

N° 3676.

SUISSE ET TURQUIE

**Traité d'extradition et d'entr'aide
judiciaire en matière pénale, et
protocole final. Signés à Ankara,
le 1^{er} juin 1933.**

SWITZERLAND AND TURKEY

**Treaty concerning Extradition and
Judicial Assistance in Criminal
Matters, and Final Protocol.
Signed at Ankara, June 1st, 1933.**

¹ TRADUCTION. — TRANSLATION.No. 3676. — TREATY ² CONCERNING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN SWITZERLAND AND TURKEY. SIGNED AT ANKARA, JUNE 1ST, 1933.

French official text communicated by the Swiss Federal Council. The registration of this Treaty took place June 21st, 1935.

THE SWISS FEDERAL COUNCIL

and

THE PRESIDENT OF THE TURKISH REPUBLIC,

With the object of ensuring the punishment of crime, have agreed to regulate by a Treaty their reciprocal obligations in regard to judicial assistance in criminal matters. They have, with this object, appointed as their respective Plenipotentiaries :

THE SWISS FEDERAL COUNCIL :

Monsieur Henri MARTIN, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation in Turkey ;

THE PRESIDENT OF THE TURKISH REPUBLIC :

Menemenli NUMAN Bey, Minister Plenipotentiary (First Class), Under Secretary of State at the Ministry of Foreign Affairs.

These Plenipotentiaries, after having communicated to one another their full powers¹ found in good and due form, have agreed on the following provisions :

I. GENERAL PROVISIONS.

Article 1.

The Contracting Parties undertake, on condition of reciprocity, within the limits of the following Articles :

Extent of
judicial
assistance.

(a) To extradite and deliver in transit individuals who have been prosecuted or sentenced ;

(b) To confiscate and hand over money and objects ;

(c) To report to the police authorities, or in the official police circulars of the two States, individuals who have been prosecuted or convicted ;

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 Berne, May 7th, 1935. Came into force June 19th, 1935.

- (d) To supply to the other State documents to serve as a basis for possible proceedings against nationals of the latter who may have returned to their country of origin ;
- (e) To serve documents and enforce letters of request in penal matters ;
- (f) To communicate to one another final judgments given against nationals of the other State.

II. EXTRADITION.

Article 2.

Extradition shall be granted by the State applied to in the case of individuals on its territory who are being prosecuted or have been convicted by the competent authorities of the other State, with the exception of nationals of the State applied to.

**Individuals
to be
extradited.**

Article 3.

§ 1. The offences giving rise to extradition are as follows :

- (1) Homicide, including assassination, murder, parricide, infanticide and poisoning ;
- (2) Procuring abortion ;
- (3) Battery or wounding resulting in death or lasting infirmity, permanent incapacity for work or maiming of limb or bodily organ ;

**Extraditable
offences.**

(4) Rape, indecent assault with violence, procuring, traffic in women and children ;

(5) Indecent assault, with or without violence, on children of either sex under 14 years of age ;

(6) Abduction and false imprisonment, tampering with registers of civil status, substitution of children ;

(7) Exposure or abandonment of children or of helpless persons, abduction of minors ;

(8) Forgery or debasement of currency or of paper money, bank-notes or other valuable scrip used as legal tender, of bonds or other securities issued by the State, by corporations, companies or individuals ; forgery or alteration of postage stamps, stamps, marks or seals of the State or of public offices ; fraudulent use of the said forged or altered objects, or their introduction, issue or uttering or putting into circulation with fraudulent intent, fraudulent use or misuse of seals, stamps and recognized marks ;

(9) Forgery of public or private documents, falsification of public documents or of any commercial documents ; fraudulent use of such falsified or counterfeited documents ; theft of documents ;

(10) Perjury, subornation of perjury, false oath in civil or criminal matters ;

(11) Corruption of public officials ;

(12) Peculation or embezzlement of public moneys, extortion by officials or trustees ;

(13) Arson ; misuse of explosives ;

(14) Voluntary acts resulting in the destruction of or damage to railways, steamships, postal vans, electrical apparatus or systems (telegraphs, telephones) and danger to their working ;

(15) Highway robbery, extortion, theft, receiving and concealing of stolen goods ;

(16) Piracy, voluntary acts committed with the object of sinking, wrecking or destroying a vessel or making it unfit for use or damaging it, when danger may result for a third person ;

(17) Swindling ;

(18) Breach of trust and fraudulent extraction ;

(19) Fraudulent bankruptcy ;

(20) Voluntary offences against the provisions concerning narcotic drugs.

