

N° 3361.

**ROUMANIE
ET YOUGOSLAVIE**

Convention relative à l'extradition
des infracteurs et à l'assistance
judiciaire en matière pénale, et
protocole de signature. Signés à
Beograd, le 30 janvier 1933.

**ROUMANIA
AND YUGOSLAVIA**

Convention regarding Extradition
and Legal Assistance in Criminal
Matters, and Protocol of Signa-
ture. Signed at Belgrade, January
30th, 1933.

¹ TRADUCTION. — TRANSLATION.

No. 3361. — CONVENTION ² BETWEEN THE KINGDOM OF ROUMANIA AND THE KINGDOM OF YUGOSLAVIA REGARDING EXTRADITION AND LEGAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT BELGRADE, JANUARY 30TH, 1933.

French official text communicated by the Permanent Delegate of the Kingdom of Yugoslavia accredited to the League of Nations. The registration of this Convention took place March 3rd, 1934.

HIS MAJESTY THE KING OF YUGOSLAVIA
and
HIS MAJESTY THE KING OF ROUMANIA,
Being equally desirous of regulating the question of the extradition of offenders as between the Kingdom of Yugoslavia and the Kingdom of Roumania,
Have decided to conclude a Convention for this purpose and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF YUGOSLAVIA :

Monsieur Bogoljub JEVTIĆ, Minister for Foreign Affairs ;

HIS MAJESTY THE KING OF ROUMANIA :

Monsieur Alexandre N. IAKOVAKY, Minister Plenipotentiary and Ministerial Director at the Ministry of Foreign Affairs at Bucharest ;

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

CHAPTER I.

EXTRADITION OF OFFENDERS.

Article I.

The Contracting Parties undertake to deliver up to one another reciprocally, on demand, persons in the territory of the one Party who are being proceeded against or have been convicted by the judicial authorities of the other Party for the offences specified in the following Article.

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 Bucharest, September 26th, 1933.

Article 2.

Offences subject under the law of both Contracting Parties (even where such law is not applicable to all parts of the territory of both States) to penalties involving not less than one year's deprivation of liberty shall be extraditable save in so far as otherwise provided in Article 4.

In the case of convicted persons, it shall be a further condition that the person applied for has been sentenced by a Court of final instance to a penalty involving not less than six months' deprivation of liberty.

Extradition shall also be granted under the same conditions in the case of attempts to commit the said offences or complicity therein, where such attempts or complicity are punishable under the law of both Contracting Parties.

Article 3.

In the case of offences subject under the law of the State applying to the penalty of death or general confiscation of property, the extradition of the accused or convicted person shall be conditional on the receipt beforehand by the State applied to of a formal assurance through the diplomatic channel that the said penalties will not be enforced.

Article 4.

Extradition shall be withheld in the following cases :

I.

(1) Where the person whose extradition is applied for is a national of the State applied to ;

(2) Where the offence was committed on the territory of the State applied to ;

(3) Where the prosecution of the offence is exclusively reserved, under the law of the Party applied to, for its own jurisdiction ;

(4) Where the person applied for is being proceeded against for the same offence in the country applied to, or the proceedings against him have already been dropped, or he has already been convicted or acquitted, in respect of the same offence, save in so far as the law of the country applied to allows the re-opening of criminal proceedings in the light of new facts ;

(5) Where under the law in force throughout the territory of one of the Contracting Parties immunity from prosecution or penalties has been acquired through limitation or other operation of law ;

(6) Where under the law of the Party applied to the offence which is the occasion of the application for extradition is such that proceedings in respect thereof can be taken only on the charge or motion of the injured party, unless it is established that the injured party has asked for such proceedings to be taken ; but this provision shall not relate to acts which are in the main misdemeanours under the ordinary law of the land.

II.

(1) For political offences or acts in connection with political offences.

It is understood that offences against the person of the King or members of the Royal Family or attempts to commit such offences or complicity therein shall not be treated as political offences or acts in connection with political offences.

