

N° 3906.

**GRAND-DUCHÉ
DE LUXEMBOURG
ET TCHÉCOSLOVAQUIE**

Convention d'extradition et d'assistance judiciaire en matière pénale.
Signée à Paris, le 1^{er} décembre
1934.

**GRAND DUCHY
OF LUXEMBURG AND
CZECHOSLOVAKIA**

Convention concerning Extradition
and Judicial Assistance in Criminal
Matters. Signed at Paris, Decem-
ber 1st, 1934.

¹ TRADUCTION. — TRANSLATION.

No. 3906. — CONVENTION ² BETWEEN THE GRAND DUCHY OF LUXEMBURG AND THE CZECHOSLOVAK REPUBLIC CONCERNING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT PARIS, DECEMBER 1ST, 1934.

French official text communicated by the Chargé d'Affaires a. i. of the Permanent Delegation of the Czechoslovak Republic to the League of Nations. The registration of this Convention took place May 29th, 1936.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC and HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG, desirous of settling the juridical relations between the two States in regard to the extradition and transit of criminals and likewise judicial assistance in criminal matters, have decided with this object to conclude a Convention and have appointed as Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Stefan OSUSKÝ, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic at Paris ;

M. Antonín KOUKAL, Senior Counsellor at the Ministry of Justice ;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG :

M. Albert WEHRER, Doctor of Laws, Counsellor to the Government ;

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

Article I.

EXTRADITION OF CRIMINALS.

(1) The High Contracting Parties undertake to deliver up to one another, in the circumstances and under the conditions laid down in the present Convention, persons in either territory against whom proceedings have been instituted, or who have been sentenced, by the judicial authorities of the other Party for any infraction mentioned below (Article 3), if such infraction constitutes a crime or offence punishable under the laws of both States.

(2) Extradition shall also be granted for any attempt to commit the infractions mentioned in the present Convention, or for complicity therein, if such infractions are punishable under the laws of both Contracting Parties.

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 Luxemburg, April 16th, 1936.

Article 2.

PROCEEDINGS AGAINST NATIONALS.

- (1) The Contracting Parties will not extradite their respective nationals.
- (2) If by reason of the provisions of the first paragraph of this Article extradition is not granted, the Contracting Parties undertake to institute proceedings against such persons in conformity with the provisions of their own criminal and procedural laws.
- (3) In such cases, the applicant State shall address, either automatically or at the invitation of the State applied to, through the channels mentioned in Article 5, a request accompanied by the articles and documents and any information that may be necessary.

Article 3.

INFRACTIONS FOR WHICH EXTRADITION MAY BE GRANTED.

- (1) The following are extraditable crimes and offences :
1. Assassination, poisoning, parricide, infanticide, murder ;
 2. Battery or wounds wilfully inflicted, with or without premeditation, resulting in an apparently incurable disease or permanent incapacity for personal work, the loss of the complete use of an organ, serious maiming or death, though without intent to cause death ;
 3. Wilful administration, without intent to cause death, of substances capable of causing death or serious injury to health ;
 4. Abortion ;
 5. Rape ;
 6. Indecent assault with violence or threats ;
 7. Indecent assault without violence or threats, on the person or with the assistance of the person of a minor of either sex under fourteen years of age ;
 8. Immoral conduct by habitually inciting, aiding, or abetting the immoral behaviour or corruption of a person of either sex under twenty-one years of age, to satisfy the lust of a third party ;
 Procuring, leading astray, or enticing, even with his or her consent, a person of either sex under twenty-one years of age for immoral purposes, to satisfy the lust of a third party ;
 Procuring, leading astray, or enticing a woman or a girl who has attained her majority, for immoral purposes, when the act has been committed by means of fraud or with the help of violence, threats, abuse of authority, or any other means of constraint, to satisfy the lust of a third party ;
 Detaining by the same means against her will, even on account of debts contracted, any person, even a person of full age, in a brothel, or exercising constraint over such person with a view to prostitution ;
 9. Bigamy ;
 10. Abduction of minors ;
 11. Abduction, receiving, concealment, replacing or substitution of a child ;
 12. Exposure or desertion of a child ;
 13. Conspiracy ;
 14. Theft, extortion, swindling, breach of trust, fraud ;

