

N° 3748.

DANEMARK ET LITHUANIE

Convention concernant l'extradition
réciproque des malfaiteurs et l'as-
sistance judiciaire en matière cri-
minelle. Signée à Kaunas, le 20
décembre 1934.

DENMARK AND LITHUANIA

Convention concerning the Reciprocal
Extradition of Offenders and Legal
Assistance in Criminal Matters.
Signed at Kaunas, December
20th, 1934.

¹ TRADUCTION. — TRANSLATION.

No. 3748. — CONVENTION ² BETWEEN DENMARK AND LITHUANIA CONCERNING THE RECIPROCAL EXTRADITION OF OFFENDERS AND LEGAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT KAUNAS, DECEMBER 20TH, 1934.

*French official text communicated by the Permanent Delegate of Denmark to the League of Nations.
The registration of this Convention took place October 18th, 1935.*

HIS MAJESTY THE KING OF DENMARK AND ICELAND and HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF LITHUANIA, having resolved to conclude a Convention concerning the reciprocal extradition of offenders and legal assistance in criminal matters, have with this object appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF DENMARK AND ICELAND :

Monsieur Sven Peter DUURLOO, Counsellor of Legation, His Chargé d'Affaires *a. i.* at Kaunas ;

HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF LITHUANIA :

Monsieur Stasys LOZORAITIS, Minister for Foreign Affairs of the Republic of Lithuania ;

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

Article I.

The Contracting Parties undertake by the present Convention to surrender to each other persons accused or convicted of any offence mentioned below, provided that, in the case of accused persons, the offence, whether accompanied or not by aggravating circumstances, shall be punishable both under Danish and under Lithuanian law by a maximum penalty not below one year's imprisonment, and provided that in the case of convicted persons the sentence shall be not less than six months' imprisonment and the maximum penalty applicable to the offence under the law of the State applied to shall be not less than one year's imprisonment.

The offences for which extradition shall be granted are as follows :

- (1) Acts of violence against the public authorities ;
- (2) Perjury, false witness.

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 Kaunas, July 5th, 1935.
Came into force August 4th, 1935.

- (3) Bigamy.
- (4) Sexual intercourse between persons too nearly related.
- (5) Unlawful sexual intercourse with an irresponsible person or with a person unable to offer resistance, or as a result of a person taking unfair advantage of his position or of special circumstances, or with a child under the age fixed by the criminal law of the two countries.
- (6) Procuring ; assisting or abetting a person to become a prostitute when such person is under the age fixed by the criminal law of the two countries ; assisting a person to leave the country in order to engage in prostitution abroad, or to be employed for that purpose, when such person is under twenty-one years of age or is ignorant of the object of the journey.
- (7) Murder (including infanticide), homicide.
- (8) Assault occasioning serious bodily harm or resulting in death or mutilation.
- (9) Abortion.
- (10) Abandonment of persons in a helpless condition.
- (11) Illegally depriving a person of his freedom.
- (12) Illegal detention of children under the age fixed by the criminal law of both countries, against the will of their parents or guardian.
- (13) Rape.
- (14) Indecent and obscene acts offensive to public morality.
- (15) Slandorous accusations.
- (16) Theft.
- (17) Fraud, embezzlement, breach of trust.
- (18) Defrauding of creditors.
- (19) Robbery with violence or threats, blackmail.
- (20) Illicit use of money or goods acquired through one of the offences mentioned under Nos. 16 to 19 ; assistance given with the object of securing for a third person the proceeds from such offences.
- (21) Serious unlawful damage to property belonging to other persons.
- (22) Arson ; destruction by means of explosives ; wilfully causing floods, railway accidents or casualties at sea, or any act involving the risk of such disasters or accidents.
- (23) Poisoning, distribution of products dangerous to health.
- (24) Spreading of infectious diseases among human beings and domestic animals ; wilfully transmitting venereal disease.
- (25) Forgery ; employment of forged or falsified documents.
- (26) Counterfeiting or falsification of State stamps and seals ; unlawful use of such stamps and seals.
- (27) Counterfeiting or alteration of current coins or banknotes ; uttering of counterfeit or falsified coins or banknotes.
- (28) Mutiny of the crew of a vessel ; attacking the master or officers on board.

