

N° 4362.

ALBANIE
ET TCHÉCOSLOVAQUIE

Convention relative à l'extradition et
à l'assistance judiciaire en matière
pénale. Signée à Praha, le 14 avril
1934.

ALBANIA
AND CZECHOSLOVAKIA

Convention regarding Extradition
and Judicial Assistance in Criminal
Matters. Signed at Prague, April
14th, 1934.

¹ TRADUCTION. — TRANSLATION.

No. 4362. — CONVENTION² BETWEEN THE KINGDOM OF ALBANIA AND THE CZECHOSLOVAK REPUBLIC REGARDING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT PRAGUE, APRIL 14TH, 1934.

French official text communicated by the Permanent Delegate of the Czechoslovak Republic to the League of Nations. The registration of this Convention took place May 28th, 1938.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC
and

HIS MAJESTY THE KING OF THE ALBANIANS,

Having resolved by common consent to conclude a Convention for the extradition of certain offenders, extradition in transit and judicial assistance in criminal matters, have appointed for that purpose as their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Monsieur Bohdan PAVLŮ, Minister Plenipotentiary and Envoy Extraordinary at the Ministry of Foreign Affairs, and

Monsieur Antonín KOUKAL, Doctor of Law, Senior Counsellor at the Ministry of Justice ;

HIS MAJESTY THE KING OF THE ALBANIANS :

Monsieur Démetre BERATTI, Minister Plenipotentiary, Secretary-General to the Royal Ministry of Foreign Affairs ;

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

CHAPTER I.

EXTRADITION OF CERTAIN OFFENDERS.

GENERAL PROVISIONS.

Article 1.

(1) The Contracting Parties undertake, upon application being made, to surrender to each other, in accordance with the rules laid down in the present Convention, any person who shall be

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 Tirana, April 11th, 1938.

found in the territory of one of them and who is being proceeded against or has been convicted by the judicial authorities of the other Party for any offence (crime or delict) for which extradition may be authorised by the laws of the Party applied to, if such offence is punishable, under the laws of both States, by deprivation of liberty for one year or some heavier penalty.

(2) Extradition shall also be granted for any attempt to commit such offences or for complicity of any kind, if these offences are punishable under the laws of both Contracting Parties.

Article 2.

Extradition shall be granted for the following offences in particular :

1. Murder with premeditation, poisoning, parricide, infanticide, murder without premeditation ;
2. Criminal abortion ;
3. Deliberate and premeditated assault or wounding causing an apparently incurable illness or disease, permanent incapacity for work, complete loss of the use of an organ, serious mutilation or unintended death ;
4. Bigamy ;
5. Rape and other assaults on virtue ; immoral conduct which leads to instigate, facilitates or encourages the debauchery or corruption of another ;
6. Abduction of minors or women ;
7. Exposing or deserting a child under seven years of age ;
8. Receiving, concealing, substituting or wrongfully exchanging a child ;
9. Wilful and unlawful deprivation of personal freedom by private individuals ;
10. Offences against the inviolability of the dwelling ;
11. Theft, purloining, embezzlement, breach of trust, swindling, fraud, imposture, extortion, brigandage ;
12. Coining, uttering or putting into circulation counterfeit or debased currency ; forging or falsifying bank-notes, bonds or other public or private securities ; uttering or knowingly putting into circulation such forged or falsified bank-notes, bonds or other certificates or securities ;
13. Counterfeiting or falsifying public or private documents and using such documents ; forging of documents or telegraphic messages and knowingly using such telegrams ; destroying, damaging or suppressing a document or public or private deed with intent to injure others ; destroying, removing or displacing boundary-marks ;
14. Counterfeiting or falsifying seals, stamps, dies and marks of or belonging to the State or intended for public services ; knowingly using and putting into circulation such counterfeited or falsified seals, stamps, dies and marks, as well as the improper use of genuine seals, stamps, dies and marks belonging to the State or intended for public services ;
15. Perjury ;
16. False swearing ;
17. Peculation, embezzlement by public officials ; bribery of public officials ;
18. Fraudulent bankruptcy or frauds committed in bankruptcy ;
19. Wilfully destroying or damaging movable or immovable property, whether public or private ;

