laid down that a person who has been surrendered may not be proceeded against or punished in the State to which extradition has been granted for any punishable offence whatsoever not provided for in the present Convention and prior to his extradition and, failing the consent of the country granting extradition, he may not be proceeded against or punished for an act provided for in the present Convention, and prior to his extradition, other than that which led to the extradition ; nor may he be surrendered to a third country unless in all cases he has had full freedom to leave the above-mentioned country during one month after his trial and, should he be convicted, one month after he has served his sentence or has been pardoned.

Limits to the right of extradition.

Persons convicted of offences which, under the laws of the State making application, are punishable by death shall only be surrendered if the said penalty will not be inflicted upon him.

Article 6.

No person shall be surrendered if the offence for which extradition is requested is regarded by the Party applied to as a political offence or an act connected with a political offence.

Political offences and offences connected therewith.

Article 7.

Extradition shall be applied for through the diplomatic channel and shall only be granted on production of the original or a certified copy either of a sentence of condemnation or of an indictment or an order sending the accused before the criminal judicial authorities along with a warrant of arrest, issued in the manner laid down in the relevant enactments of the State making the requisition and giving particulars with regard to the act in question and the date and place of the offence sufficient to enable the State to which application is made to decide whether, under its laws, the case in question comes under the present Convention, and also the penal provisions applicable thereto. Whenever possible a description of the person claimed shall be given, with a photograph and other particulars which may help to establish his identity.

Requisition for extradition.

Article 8.

If there is any doubt whether the requisition for extradition is such that it should be granted under the present Convention, the applicant State may be asked to furnish explanations and the decision may be postponed until the explanations furnished are of a nature to dispel such doubts.

Additional explanations.

The person who has been arrested may be set at liberty if these explanations have not been given to the State applied to within the reasonable period which it has fixed. This period may be extended if a request is made for the purpose, accompanied by a statement of the reasons on which it is based.

In no case shall the applicant State be obliged to produce proof of the guilt of the person whose extradition is requested.

Article 9.

Pending transmission of the requisition for extradition through the diplomatic channel, the provisional arrest of a person whose extradition may be required under the present Convention may be applied for :

**Provisional
arrest.**

In the case of the Czechoslovak Republic, by the Courts, Public Prosecutor's offices, authorities responsible for public security and Governors of prisons ;

In the case of the Netherlands, by any law officer or any examining magistrate (judicial commissioner).

Provisional arrest shall take place in the form and in accordance with the regulations established by the laws of the State applied to.

Article 10.

An alien provisionally arrested under the terms of the previous Article may, unless he has to be kept under arrest for a reason other than the request for extradition, be set free if, within twenty days from the date on which he was provisionally arrested, the requisition for extradition has not been submitted through the diplomatic channel and the documents provided for in the present Convention have not been handed over.

Article 11.

Should the person whose extradition is requested under the provisions of the present Convention by one of the Contracting Parties be claimed at the same time by one or more other States, the State applied to shall decide to which of the States making application preference shall be given. If the State of which the person claimed is a national or the State in whose territory the offence has been committed is not among the States making application, the State applied to may inform it of the demands of the other States and shall fix a reasonable period within which they should announce whether they also intend to apply for extradition.

**Requisition
for extra-
dition
submitted
by more
than one
State.**

Article 12.

If extradition has been granted the State making application shall be obliged to cause the person claimed to be surrendered to it within sixty days from the date on which its diplomatic representative in the State applied to has received notice to the effect that extradition can be carried out immediately.

**Period
within
which
extradition
must take
place**

On the expiry of this period the person in question may be set free.

Article 13.

The conveyance in transit through the territory of either Contracting State of a person surrendered by a third Power to the other Party and not being a national of the country through which he passes in transit shall be granted merely on the production of the original or an authenticated copy of one of the procedure documents mentioned in Article 7, provided that the act which led to extradition is covered by the present

**Extradition
in transit.**

Convention and does not come under the provisions of Articles 3 and 6, and that, as regards escort, the person is conveyed with the assistance of officials of the country which has authorised transit across its territory.

Article 14.

Articles that may serve as proof of the crime found in the possession of the person claimed shall be handed over to the State making application should the competent authority of the State applied to require this to be done.

Handing over of articles that may serve as proof of the crime.

CHAPTER II.

JUDICIAL ASSISTANCE IN CRIMINAL MATTERS.

Article 15.

In criminal matters the Contracting Parties shall afford each other judicial assistance, so far as their legislation allows, when an application for the same is made through the diplomatic channel. They shall more particularly provide for the serving of writs in connection with penal proceedings on persons who are within their territories, they shall institute judicial investigations, such as the hearing of witnesses and experts and the taking of affidavits, and they shall transmit to each other legal documents and articles that may serve as proof of the crime, provided they return the same as soon as possible.

General provisions.