Extradition will also be granted for complicity in and attempts to commit any of the offences mentioned above.

Article 2.

Extradition shall not be granted by the Contracting States for offences committed within their respective territories or on board a vessel belonging to them if the vessel in question is on the high seas.

Should the offence for which extradition is claimed have been committed outside the territory of the State applying for extradition, this shall only be granted if the laws of the State to which the requisition is addressed allow, in similar circumstances, of criminal proceedings being taken in respect of such an act when committed outside the territory of the said State.

Article 3.

The Contracting Parties shall not surrender their nationals to each other. The States reserve the right to refuse to surrender foreigners who have resided permanently in their territory for two years prior to the requisition for extradition, unless the requisition refers to an offence committed before the foreigner settled in the country.

Article 4.

Extradition may not be claimed for a political offence; the assassination (or attempted assassination) of the Head of the State or of a member of his family shall not be deemed to be a political crime.

When a decision is required as to how far a crime may be deemed to be of a political character, such decision shall be taken by the Party to which the requisition for extradition has been addressed.

Article 5.

Extradition may not be granted :

(1) If in the country applied to proceedings have already been instituted for the same offence against the person whose extradition is requested and such proceedings have resulted in a judgment convicting or acquitting the said person, or if the latter has already been declared not to be implicated in or has been granted a pardon in respect of the same act, unless the law of that country permits of the re-opening of criminal proceedings;

(2) If the institution of proceedings or punishment was barred by prescription, either under the laws of the State applied to or under those of the State in which the offence was committed, before the accused person was arrested or interrogated, or if under the said laws proceedings cannot be taken or the sentence cannot be carried out for other reasons.

Article 6.

If the person whose extradition is claimed is being proceeded against or has been convicted in the State in which he has taken refuge for an offence other than that which has occasioned the requisition for extradition, he shall only be surrendered after he has served the sentence passed or to be passed on him. Nevertheless, he may if necessary be provisionally surrendered to be questioned, if the applicant State undertakes to return him to the authorities of the State which has provisionally surrendered him immediately after final judgment has been given.

Article 7.

In no case may the person whose extradition has been granted be proceeded against or punished for an offence committed prior to his extradition other than that for which extradition was granted; moreover, he may not, except in the case specified in Article 9, paragraph 2, be surrendered to a third State unless he has freely or openly consented thereto before the Courts or otherwise, or unless he has failed to leave the country, although free to do so, within one month of his being finally

acquitted or discharged, or of having served his full sentence, or unless he returns to the said country after leaving it.

Nevertheless, when one of the Contracting Parties to which a person has been surrendered desires to surrender him to a third State, it must seek authorisation therefor through diplomatic channels. The request must be accompanied by information concerning the nature of the offence and the place and date at which it was committed.

If the person surrendered has not committed any new offence, he may in no way be hindered from leaving the country before the expiry of the period of one month mentioned in the first paragraph.

The person surrendered may not be proceeded against for the offence for which he has been surrendered before a court set up solely for that case or invested, by an exceptional measure relating to a particular case, with powers to pronounce sentence in his case.

Article 8.

Requisitions for extradition shall be transmitted through diplomatic channels; they shall include all particulars relating to the national status of the person in question and shall be accompanied by the original or a certified copy either of the sentence pronounced by the court or of the warrant of arrest or imprisonment issued by the court or any other competent authority, setting out in detail the nature of the offence as well as the date and place at which it was committed. Further, a copy of the criminal law provisions applicable to the offence in the country making requisition shall be annexed to the latter and also, if possible, a description of the person claimed. In no case shall special evidence of the guilt of the person claimed be required.

Article 9.

If either Contracting State should receive similar requisitions from one or more States concerning a person claimed in accordance with the present Convention, the State to which the requisitions are addressed shall decide which requisition shall be acceded to.