15. Threats of outrage against persons or properties, if liable to criminal penalties ;
16. Offers or proposals to commit a crime or to participate therein, or acceptance of such offers or proposals ;
17. Outrages on personal liberty or inviolability of domicile by individuals ;
18. Coining, including counterfeiting and debasement of currency, and uttering and circulation of counterfeited or debased currency ;
19. Counterfeiting or falsification of public bills or banknotes, or public or private securities ; use, uttering, or circulation of such counterfeited or falsified bills, notes, or securities, forgery in writings or in telegrams and use of such counterfeited, fabricated, or falsified telegrams and writings ;
20. Counterfeiting or falsification of seals, stamps, dyes, marks, warrants for the transport of persons or things, postage stamps or other adhesive stamps ; use of such counterfeited or falsified articles ; improper use of genuine seals, stamps, dyes, and marks ; malicious or fraudulent affixing, to a work of art or a literary or musical work, of the name of an author or of any distinctive sign adopted by him to designate his work ; sale, offering for sale, keeping in stock for purposes of sale, or circulation in the territory of such objects for commercial purposes ;
21. Perjury and false statements by experts or interpreters, subornation of perjury by witnesses, experts, or interpreters ;
22. False swearing ;
23. Extortion, embezzlement by public officials, corruption of public officials ;
24. Fraudulent bankruptcy ;
25. Deliberate interference with the passage of a railway train by depositing articles of any kind, by interfering with the rails or their sleepers, by removing pins or bolts, or by any other means calculated to stop or derail the train ;
26. Arson ;
27. Destruction of buildings, steam engines, or telegraphic apparatus, destruction or defacement of tombs, monuments, works of art, public or private documents ; destruction or damaging of movable property accompanied by violence or threats, malicious or fraudulent destruction or damaging of goods or of materials employed in manufacture ;
28. Destruction or devastation of crops, plants, trees, or grafts ;
29. Destruction of agricultural implements, destruction or poisoning of cattle or other livestock ;
30. Misappropriation, destruction, or damaging of articles seized or pledged ;
31. Obstruction of the execution of public works ;
32. Wilful preparation of foodstuffs, beverages, or medicaments so as to render them injurious to human health ; sale, offering for sale, and circulation of such commodities without revealing their injurious character ;
33. Receiving of articles obtained by means of crimes or offences mentioned in the present Convention.

Article 4.

INFRACTIONS FOR WHICH EXTRADITION SHALL NOT BE GRANTED.

Extradition shall not take place :

1. If the crime or offence was committed in the territory of the State applied to, or if, under the law of that State, proceedings in respect of the infraction come within the competence of its courts, or if, the infraction having been committed outside the territory of the applicant State, the law of the State applied to does not authorise proceedings in respect of such offences committed outside its territory ;

2. If, since the alleged acts, the last proceedings, or the conviction, immunity from prosecution or punishment has been acquired by lapse of time under the laws of the Contracting Parties, and, generally speaking, whenever proceedings by the applicant State have lapsed ;

3. If the wanted person has already been discharged, convicted, or acquitted for the same infraction in the State applied to ; extradition may likewise be refused if proceedings have been instituted against the wanted person for the same offence in the State applied to ;

4. In the case of a political crime or offence, or any act connected with such an infraction.

The State applied to shall be the sole judge of whether the infraction is of this nature.

An attack upon the person of the head of the State or of members of his family shall not be deemed to be a political offence or an act connected with such an offence when such attack constitutes murder, assassination, or poisoning.

Article 5.

REQUESTS FOR EXTRADITION.

(1) Requests for extradition shall be made through the diplomatic channel.

(2) Extradition shall be granted on production of the judgment or decree of conviction or of the order of the Chamber of the Council, the decree of the *Chambre des mises en accusation*, or the instrument of criminal procedure issued by the competent judge formally decreeing or lawfully providing that the prisoner or accused shall be sent before the criminal judicial authorities, or of a warrant of arrest or any other judicial instrument equivalent thereto, issued by the competent foreign authority.

(3) The originals or authentic copies of these documents shall be produced ; they shall state briefly the offence, and its nature and description, and shall be accompanied by the text of the criminal law of the applicant State applicable to the infraction and mentioning the penalty incurred.

(4) As far as possible, a description of the wanted person shall be attached, together with his photograph or other data that may help to establish his identity.

(5) In the case of offences against property, the amount of damage actually caused shall be stated, and, if possible, the amount of damage that the offender wished to cause.