§ 2. Extradition may also be demanded in the case of all the offences specified in the laws of the two States which fulfil the conditions of § 3 of the present Article.

The foregoing classifications include attempts, complicity, instigation and encouragement.

§ 3. Extradition shall not take place :

(a) In the case of individuals who have not been convicted, unless the offence, under the laws of both States, may involve the penalty of one year's imprisonment or a heavier penalty ;

(b) In the case of convicted persons, except when the total penalties inflicted or the remainder of the penalty to be served amounts to at least six months' imprisonment.

Article 4.

Extradition shall not take place :

(a) When the punishable act which determined the application constitutes a political offence or when, even in the case of an offence under the ordinary law, the punishable act, in view of its purpose or motive and in consequence of the circumstances accompanying its execution, is regarded by the State applied to as an essentially political offence ;

(b) When the punishable act which determined the application is of a fiscal or purely military character or when it constitutes a press offence ;

(c) When the punishable act was committed in the territory of the State applied to, or when, having been perpetrated outside it, it comes within the jurisdiction of that State ;

(d) When penal proceedings or execution of the penalty are rendered invalid by prescription, under the law of one or other State, or when prosecution would be inadmissible for other legal reasons, for example, in the absence of indictment ;

(e) When the individual wanted has been acquitted or convicted, in a third State, on account of the act which led to the application for extradition, and, in the case of conviction, if he has served his sentence, or if the latter has been remitted.

Article 5.

Extradition shall take place subject to the reservation that the individual wanted shall not be tried by an extraordinary tribunal.

Exceptions
to
extradition.

Reservation.

Article 6.

An individual whose extradition has been granted may not be prosecuted or punished for an offence previous to his extradition and not included in the application, unless the State which has granted extradition has agreed to it on the basis of documentary proof as provided in Article 8.

Speciality of extradition.

This restriction shall lapse if the extradited person does not make use of the right to leave the territory of the State to which he has been surrendered within thirty days after his final release, or if he returns to it after having left it.

The same provisions are applicable in the case of re-extradition to a third State.

Article 7.

The State to which an individual has been surrendered will communicate to the other State a copy of the judgment concerning the offence which determined the extradition.

Guarantee of extradition.

Article 8.

The application for extradition shall be accompanied :

(a) By the judgment of a court or by a decision to institute criminal proceedings or by a warrant of arrest or by any other equivalent document ;

(b) By a detailed description of the offence, containing the features of the offence, particulars of the place and time of its commission and, in the case of offences against property, concerning the extent of the damage that the delinquent caused or intended to cause ;

(c) By a copy of the penal provisions applicable or applied, in the State making application, to the indictable act ;

(d) By all documents and information, such as description, photograph, finger-prints if any, necessary for the identification of the individual wanted.

Application for extradition.

In the case of an application for the extradition of an individual who has escaped from prison, it will be necessary to produce also a statement showing the date of his imprisonment and of his escape, and the term still to be served.

Article 9.

On receipt of the application for extradition, the State applied to shall take the necessary measures to apprehend the individual wanted. If there are no serious grounds for considering that the application is not justified, the individual wanted shall, as a rule, be arrested and kept in prison until the close of the extradition proceedings.

Measures to apprehend the individual wanted.

If, in order to ensure the arrest of the individual wanted, it is necessary to sequester postal matter or telegrams, the competent authority of the State applied to shall officially take the appropriate measures in accordance with the laws of the country.

Article 10.

The individual wanted may be arrested provisionally, even before his extradition has been applied for, if the State making application submits a request to this effect, mentioning the existence of one of the documents provided for in Article 8, letter (a), specifying the offence clearly and giving assurances as to the forwarding of the request for extradition.

Provisional arrest.

The arrest shall be communicated immediately to the other State.

The individual arrested shall be released if the application for extradition is not submitted, with the documents in proof as provided in Article 8, within fifty days following the arrest.

Article 11.