If several States have asked for the extradition of the same person on different charges, he may be surrendered to one of the States on condition that that State undertakes to surrender him to another State, when he has served his sentence.

Article 10.

In urgent cases, and especially when the escape of the prisoner is to be feared, one of the Public Prosecutors (Statsadvokat), the Superintendents of Police (The Politidirektør in Copenhagen and the Politimestrene), the Head of the State Police (Chefen for Statspolitiet), in Denmark, the Director of the State Security Department (Valstybes Saugumo Departamento Direktorius), any Public Prosecutor of the Republic and any examining judge in Lithuania, may, before the official transmission of a requisition for extradition, communicate with each other direct by post or telegraph requesting the provisional arrest of the person in question. These requests for provisional arrest shall be accompanied by information upon the circumstances, date and place of the offence, by a declaration stating that the judgment or decision mentioned in Article 8 has been registered and, if possible, by particulars of the person's nationality, together with his description. Such requests shall also state that an official requisition for the extradition of the person in question will be submitted later.

If, when an arrest has been made in accordance with the above provisions, the official requisition for the extradition of the person arrested is not transmitted to the Ministry of Foreign Affairs of the State in which the arrest was made, within four weeks of such arrest, the said State shall have the right to set the accused at liberty.

Article 11.

When extradition has been granted, the applicant State must take over the prisoner within three weeks of the receipt of the notification that extradition has been granted. Failing this, the State applied to shall have the right to set the person in question at liberty.

Article 12.

All articles found in the possession of the person claimed at the time of his arrest which have been seized by the authorities and which be held to be of value as evidence of the offence, or all articles the return of which may be claimed by the injured party, shall, when extradition has been granted, be handed over to the authorities of the other State when the accused is surrendered.

Nevertheless, the rights of third parties to these articles shall not be affected ; the articles shall be returned, after the trial, free of charge to the persons entitled thereto, unless other arrangements are required by special circumstances.

Article 13.

If in connection with proceedings brought for a non-political offence either Contracting Party shall consider it necessary to hear witnesses resident in the territory of the other, or to institute an enquiry in the said State for the examination of the case, a written request for permission shall be submitted through diplomatic channels ; this request shall be acceded to so far as the laws of the State applied to permit. In this case the authorities of the State to which the request is made must as far as possible supply the authorities of the applicant State in good time with particulars of the date and place fixed for the carrying out of these formalities.

Article 14.

If, in connection with proceedings for a non-political offence, either Contracting Party shall deem it necessary or desirable to obtain evidence or papers in the possession of the authorities of the other Party, any request for this purpose shall be granted unless, in certain particular cases, objections are raised to their production as requested.

Article 15.

Should a person who is to be surrendered by one of the Contracting States to a third State be obliged for the purpose of transfer to pass through the territory of the other State, the latter shall raise no objection to the prisoner passing through its territory unless the person surrendered is one of its nationals. The request for permission to convey the person surrendered across the territory of the other State shall be submitted through diplomatic channels ; it shall be accompanied by the original text or by a certified copy of the decision authorising extradition or of any other document prescribed by Article 8. The same procedure shall apply where a person is surrendered by a third State to one of the Contracting States. The person surrendered shall, whilst passing through the territory of the Contracting State concerned, be accompanied by an official of that State.

Article 16.

The expenses entailed by the application of the provisions of the present Convention shall be borne by each of the Contracting Parties within its own territory, with the exception of expenses incurred for the conveyance of a surrendered person across another State, as mentioned in Article 15.

The cost of transport or other expenditure incurred in the territories of the intermediate States shall be borne by the applicant State.

Article 17.

The present Convention, which shall not be applicable to Greenland, shall be ratified and shall come into force thirty days after the exchange of the instruments of ratification. It shall remain in force for six months from the date of its denunciation by either Contracting Party.

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

Done in duplicate at Kaunas, this 20th day of December, 1934.

(Signed) S. P. DUURLOO.

(Signed) LOZORAITIS.