Article 6.

SUPPLEMENTARY EXPLANATIONS.

(1) If doubts exist as to whether the offence for which extradition is claimed comes within the meaning of the present Convention, supplementary explanations shall be demanded of the applicant State, and extradition shall be granted only if the explanations supplied are such as to eliminate those doubts.

(2) The State applied to may, in every case, fix a time-limit for the production of supplementary information ; this time-limit may, however, be further extended, if reasons are given for the request.

(3) In no case may the applicant State be required to produce proof of the wanted person's guilt.

Article 7.

MEASURES TO ENSURE EXTRADITION.

On receipt of the request for extradition accompanied by the documents mentioned in Article 5, the State applied to shall take all necessary measures to apprehend the wanted person and to guard against his escape, unless extradition appears from the outset to be inadmissible.

Article 8.

PROVISIONAL ARREST.

(1) In urgent cases, the wanted person may be provisionally detained even before the request for extradition has been presented, in virtue of notification transmitted by post or telegraph, provided that mention is made therein of a warrant of arrest or sentence, and provided also that the offence is indicated. Such notification may be addressed direct by the court or competent authority of the applicant State to the competent authority of the State applied to. The applicant authority must, however, confirm the telegraphic notification within eight days.

(2) The publication of a notice in the Police Gazette of one of the two States shall be regarded as equivalent to such notification, provided that it mentions the existence of one of the documents mentioned in Article 5, and that the authorities of the State applied to have been informed that extradition will be claimed in case of the discovery of the wanted person.

(3) An authority which has effected the arrest of a person in conformity with paragraphs 1 and 2 shall at once inform the authority which had requested his arrest, and shall also state where he is being detained.

(4) If, within fifteen days of the date on which this information has been despatched in conformity with the foregoing provisions, the other Contracting Party has not intimated that the extradition of the arrested person will be applied for, the latter may be set at liberty.

(5) A person arrested under the terms of the foregoing provisions may also be set at liberty if the request for extradition, accompanied by the supporting documents mentioned in Article 5 of the present Convention, has not been received within one month of the day on which the notice of arrest provided for in paragraph 3 of the present Article was despatched.

(6) Where supplementary explanations have been asked for in conformity with Article 6, the arrested person may also be released if those explanations have not been given to the State applied to within such reasonable time as it has fixed or further extended.

Article 9.

CONFLICTING REQUESTS.

(1) If the person whose extradition has been applied for by one of the High Contracting Parties is also claimed for the same infraction by one or more other States, the order of preference shall be as follows :

- (a) The State whose interests have been injured by the perpetration of the offence ;
- (b) The State in whose territory the offence has been committed ;
- (c) The State of which the delinquent is a national.

(2) If the conflicting requests refer to different offences, extradition shall be granted preferably to the State competent to try the most serious offence.

(3) If several requests for extradition have been received in respect of the most serious offence, the order of preference shall be as shown in the first paragraph of the present Article.

(4) It shall rest with the State applied to, in every case, to decide which is the most serious offence.

(5) The provisions of the foregoing paragraph shall also apply to cases in which the interests of several States have been injured by the same offence and several conflicting requests for extradition have been submitted.

(6) If, within one month of the date on which the request for extradition was received, no request has been submitted by one or more other States, the State applied to shall deliver up the wanted person to the applicant State, even if other requests for extradition have been submitted after the expiry of the above-mentioned time-limit.

(7) If, in the case provided for above, the requests for extradition refer to different offences, the State applied to may, when granting extradition, make it conditional upon the wanted person's being delivered over to another State on the expiry of his sentence.

Article 10.

POSTPONEMENT OF EXTRADITION.

(1) If the wanted person is being proceeded against or has been convicted in the territory of the State applied to for an offence other than that giving rise to the request for extradition, or if he is being detained there for other reasons, his extradition may be deferred until the proceedings have been concluded or, if he has been finally sentenced without suspension of effect, until he has served his sentence or obtained remission of it, or until his period of detention on other grounds is concluded.

(2) Such postponement shall not prevent an immediate decision from being taken with regard to extradition.

(3) If the postponement of extradition mentioned in the first paragraph might, however, have the effect, under the law of the applicant State, of barring proceedings by prescription or creating other obstacles thereto, the temporary surrender of the wanted person may be granted, unless there are special considerations precluding this, and on condition that the extradited person is sent back as soon as the preliminary proceedings for which he has been temporarily claimed are completed in the applicant State.