Further, the act of counterfeiting or debasing the coinage or uttering counterfeit coin or fraudulently manufacturing, receiving or procuring instruments or other objects, designed by their nature for the manufacture of counterfeit coin or the debasing of coin, or attempts to commit such offences or complicity therein, shall not be deemed to be political misdemeanours.

- (2) For offences punishable only under military penal law ;
- (3) For Press offences ;
- (4) For offences against laws relating to Customs or taxes, or other laws relating to the revenue.

III.

The decision as to whether an application for extradition comes under one of the exceptions provided for in this Article shall rest with the State applied to.

Article 5.

If the person applied for is being proceeded against or has been convicted in the State applied to for an offence other than that which is the occasion of the application, extradition may be postponed until such time as the proceedings are concluded or, in the event of his conviction, until the convicted person has served his sentence or been granted remission thereof.

Such postponement shall not preclude the State applied to from immediately taking a decision of principle on the application for extradition.

If under the law of the Party applying the effect of postponement might be to establish the immunity of the person applied for through limitation, or otherwise to cause serious impediments to the proceedings, the temporary surrender of the person applied for shall be allowed, in the absence of any special grounds for its refusal, subject to an obligation on the part of the State applying to return the person so surrendered as soon as the proceedings in its territory are concluded.

If the person claimed had put in a request for naturalisation in the State applied to before committing the offence which is the occasion of the application for his extradition, the decision with regard to the application may be postponed until a decision has been taken with regard to his request for naturalisation.

Article 6.

If the person whose extradition is applied for by one of the Contracting Parties is claimed in addition by one or more States, he shall be surrendered to the State of which he is a national.

If the person whose extradition is applied for is not a national of any of the States applying, he shall be surrendered to the State on whose territory the offence was committed ; in the case of a number of offences, he shall be surrendered to the State in which the most serious offence was committed ; if the offences are of equal gravity, he shall be surrendered to the State whose application for extradition was first received.

This provision shall not in any way affect any undertakings entered into previously by one of the Contracting Parties with other States.

Article 7.

The person extradited may not be proceeded against or punished in the territory of the Party to which he is extradited, nor may he be surrendered to a third State, for offences other than those for which the extradition was expressly granted.

In the case of offences committed before the extradition, the person extradited may be proceeded against, punished or surrendered to a third State, only in the following cases :

(1) Where the Party granting extradition consents thereafter to such proceedings, punishment or surrender ; but such consent shall not be refused, if extradition would have had to be granted under the terms of the present Convention ;

(2) Where the person extradited has not quitted of his own accord the territory of the State to which he was extradited within one month from the date on which he was finally tried for the offence which was the occasion of his extradition or, in the event of his conviction, within one month after he has served his sentence or been granted remission thereof, or where he has returned thereafter of his own accord.

Article 8.

Application for extradition shall be made direct by the Ministry of Justice of the Party applying to the Ministry of Justice of the Party applied to.

The application must specify the place where the offender is to be surrendered.

The application for extradition must be accompanied by a warrant of arrest or judicial decision ordering the arrest of the offender or writ of indictment or sentence, and the said document must further be accompanied by a brief summary of the facts, the nature and gravity of the offence, and a statement of the legal position together with the text of the laws applied or applicable, as also a description of the offence and the penalty entailed.

It shall further be accompanied, where possible, by particulars of the person to be extradited, his photograph and any other particulars required for establishing his identity.

The above documents must be drawn up in the form prescribed for the Party applying in original or certified copy.

Extradition shall be effected by the organs of the Party applied to at the expense of the Party applying.

Article 9.

Should there be any doubt as to whether the offence which is the occasion of the proceedings comes within the provisions of the present Convention or not, the Party applying shall be asked for explanations, and extradition shall not be granted unless the explanations furnished are of such a character as to allay any such doubts.

Article 10.

Persons whose extradition is applied for shall be detained in custody pending extradition as soon as the application is received, unless there is reason to believe that they are not extraditable.

In urgent cases, persons against whom proceedings are pending may be placed under provisional arrest, even before application for their extradition has been received, unless it should appear from a communication containing an explicit reference to one of the acts specified in the third paragraph of Article 8, with particulars as to the nature of the offence proceeded against, that they are *prima facie* not extraditable.