20. Arson ; criminal use of explosives ;
21. Crimes committed at sea :
- (a) Piracy ;
- (b) Wilful and unlawful destruction, sinking or stranding of a ship at sea ;
- (c) Mutiny or conspiracy by two or more members of the crew or other persons on board a vessel on the high seas, with intent to lead to resistance against the authority of the master or commander of the vessel ; taking possession of a vessel by using fraud or force against the commander ; attacks committed on board ship on the high seas with intent to do bodily harm ;
22. Acts endangering railway traffic ;
23. Criminal acts directed against public health ;
24. Acts likely to cause floods ;
25. Receiving of articles obtained by the commission of an offence mentioned in the present Convention ;
26. Assisting a criminal guilty of one of the acts covered by the present Article, either to prevent his being prosecuted or to secure for him the gain derived from his offence ; helping a criminal in custody to escape.

Article 3.

EXTRADITION AND PROSECUTION OF NATIONALS.

(1) The High Contracting Parties shall not surrender their own nationals to each other. Nevertheless, once extradition has been granted, a subsequent change in the nationality of the person surrendered cannot affect the validity of the extradition already granted.

(2) If extradition cannot be granted by reason of the stipulations of the preceding paragraph, the Contracting Parties undertake to cause their respective nationals who have committed offences against the laws of the other State to be proceeded against and tried under their own laws, provided such offences are extradition offences under the present Convention.

(3) A State desiring to apply the provisions of the preceding paragraph shall forward a request, together with all necessary articles, records, documents and information, through the channel mentioned in Article 17.

Article 4.

OFFENCES FOR WHICH EXTRADITION MAY NOT BE GRANTED.

(1) Extradition shall not be granted :

(a) For offences committed in the territory of the State applied to, or in respect of which the right to prosecute is reserved exclusively to the courts of such State.

If the offence has been committed outside the territory of the applicant State, extradition shall only be granted if, in similar circumstances, the laws of the State applied to authorise prosecution for the same offences when committed outside its territory ;

(b) For political offences or for acts connected with such offences, unless the act constitutes mainly an ordinary offence. An attempt on the life of the Head of the State of either of the Contracting Parties shall not be considered a political offence or an act connected with such an offence when such act constitutes murder or attempted murder or complicity in murder ;

(c) For offences of a purely military character ;

(d) For offences that are strictly breaches of the Press laws ;

(e) For offences in respect of which prosecution can only take place at the instance of the injured party and may be suspended by his withdrawal ;

(f) If immunity from prosecution or punishment has been acquired by lapse of time in accordance with the laws of one of the Contracting Parties, or in accordance with the laws of the State in which the offence was committed, before the arrest or interrogation of the accused, or if the accused cannot be prosecuted or if sentence cannot be carried out for other legal reasons ;

(g) If the wanted person is being proceeded against for the same offence in the country applied to or has already been discharged, convicted or acquitted there for the same act, unless the laws of that country permit the re-opening of criminal proceedings in consequence of fresh facts alleged by the applicant Party.

(2) The State applied to shall be the sole judge of whether the offence is of the kind referred to in the present Article.

Article 5.

REQUISITION FOR EXTRADITION.

(1) The requisition for extradition shall be made through the diplomatic channel. It shall be accompanied either by the indictment, or by the warrant of arrest, or by any other equivalent judicial instrument, or by the sentence pronounced against the person wanted. The originals or authenticated copies of these documents shall be produced ; they must state briefly the offence, its nature and description, and shall be accompanied by the text of the criminal law of the applicant State applicable to the offence and indicating the penalty involved.

(2) 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.

(3) 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.

LANGUAGE TO BE EMPLOYED.

The documents mentioned in the foregoing Article shall be drawn up in the official language of the applicant State in the form required by its laws and sealed with the official seal. They shall be accompanied by a translation in French made or certified correct either by a sworn translator, who shall append his signature and seal, or by an official translator, or by the Ministry of Foreign Affairs, a Legation or a Consulate of the applicant Party.

Article 7.

ADDITIONAL EXPLANATIONS.

(1) If there is any doubt as to whether the offence is covered by the present Convention, explanations shall be requested of the applicant State and extradition shall be granted only if the explanations supplied are such as to remove these doubts. The State applied to may, in every case, fix a time-limit for the production of supplementary information. This time-limit may, however, be extended if reasons are given for the request.

(2) In no case may the applicant State be required to produce evidence of the guilt of the person claimed.

Article 8.

MEASURES TO ENSURE EXTRADITION.