Article 11.

EXTENSION OF THE EFFECTS OF EXTRADITION.

(1) An extradited person may be prosecuted or punished for an offence other than, and committed previously to, that for which his extradition was granted, even if such offence is not covered by the Convention :

1. If he has asked to be tried or to serve his sentence, in which case his request shall be communicated to the Government which surrendered him ;

2. If, having been at liberty to do so, he has not, within one month of his final release, left the territory of the State to which he was surrendered, or if he has subsequently returned thither ;

3. If the State which had granted extradition gives its consent. The extraditing State may require that such consent shall be requested in the form prescribed for the request for extradition, with the supporting documents mentioned in Article 5.

(2) The same rules shall apply to re-extradition to a third State.

Article 12.

SUMMARY EXTRADITION.

A criminal who, having been surrendered, succeeds in evading justice and again seeks refuge in the territory of the State applied to, or at all events passes through that territory, shall be arrested at the direct request of the competent authorities or in virtue of a request made through the diplomatic channel, and shall be surrendered without further formality.

Article 13.

TRANSIT.

(1) The transit through the respective territories of the contracting States of an extradited person not belonging to the transit State shall be granted immediately on production of the original or an authentic copy of one of the documents mentioned in Article 5.

(2) The provisions relating to extradition shall likewise apply to such transit.

(3) Transit shall be carried out by the agents of the Party applied to and by such route as that Party may determine.

(4) Transport — going and returning — shall also be granted, under the conditions specified, through the territory of one of the Contracting Parties, in the case of a criminal detained in a third country, whom the other Contracting Party may wish to confront with another person against whom proceedings have been instituted.

Article 14.

JUDICIAL ASSISTANCE. GENERAL PROVISIONS.

(1) In non-political criminal matters, the Contracting Parties shall afford each other judicial assistance. They shall, more particularly, provide for the serving of writs in connection with criminal proceedings on persons who are within their territories, they shall institute judicial investigations such as the hearing of witnesses and experts, the taking of affidavits, domiciliary searches, and the seizure of articles, and they shall transmit to each other legal documents and articles that may serve as evidence.

(2) All communications relating to judicial assistance shall pass direct between the Czechoslovak Minister of Justice or Minister of National Defence and the Luxemburg Minister of Justice.

(3) When effect is given to a request for judicial assistance, the laws of the State in whose territory the legal investigation demanded is to be held shall be observed.

Article 15.

REFUSAL OF JUDICIAL ASSISTANCE.

Judicial assistance in criminal matters may be refused in cases in which, under the provisions of the present Convention, there is no obligation to grant extradition.

Article 16.

SUBPOENAING AND ATTENDANCE OF WITNESSES AND EXPERTS.

(1) If, in a criminal case pending before the courts of one of the contracting States, the personal attendance of a witness or expert in the territory of the other is considered necessary or desirable, the authorities of the latter shall transmit the request addressed to him to that effect.

(2) The cost of the personal attendance of a witness or expert shall be borne by the applicant State.

(3) Travelling expenses and subsistence, calculated from their place of residence, shall be granted to witnesses or experts in accordance with the rates and regulations in force in the country in which the hearing is to take place ; at their request, submitted through the magistrates of their place of residence, all or part of the travelling expenses, to be subsequently refunded by the applicant Government, may be advanced.

(4) No witness or expert, of whatever nationality, who consents, in response to a subpoena issued in the country of one of the Contracting Parties, to appear in the courts of the other Party, may be prosecuted or arrested there for previous criminal offences or convictions or on the pretext of participation in acts forming the subject of the proceedings in which he is appearing.

(5) Such persons shall, however, lose this advantage if, having been at liberty to do so, they have not left the territory of the applicant State within three days of the court's announcement that their presence before the judicial authorities was no longer necessary.

(6) If the person subpoenaed is under detention in the territory of the State applied to, his attendance may be demanded on the undertaking that he shall be sent back there as soon as possible. Such a request may not be refused except on special grounds, *e. g.*, if the prisoner on whom the subpoena has been served expressly objects to it.

Article 17.

TRANSMISSION OF INCRIMINATING ARTICLES.