Communications to the above effect may be transmitted direct by the Courts, the Director of Public Prosecutions or the police authorities of the State applying to the competent authorities of the State applied to, by post or by telegraph.

Article 11.

Persons detained in custody under Article 10 shall be set at liberty :

- (1) Where the application for their extradition under the first paragraph of the preceding Article is rejected ;
- (2) Where the explanations required under Article 9 have not been received within a period of 30 days from the date on which the application was sent ;
- (3) Where the documents referred to in the second paragraph of the preceding Article have not been received within a period of 30 days from the date of the arrest.

Article 12.

The Contracting Party to which the person proceeded against has been surrendered shall inform the State applied to as to the final result of the proceedings by the transmission of a copy of the verdict.

Article 13.

The provisions of the present Convention shall be applicable equally to applications by one of the Contracting Parties to the other to allow the conveyance through its territory in transit of a person surrendered by a third State to the Party applying.

Such conveyance shall be effected by the authorities of the Party applied to.

CHAPTER II.

LEGAL ASSISTANCE IN CRIMINAL MATTERS.

Article 14.

The Contracting Parties undertake reciprocally to afford one another legal assistance in criminal matters on their respective territories. In particular, they shall serve documents in connection with criminal procedure on persons within their territory, and shall execute letters of request in connection with judicial enquiries, for example, in connection with the hearing of accused persons, witnesses or experts, inspection of places or premises, personal searches or seizures of *corpus delicti* or material exhibits.

They shall, further, deliver to one another any judicial processes or objects in connection with criminal proceedings, for return at the earliest possible date.

Requests for service and letters of request from criminal authorities shall be made through the Ministries of Justice of the Contracting Parties, which shall transmit them to the competent authorities.

Requests for legal assistance in criminal matters shall be executed in compliance with the law of the State on whose territory the judicial action requested is to take place.

Article 15.

Sentences or summonses to appear for trial before the Courts of one of the Contracting Parties shall not be served on nationals of the other Party.

Similarly, nationals of one of the Contracting Parties may not be interrogated as accused persons at the request of the other Party.

The Party applied to shall inform the other Party without delay in the event of its refusal to serve a writ or to execute a letter of request, and state its reasons for refusal.

Article 16.

If, in a criminal case, the personal appearance of witnesses or experts is considered necessary or desirable, the Government of the Party on whose territory the said witnesses or experts are at the time shall call upon the same to comply with the summons addressed to them by the authorities of the other Party, but shall not be entitled to take any coercive action against them.

The costs connected with the personal appearance of witnesses or experts shall in all cases be borne by the State applying, and the summons shall show the amount to be allocated to the said witnesses or experts as travelling expenses or subsistence allowance, together with the amount to be advanced to them by the State applied to, subject to repayment by the State applying.

Such advance shall be paid to them as soon as they have declared their willingness to comply with the summons.

Witnesses or experts of whatsoever nationality who, being cited in the territory of one of the Contracting Parties, appear of their own free will before the Courts of the other Party, may not be proceeded against therein or detained in custody for previous criminal acts or convictions or on the pretext of complicity in acts which are the subject of the proceedings in which they are cited to appear as witnesses or experts; nevertheless, such persons shall forfeit the benefit of such immunity if, as a result of their own negligence, they fail to quit the country within 48 hours from the time when their presence in Court is no longer required.

If a person cited as a witness is in custody in the territory of the Party applied to, a request may be made for his appearance, subject to an undertaking to return him within 48 hours from the time when his presence is no longer required.

Such a request may not be refused except on special grounds, as (for example) where the person cited is himself unwilling to appear.

Article 17.

The Contracting Parties undertake to deliver up to one another reciprocally, on demand, objects which are the proceeds of an offence or are capable of serving as material exhibits, even where such objects are liable to be seized or confiscated.

If the said objects are in the possession of the accused, they shall, as far as possible, be handed over at the time of the extradition or transit of the accused. They shall be delivered up to the Government applying, even in cases where the extradition has been allowed but cannot take place by reason of the death or escape of the accused person.