If the State applied to considers that the application for extradition does not comply with the provisions of Article 8 of the present Treaty, it may demand the supplementary information necessary from the State making application, for which it is entitled to fix a time-limit of thirty days. **Supplementary information.**

If the supplementary information does not arrive within this time-limit, the person for whose extradition application has been made may be released.

Article 12.

The Contracting States pledge themselves to take the necessary steps to accelerate extradition procedure. **Acceleration of extradition procedure.**

When extradition has been granted, they will ensure its prompt execution in the manner agreed upon in the particular case, subject to the provisions of Article 13.

No civil obligations that the wanted individual may have contracted in the State applied to shall constitute a bar to his extradition.

Article 13.

If criminal proceedings are pending in the State applied to against the wanted individual, or if the latter has to serve a sentence there for some offence other than that which determined the application for extradition, extradition may be deferred until the requirements of justice have been satisfied in the State applied to. **Deferred extradition.**

Nevertheless, an immediate decision shall be taken on the request for extradition.

Article 14.

When an individual is wanted not only by one of the Contracting States, but also by a third State, the State applied to shall decide freely to which Government he shall be surrendered, taking into account the interests of justice. **Plurality of applications for extradition.**

Nevertheless, if the wanted individual is a national of the other Contracting Party, extradition shall, as a rule, be granted to that State.

III. EXTRADITION IN TRANSIT.

Article 15.

Extradition in transit of an individual to be extradited by a third State to the other Contracting State, through the territory of one of the Contracting States, shall be granted under the same conditions as extradition. **Extradition in transit.**

It shall be effected by the most rapid means, under the supervision of the police of the State applied to.

IV. SURRENDER OF CONFISCATED MONEY AND OBJECTS.

Article 16.

Everything (papers, money, various objects) that the wanted individual had in his possession or in his keeping, or hidden or placed by him in the possession or keeping of another person, shall be officially confiscated. **Surrender of confiscated objects.**

When these objects may serve as evidence in the criminal proceedings, they shall, if the competent authorities see no objection thereto, be handed over to the authority making application, if possible at the same time as the extradited person. If third parties substantiate claims to these objects, the latter shall, on request, be restored to the State applied to, to be handed over to the persons entitled to them as soon as they are no longer required as evidence.

They shall also be handed over, the rights of third parties being reserved, when, though not evidence, they are otherwise connected with the offence.

They shall be handed over under the same conditions when the extradition of the individual wanted cannot take place owing to death or flight.

Money and securities accruing in connection with the offence, under the terms of paragraph 3, cannot be used to cover the costs devolving under Article 24 upon the State applied to.

V. DESCRIPTION OF FUGITIVES.

Article 17.

Individuals assumed to be in the other State, but whose exact address is unknown, and those whom it has been impossible to reach after the application for extradition, or who have fled, shall, if circumstances justify such a measure, be reported to the police authorities, or mentioned in the official police circulars of the State applied to. The description shall be given as soon as a reasoned application for extradition has been submitted.

**Description
of fugitives.**

In case of discovery, the individual reported shall be arrested and the extradition proceedings shall pursue their course.

When a case of extradition is settled in any other manner, the State making application shall immediately notify the State applied to, in order that the description may be withdrawn.

VI. CRIMINAL PROCEEDINGS.

Article 18.

When, under the laws of the State of the individual against whom proceedings have been taken, it is possible to proceed against him for an offence committed in the other State, the latter State shall communicate its procedural papers and any other document or information required for the proceedings.

**Criminal
proceedings.**

The State of origin of the individual against whom proceedings have been taken shall inform the other State concerning the course and result of the proceedings, and also, in the event of conviction, concerning the execution of sentence. It shall also communicate the judgment given or the decision taken, in the original or in an authentic copy.

VII. OTHER MEANS OF JUDICIAL ASSISTANCE IN PENAL MATTERS.

Article 19.

The Contracting States pledge themselves further to give one another judicial assistance in criminal matters :

**Extent of
judicial
assistance.**

- (a) By the serving of documents, more particularly summonses ;
- (b) By the execution of letters of request for the hearing of accused persons, witnesses or experts, and by other acts relating to preliminary proceedings, provided that the authorities of the State applied to have no objection thereto.

Article 20.