When effect is given to a request for judicial assistance in criminal matters, the laws of the State in whose territory the legal investigation demanded is to take place shall be observed. Nevertheless, on the express desire of the authority making application a special form of procedure may be used, on condition that it is not forbidden by the laws of the State applied to. The records relating thereto shall not be translated into the official language of the State making the application.

Judicial assistance in criminal matters may be refused when, under the provisions of Articles 2, 3 and 6 of the present Convention, there is no obligation to grant the extradition of the person against whom proceedings have been instituted.

Article 16.

If in a criminal case of a non-political character, either Government thinks it necessary that witnesses and experts should be heard who are in the territory of the other State, a "commission rogatoire" shall be transmitted for that purpose through the diplomatic channel and shall be executed in accordance with the laws of the country in which the witnesses or experts are called upon to appear. Nevertheless, if the matter is urgent, a "commission rogatoire" may be forwarded direct by the judicial authority in one State to the judicial authority in the other State.

Hearing of witnesses and experts.

Article 17.

Should it be necessary or desirable in a criminal case of a non-political character to secure the attendance in court of a witness or expert who is in the territory of the other country, his Government shall call upon him to comply with the request made to him, and should he agree to do so, he shall be given travelling and subsistence expenses at the rates and in accordance with the rules in force in the country in which he is to be heard, unless the Government making the request thinks fit to give the witness or expert a higher allowance.

Summoning and attendance in court in one contracting State of persons from the other State.

No witness or expert, whatever his nationality, who is summoned in one of the two countries and voluntarily attends in the courts of the other country may be prosecuted or detained in the territory of the latter for previous criminal offences or convictions or on the ground of complicity in the offence which is the subject of the case in which he is to appear as a witness or expert.

Such persons shall, however, forfeit the above privilege should they fail of their own free will to leave the territory of the applicant State within three days from the date on which the court has declared that their attendance in court has ceased to be necessary.

Article 18.

Should it be considered desirable or necessary in a criminal case of a non-political character to obtain the personal attendance of offenders under detention in the other State, or the communication of articles serving as proof of the crime or documents which are in the hands of the authorities of the other country, a request for the purpose shall be made through the diplomatic channel and, unless special circumstances render such a course undesirable, it shall be complied with, subject to the obligation to return the offenders and the articles and documents in question as soon as possible.

Article 19.

The two Governments undertake to communicate to each other and without repayment of costs all sentences having force of *res judicata* relating to punishable offences of all kinds, with the exception of minor offences, passed by the judicial authorities of either State on nationals of the other State.

This communication shall be made by forwarding through the diplomatic channel to the Government of the country to which the person convicted belongs, a certified copy of or extract from the definitive sentence or an extract from the criminal records.

Communi-
cation of
convictions
and criminal
records.

Article 20.

The two Governments undertake not to claim from each other repayment of the costs of maintenance, transport, etc., incurred within their respective territories as a result of the extradition of persons charged, accused or convicted, or the costs resulting from the execution of "commissions rogatoires" (not including expenses of experts), the conveyance and return of criminals to be heard in person, and the forwarding and return of articles that may serve as proof of the crime, or of documents.

Expenses of
judicial
Assistance
in criminal
matters.

Nevertheless, an exception shall be made in respect of fees for expert opinions of any kind and costs of conveyance in transit, together with any costs resulting from a request for the use of a special form of procedure in accordance with Article 15 of the present Convention.

Should conveyance by sea be considered preferable, the person to be surrendered shall be conveyed to the port indicated by the diplomatic or consular agent of the Government making application and shall be placed on board at the expense of the said Government.

CHAPTER III.

GENERAL PROVISIONS.

Article 21.

Documents submitted in proceedings under the present Convention shall be drawn up in the French language or accompanied by an official translation in that language.

Language to
be used.

Article 22.

The stipulations of the present Convention shall also apply to the Dutch East Indies, to Surinam and to Curaçao, subject to observance of the provisions which will be established later by notes exchanged between the two States and which may be necessary as a result of the legislation in force in these oversea territories.

Details regarding the requests referred to in the present Convention and coming from the authorities of the said territories or addressed to them, shall also be settled by these notes. Notwithstanding the provision in Article 10 the period for setting at liberty shall be three months.

Article 23.

The present Convention shall be ratified and the ratifications shall be exchanged at The Hague in two months, or sooner if possible.

It shall only come into force on the twentieth day after the date of the exchange of the ratifications.

It shall only come into force in the territories of the Kingdom of the Netherlands situated outside Europe, mentioned in Article 22, on a date to be fixed in the notes which will be exchanged as provided in that Article.

Article 24.

Each Contracting Party may denounce the present Convention at any time by giving six months previous notice to the other.

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

Done, in duplicate, at Prague, December 4, 1931.

(L. S.) Edvard BENEŠ.

(L. S.) Hendrik MULLER.