All objects of like kind concealed or deposited by the accused in the country granting extradition, and subsequently discovered, shall also be handed over.

The Party to which the request for delivery of such objects is addressed may retain them provisionally, if it considers such retention necessary with a view to a judicial enquiry.

Rights of third parties in relation to such objects shall be respected.

The Party which has agreed to deliver up the aforesaid objects may reserve the right to apply for their return at the earliest possible date.

In such case, as also when the objects delivered up are subject to the rights of third parties, steps shall be taken to return the same so soon as they are no longer necessary for the purpose of the criminal proceedings. They shall be returned at the expense of the State returning them.

Article 18.

The Contracting Parties undertake to notify one another reciprocally as to all final sentences for crimes or misdemeanours of whatever kind which are passed by the Courts of either Party against nationals of the other Party.

Such notification shall be by means of the transmission of records of sentences to the Party to which the convicted persons belong.

The records of sentences shall be transmitted every three months.

Article 19.

The Kingdom of Yugoslavia undertakes to supply the Roumanian State, on demand, with particulars of the police records for those parts of Yugoslav territory where such criminal records exist, and to furnish all available information in cases where such records do not exist.

The Kingdom of Roumania assumes the same obligation in relation to the Kingdom of Yugoslavia as soon as such a system has been established, and undertakes in the meanwhile to furnish the particulars referred to on the basis of the information collected by the criminal authorities.

The Contracting Parties shall communicate to one another reciprocally lists of the authorities whose duty it is to keep police records or to furnish the requisite particulars.

CHAPTER III.

PROVISIONS APPLICABLE TO EXTRADITION AS WELL AS TO LEGAL ASSISTANCE.

Article 20.

Applications for extradition, together with the annexes attached thereto, requests for service and letters of request need not be legalised, but must carry the seal of the authorities applying. Such applications or letters of request with their annexes shall be accompanied, in the case of Yugoslavia, by a Serb-Croat-Slovene or French translation, and, in the case of Roumania, by a Roumanian or French translation, if not drawn up in the language of the authority applied to.

Such translations shall be either official or drawn up or legalised by a sworn translator of the Party applying, and shall be signed with the translator's signature and sealed with an official seal.

Replies to applications for extradition, documents proving service or stating grounds for the non-execution of such service, replies to letters of request and documents drawn up in execution thereof, and their annexes, shall not be accompanied by a translation, unless the Party applying so requests, in which case the costs of translation shall be recovered from the Party applying.

Article 21.

Expenditure arising out of the execution of applications for extradition or other legal assistance in criminal matters shall, as a general rule, be at the charge of the Party on whose territory it is incurred.

Nevertheless, the Party applying shall refund sums paid to experts and costs arising out of the temporary surrender of the persons to whom the last paragraph but one of Article 16 relates, as also the costs of conveyance to which Article 13 relates.

Similarly, the costs of temporary surrender to which Article 5 relates shall be borne by the Party applying.

CHAPTER IV.

FINAL PROVISIONS.

Article 22.

The present Convention shall be ratified and the ratifications shall be exchanged at Bucharest as soon as possible.

Article 23.

The present Convention shall come into force one month after the exchange of ratifications. It shall remain in force for six months from the date of its denunciation by one of the Contracting Parties.

In faith whereof the respective Plenipotentiaries have affixed their signatures and seals.

Done at Belgrade, in two originals in French, January 30th, one thousand nine hundred and thirty-three.

(L. S.) B. JEVIĆ, *m. p.*

(L. S.) Alexandre N. IACOVAKY, *m. p.*

PROTOCOL OF SIGNATURE.

At the time of signing the present Convention, the Contracting Parties are agreed that extradition shall be granted only in the case of crimes and misdemeanours. Where under the law of either of the Contracting Parties an offence is punishable with imprisonment for one year or more, it is understood that the provisions of Article 2 of the present Convention shall not be applicable and that extradition shall not be granted.

Done at Belgrade, in two originals in French, January 30th, one thousand nine hundred and thirty-three.

(L. S.) B. JEVIĆ, *m. p.*

(L. S.) Alexandre N. IACOVAKY, *m. p.*