On receipt of the requisition for extradition, accompanied by the documents mentioned in Articles 5 and 6, the State applied to shall take, in accordance with its laws, all necessary steps

to secure the person claimed and to prevent his escape, unless extradition appears from the outset to be inadmissible.

Article 9.

PROVISIONAL ARREST.

(1) In urgent cases, the person claimed may be provisionally detained even before the requisition for extradition has been presented, on receipt of notification by post or telegraph confirmed through the diplomatic channel of the applicant State, provided that mention is made therein of a warrant of arrest or a sentence, and provided also that the offence is indicated. Such notification may be addressed through the diplomatic channel of the applicant State to the competent authority of the State applied to. The applicant authority must, however, confirm, within fifteen days, the notification sent through the diplomatic channel.

(2) The competent authorities of each of the Contracting Parties may, even in the absence of such notification, provisionally arrest any person found in their territory who has been reported by the judicial authorities of the other Party or who is stated in the usual gazettes or registers to be wanted by the police.

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

(4) If, within one month 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.

Article 10.

(1) A person arrested under the terms of the foregoing Article may also be set at liberty if the requisition for extradition, accompanied by the supporting documents mentioned in Articles 5 and 6, has not been received within two months of the day on which the notice of arrest provided for in paragraph 3 of the foregoing Article was despatched.

(2) Where supplementary explanations have been asked for in conformity with Article 7, the arrested person may also be released if those explanations have not been given to the State applied to within the period it has fixed or extended.

Article 11.

REQUISITIONS FOR EXTRADITION BY MORE THAN ONE STATE.

(1) If the person whose extradition is applied for by one of the Contracting Parties is at the same time claimed for the same act by one or more other States, priority shall be granted to the State whose application is the first in date.

(2) The same rule shall apply where the requisitions for extradition relate to different offences.

(3) These provisions shall not affect any engagements entered into previously by either contracting State to other States.

Article 12.

POSTPONEMENT OF EXTRADITION.

If the person claimed is being proceeded against or has been convicted in the State applied to for an offence other than that giving rise to the requisition for extradition, or if he is kept in custody for other reasons, the latter State shall nevertheless decide as to the requisition for extradition.

The surrender of the extradited person may, however, be postponed until the proceedings are abandoned, or he has been acquitted or discharged, or until he has served his sentence or obtained remission of it, or, if he is being held in custody on other grounds, until such time as he is released.

Article 13.

EFFECTS OF EXTRADITION.

(1) A person who has been extradited may not be proceeded against or punished in the applicant State or be delivered up by the latter to a third State for an offence committed prior to his surrender other than that in respect of which his extradition was granted, unless :

(a) The State applied to consents thereto, or

(b) The person who has been extradited, though having been at liberty to do so, has not, of his own free will and within one month of his final release, left the territory of the State to which he has been extradited, or if he subsequently returns to that territory.

(2) The State which has requested extradition or consent in virtue of paragraph (a) of the present Article shall inform the State applied to, provided the latter so require, of the final result of the proceedings by sending to it a certified true copy of the final verdict.

Article 14.

CESSATION OF THE EFFECTS OF EXTRADITION.

If within one month of the date on which the applicant State was informed that the surrender of the extradited person could be effected immediately that State has not taken steps to have the extradited person delivered up to it, the latter may be set at liberty.

Article 15.

SUMMARY EXTRADITION.

A criminal who, having been surrendered, succeeds in fleeing from 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 16.

EXTRADITION IN TRANSIT.

(1) The conveyance in transit through the territory of either Contracting Party of a person surrendered to the other Party by a third State shall be granted simply on production of the original or a certified copy of any one of the documents mentioned in Article 5, provided the offence which has given rise to the request for conveyance in transit is covered by the present Convention.

(2) The provisions relating to the authorisation of extradition shall apply equally to such conveyance in transit.

(3) Conveyance in transit shall be effected by the agents of the Party applied to, under such conditions and by such route as the Party may determine.

CHAPTER II.

JUDICIAL ASSISTANCE IN CRIMINAL MATTERS.

Article 17.

(1) In 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) The request for judicial assistance shall be drawn up in French and sealed with the seal of the applicant authority. The provisions of Article 6 relating to translation shall likewise apply. All communications relating to judicial assistance shall be exchanged through the diplomatic channel.

(3) When effect is given to a request for judicial assistance, the laws of the State in whose territory the act of legal investigation demanded is to take place shall be observed. The official reports relating thereto shall not be translated into the official language of the applicant country.

