

N° 3382.

ESTONIE ET PAYS-BAS

Convention d'extradition et d'assistance judiciaire en matière pénale.
Signée à Londres, le 8 mars 1933.

**ESTONIA
AND THE NETHERLANDS**

Convention regarding Extradition
and Judicial Assistance in Criminal
Matters. Signed at London,
March 8th, 1933.

¹ TRADUCTION. — TRANSLATION.No. 3382. — CONVENTION² BETWEEN ESTONIA AND THE NETHERLANDS REGARDING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT LONDON, MARCH 8TH, 1933.

French official text communicated by the Estonian Minister for Foreign Affairs and by the Netherlands Envoy Extraordinary and Minister Plenipotentiary at Berne. The registration of this Convention took place March 7th, 1934.

THE HEAD OF THE REPUBLIC OF ESTONIA
and

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

Having jointly agreed to conclude a Convention for extradition and judicial assistance in criminal matters,

Have appointed for that purpose as their Plenipotentiaries :

THE HEAD OF THE REPUBLIC OF ESTONIA :

Monsieur O. KALLAS, Envoy Extraordinary and Minister Plenipotentiary of Estonia ;

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

Jonkheer R. DE MAREES VAN SWINDEREN, her Envoy Extraordinary and Minister Plenipotentiary ;

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

Article 1.

The Government of Estonia and the Government of the Netherlands undertake to surrender to each other, in accordance with the rules laid down in the Articles which follow, all persons, other than their own nationals, 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 is also included among the punishable acts enumerated hereinafter. The extradition of a national of a third State may be refused should the said State be at war with the applicant State.

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

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 London, January 5th, 1934.

Article 2.

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

(1) (a) An offence committed or attempted against the life or liberty of the King, the Queen Regnant, the Regent, the head of the State or another head of a friendly State, or undertaken with the object of rendering them incapable of reigning or 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 of a child ;

(3) Threats made in writing and laying down definite conditions ;

(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 years ; 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) All fraudulent acts connected with counterfeiting or altering currency, whatever means be employed to bring about the result ; fraudulent uttering of false currency ; the act, for the purpose of putting it into circulation, of introducing into the country or receiving or procuring false money, knowing it to be false ; the fraudulent acts of manufacturing, receiving or procuring instruments or other articles intended by their nature for the manufacture of false currency or the alteration of currency ;

In the present Convention, the word " currency " shall be held to mean paper money (including bank-notes) and metal currency, being legal tender ;

(12) Counterfeiting or altering of State seals, and marks or stamps regarded as being such, or marks of manufacture required by law ;

(13) Forgery of documents and wilful 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 bottomy contract ;

(17) Unlawful 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 unlawful act committed with the intention of sinking, stranding or destroying a ship 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 ship against, or refusal to obey, the ship-master, 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, which are punishable under the legislation of the country from which extradition is applied for.

Extradition shall be granted in respect of the acts enumerated above only if in both contracting countries they involve a maximum penalty of not less than one year's imprisonment.

Article 3.

Extradition shall not take place :

(1) When the act has been committed in a third country and the Government of that country applies for extradition ;

(2) 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 thereby been finally convicted, discharged or acquitted in that country ;

(3) 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 tried.

Article 4.

If the person claimed is being proceeded against or is serving a sentence of punishment for an offence other than that which gave rise to the requisition for extradition, his extradition shall be granted only 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 has been pardoned. Nevertheless, a person who is claimed may be surrendered 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.

Article 5.

It is expressly laid down that a person who has been extradited may not be prosecuted or punished, in the State to which extradition has been granted, for any punishable act whatsoever not provided for in the present Convention and committed prior to his extradition and, failing the consent of the country granting extradition, he may not be prosecuted or punished for an act

provided for in the present Convention and committed prior to his extradition, other than that which led to the extradition ; nor may he be extradited 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.

Article 6.

The provisions of the present Convention shall not apply to political offences. The State to which the request for extradition is made shall decide whether an offence is to be regarded as having a political character. A person who has been extradited by reason of one of the offences at ordinary law enumerated in Article 2 may therefore in no case be prosecuted and punished in the State to which extradition has been granted by reason of a political offence committed by such person before extradition, nor by reason of an act connected with a similar political offence.

Article 7.

Extradition shall be applied for through the diplomatic channel and shall be granted only 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, together with a warrant of arrest, issued in the forms laid down in the laws of the State making the requisition and giving particulars of the act in question sufficient to enable the State to which application is made to decide whether, under its laws, the act constitutes a case provided for by the present Convention, and also the penal provisions applicable thereto. Documents not drawn up in the French language shall be accompanied by a translation into French.

Article 8.

Articles seized in the possession of the individual claimed shall be surrendered to the applicant State should the competent authority of the State to which application is made order their surrender.

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 :

In the case of Estonia, by prefects of police and commissioners of criminal police ;

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 shall, unless he has to be kept under arrest for another reason, be released if, within twenty days from the date of the provisional warrant of arrest, the requisition for extradition through the diplomatic channel, with the documents provided for in the present Convention, has not been made.

Article 11.

If, in criminal proceedings in a case of a non-political character, either Government thinks it necessary that witnesses should be heard who are in the territory of the other State, letters of request 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 are summoned to appear. Nevertheless, if the matter is urgent, letters of request may be sent direct by the judicial authority in one State to the judicial authority in the other State.

All letters of request the purpose of which is to request the hearing of witnesses shall be accompanied by a translation into French.

Article 12.

Should it be necessary or desirable in a criminal case of a non-political character to secure the attendance in court of a witness 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 a higher allowance.

No witness, 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.

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

Article 13.

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 evidence 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 14.

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 lies within the scope of the present 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.

The expenses involved by conveyance in transit shall be chargeable to the applicant State.

Article 15.

The two Governments undertake not to claim from each other repayment of any 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 letters of

request, the conveyance and return of criminals to be heard in person, and the forwarding and return of articles that may serve as evidence of the crime, or of documents.

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.

Article 16.

The two Governments undertake to communicate to each other without repayment of costs all sentences of condemnation having the 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 the forwarding, through the diplomatic channel, to the Government of the country to which the person convicted belongs, of a certified copy of or an extract from the definitive sentence or an extract from the criminal records, accompanied by a French translation, should the said document be drawn up in another language.

Article 17.

The stipulations of the present Convention shall also apply to the Netherlands Indies, to Surinam and to Curaçao, subject to observance of the provisions which will be established later by any notes, to be exchanged between the two States, which may be necessary as a result of the laws 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 means of such notes. Notwithstanding Article 10, the period for release shall be three months.

Article 18.

The present Convention shall be ratified and shall come into force on the sixtieth day after the exchange of ratifications, which shall take place in London.

It shall not come into force in the territories of the Kingdom of the Netherlands situate outside Europe, referred to in Article 17, until a date to be fixed in the notes to be exchanged as provided in that Article.

Article 19.

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

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

Done in duplicate in London, on March 8th, 1933.

(L. S.) O. KALLAS.

(L. S.) R. DE MAREES VAN SWINDEREN.