(1) In a case of extradition, all articles connected with the crime or offence, or of use as evidence, which are in the possession of the wanted person at the time of his arrest or are discovered subsequently, shall, if the competent authority of the State applied to so orders, be confiscated and handed over to the applicant State.

(2) They may be handed over even if extradition cannot be effected owing to the escape or death of the wanted person.

(3) The rights that the State applied to or third parties may have acquired over the said objects shall, however, be reserved, and those objects shall, if necessary, be restored to them free of charge at the close of the proceedings.

(4) The State applied to may provisionally retain the confiscated articles if it considers them necessary for the purposes of a criminal prosecution. It may also, when forwarding them, provide that they shall be returned for that same object, while undertaking in its turn to send them back as soon as possible.

Article 18.

COMMUNICATION OF SENTENCES AND OF EXTRACTS FROM CRIMINAL RECORDS.

(1) Each of the High Contracting Parties undertakes to communicate to the other Party, through the respective Ministries of Justice, which will communicate direct every quarter, extracts from all final sentences for crimes or offences of any kind pronounced by their judicial authorities upon nationals of the other Party.

(2) A State which has obtained the extradition of a criminal shall communicate the final result of the criminal proceedings.

(3) The authorities of either Contracting Party responsible for keeping judicial records or registers shall, on request, supply to the authorities of the other Party, free of charge, information obtained from the judicial records or registers concerning particular cases.

(4) The Contracting Parties undertake to communicate to each other a list of the authorities qualified to keep judicial records or registers.

Article 19.

LANGUAGE TO BE EMPLOYED.

(1) The documents produced in cases coming under the present Convention shall be drawn up in the official language of the State applied to or be accompanied by a translation into that language certified correct by an official or sworn translator of the State applied to or by a similar translator of the applicant State, whose competence shall be attested by a diplomatic or consular agent either of the applicant State or of the State applied to.

(2) The minutes relating to such cases shall not be translated into the official language of the applicant State.

Article 20.

COSTS OF EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS.

(1) The costs of applications for extradition or of any other request for judicial co-operation in criminal matters shall be borne by the High Contracting Party in whose territory they are incurred.

(2) The authorities of the State applied to shall, however, inform the applicant State of the amount of such costs, with a view to their being repaid by the person liable for them.

(3) The amounts thus collected shall be refunded to the State applied to.

(4) There shall be an exception in the case of the expenses of any expert enquiry and in that of expenses in connection with the summoning or attendance of persons who are detained in the territory of the State applied to. Such expenses shall be repaid by the applicant State. The applicant State shall also bear the cost of transit and maintenance expenses through intermediate territories in respect of persons whose extradition or temporary surrender has been granted.

(5) The applicant State shall also bear the cost of the temporary surrender and of the return mentioned in Article 10, paragraph 3, of the present Convention.

Article 21.

EXCHANGE OF INFORMATION.

The High Contracting Parties undertake, in connection with criminal cases, to supply one another, on request, with information concerning the laws in force in their territories. Communication in such matters shall be between the authorities mentioned in the first paragraph of Article 18.

Article 22.

RIGHTS AND PRIVILEGES OF " CIVIL PARTIES ".

If nationals of one of the Contracting Parties or the State itself are " civil parties " in a criminal case in the other contracting State, the latter undertakes to grant them all the rights and privileges accorded under its laws to its own nationals.

Article 23.

CONFLICTS OF LOCAL LAWS.

(1) Concordance between the laws of the two Contracting Parties in fixing the conditions for extradition shall be sought, so far as Czechoslovakia is concerned, in conformity with the laws in force in the territory of the Czechoslovak Republic where the extradition procedure is to take place.

(2) The same shall apply to everything in the Convention that has to do with the competence of the legislation of the Czechoslovak Republic.

Article 24.

PREVIOUS UNDERTAKINGS.

The provisions of the present Convention shall not affect any undertakings previously entered into by either of the contracting States to other States.

Article 25.

FINAL PROVISIONS.

(1) The present Convention shall be ratified and the ratifications shall be exchanged as soon as possible at Luxemburg.

(2) It shall come into force ten days after the exchange of ratifications. It shall remain in force for a period of six months from the date on which one of the two Contracting Parties denounces it.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done in duplicate at Paris, this 1st day of December, 1934.

(L. S.) Stefan OSUSKÝ.

(L. S.) Dr. KOUKAL.

(L. S.) Albert WEHRER.