Article 18.

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 19.

SUMMONING AND ATTENDANCE OF PERSONS RESIDING IN THE OTHER STATE.

(1) If, in a criminal case pending before the courts of either contracting State, the personal attendance of a witness or an expert who happens to be within the territory of the other contracting State is deemed to be necessary or desirable, the authorities of the latter shall invite him to comply with the summons addressed to him for that purpose, through their intermediary, on behalf of the said courts.

(2) The cost of the personal attendance of a witness or an expert shall be borne by the applicant State, and the summons shall indicate the sum to be allowed the witness or the expert for travelling and subsistence expenses, and also the amount of the advance which the State applied to may, subject to repayment by the applicant State, make to the person summoned as soon as he declares his readiness to comply with the summons.

(3) No witness or expert, of whatever nationality, who having been summoned in accordance with paragraph 1 consents to appear before the courts of the other Party, may be proceeded against or kept in custody in the territory of the latter for previous acts or convictions, or on the pretext of complicity in acts forming the subject of the case for which he has been called.

(4) Such persons shall, however, lose this advantage if they have not of their own free will left the territory of the applicant State within a week of the time when, in accordance with the declaration of the court, their presence before the judicial authorities is no longer deemed to be necessary.

(5) The right of passage and conveyance in both directions through the territory of either Contracting Party shall also be granted in respect of a person kept in custody in a third country whom the other Contracting Party may deem it desirable to confront with a person who is being proceeded against or to hear as a witness.

Article 20.

HANDING OVER OF ARTICLES SERVING AS PROOF OF THE CRIME.

(1) The authorities of the two Contracting Parties shall, if they are requested to do so, hand over to each other the articles which an accused person may have obtained as a result of his offence or which may serve as proof of the offence ; this shall apply even when the articles in question are liable to seizure or confiscation.

(2) If these articles are in the possession of the accused at the time of his extradition or conveyance in transit they shall, as far as is practicable, be handed over at the time when extradition or conveyance in transit takes place. They shall be delivered up even when extradition, though granted, cannot take place owing to the death or escape of the accused. This shall also apply to all articles which the accused may have concealed or deposited in the country granting extradition and which may be subsequently discovered.

(3) Nevertheless, the rights which the State applied to or third parties may have acquired over these articles shall be reserved, and after the trial such articles shall be returned to them as soon as possible and free of charge.

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

Article 21.

COMMUNICATION OF CONVICTIONS AND EXTRACTS FROM CRIMINAL RECORDS.

(1) The Contracting Parties undertake to communicate to each other, through the diplomatic channel mentioned in Article 17, the extracts from criminal records relating to final convictions (with or without suspension of sentence) pronounced by the judicial authorities of either Party against nationals of the other.

(2) They shall also communicate to each other any subsequent decisions regarding the said sentences.

(3) The authorities of either Contracting Party responsible for keeping the records of previous convictions or the records of the courts shall, if requested to do so through the channel mentioned in Article 17, supply the authorities of the other Party, free of charge, with information based upon the records of previous convictions or the records of the courts concerning particular cases. The Contracting Parties shall communicate to each other the names and standing of the authorities responsible for keeping the records of previous convictions or the records of the courts and under obligation to supply information.

CHAPTER III.

FINAL PROVISIONS.

Article 22.

PAYMENT OF COSTS.

(1) Expenses occasioned by requisitions for extradition or requests for any other form of judicial assistance in criminal matters shall be borne by the Party in whose territory they were incurred.

(2) The State making application shall be responsible for fees paid for expert opinions of any kind and the costs of conveyance in transit through the territory of the State applied to. The

State making application shall also bear the costs of all measures taken in virtue of Article 19, paragraphs 2 or 5, of the present Convention.

Article 23.

CONFLICT OF LOCAL LAWS.

(1) It is understood that the effort to secure concordance between the laws of the two Contracting Parties in order to fix the conditions for extradition shall be made, 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 present Convention relating to the competence of the legislation of the Czechoslovak Republic.

Article 24.

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

The present Convention shall come into force one month after the exchange of ratifications and shall remain in force for a period of six months from the date of its denunciation by either Contracting Party.

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

Done in duplicate at Prague, the fourteenth day of April, one thousand nine hundred and thirty-four.

(L. S.) B. PAVLŮ.

(L. S.) D. BERATTI.

(L. S.) KOUKAL.