Requests for judicial assistance shall be treated in accordance with the laws of the State applied to, and the authorities of that State shall employ the same measures of constraint as they would in the case of similar requests received from their own authorities.

If effect cannot be given to the request, the State making application shall be informed accordingly, with a statement of the reasons.

Execution
of requests.

Article 21.

When a document is served, the State applied to shall deliver a receipt to the State making application; in the case of a summons, a declaration stating whether the person concerned intends to comply with it.

Serving of
documents.

A witness or expert who has voluntarily complied with a summons may not in any case, whatever his nationality, be prosecuted in the territory of the State making application as the author of the offence which forms the subject of the criminal proceedings, either on account of complicity, attempted offence, receiving and concealing stolen goods, or encouraging the offence, or for any other act committed previously. Nor may he be arrested or detained for the execution of a judgment previous to his arrival or on any other grounds prior in date.

Safe
conduct.

Article 22.

There shall be no obligation to afford judicial assistance within the meaning of Article 19:

Exceptions
to the
obligation to
afford
judicial
assistance.

(a) When the act for which it is requested does not constitute an extraditable offence under the terms of the present Treaty;

(b) When the State applied to considers that the request for assistance is such as to be prejudicial to its sovereignty or security;

(c) When the request concerns a political, purely military, fiscal or press affair;

(d) When the person summoned is threatened, in case of default, with measures of constraint or penalty of any kind.

VIII. COMMUNICATION OF JUDGMENTS.

Article 23.

The Contracting States shall inform one another of judgments that have become final, pronounced by the courts of one of them against nationals of the other, and such judgments shall be entered in the judicial records, in accordance with the provisions of the State in which judgment is given.

Communi-
cation of
judgments.

The document thus communicated shall mention the civil status of the accused, the court which pronounced judgment, the offence, the date of the judgment and the sentence inflicted.

IX. FINAL PROVISIONS.

Article 24.

Expenditure incurred by the authorities of the State applied to in examining the request and granting judicial assistance in accordance with the provisions of the present Treaty shall be borne by that State. The same shall apply when the desired effect has not been given to the request for assistance.

Costs of
judicial
assistance.

The costs resulting from extradition in transit, transport by sea or the taking of expert opinion shall devolve upon the applicant State.

Article 25.

All requests for judicial assistance provided for in the present Treaty shall be submitted and dealt with through diplomatic channels. Diplomatic channel.

Article 26.

The documents to be produced in accordance with the provisions of the present Treaty shall be drawn up in the form prescribed by the laws of the State making application. They shall be accompanied by a translation in the language of the State applied to or in French. This translation shall be certified correct by the diplomatic agent of the State making application or by a sworn translator of that State or of the State applied to. Translations and legalization.

Article 27.

The present Treaty shall be ratified in conformity with the constitution and laws of the two Contracting States and shall come into force six months after the exchange of the instruments of ratification, which shall take place at Berne at the earliest possible date. Entry into force, ratification, denunciation.

The Treaty shall be for an unlimited period. Each of the Contracting States shall have the right to denounce it at any time. The denunciation shall become effective six months after its notification.

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

Done at Ankara, this 1st day of June, 1933.

(L. S.) (Signed) Henri MARTIN.

(L. S.) (Signed) M. NUMAN.

FINAL PROTOCOL.

When about to sign the Treaty of Extradition and Judicial Assistance in Penal Matters concluded on to-day's date, the undersigned, being duly authorised to do so, have specified :

(a) That the offences mentioned in § 2 of Article 3 shall be those for which extradition is authorised under the laws of the State applied to ;

(b) That their respective Penal Codes do not provide for corporal punishment ;

(c) That in the case of extradition by Switzerland to Turkey of an individual sentenced to death or who may be sentenced to that penalty by reason of his offence, the Federal Government shall be authorised to transmit a request for the commutation of the death sentence into a sentence of rigorous imprisonment (for life). This request shall be transmitted by the Turkish Government to the National Grand Assembly, which alone has competence to ratify a death sentence, provided that the Assembly has not yet passed a decision on the judgment in question. The Federal Government will not submit the request for the commutation of the sentence when the individual extradited has been arrested in the territory of a Swiss Canton in which the death penalty exists.

Done at Ankara, this 1st day of June, 1933.

(Signed) Henri MARTIN.

(Signed) M. NUMAN.