

N° 4639.

BELGIQUE ET TURQUIE

Traité d'extradition. Signé à Bruxelles, le
9 février 1938.

*Texte officiel français communiqué par le ministre des Affaires étrangères de
Belgique. L'enregistrement a eu lieu le 27 septembre 1939.*

BELGIUM AND TURKEY

Extradition Treaty. Signed at Brussels, Fe-
bruary 9th, 1938.

*French official text communicated by the Belgian Minister for Foreign Affairs.
The registration took place September 27th, 1939.*

TRADUCTION. — TRANSLATION.

No. 4639. — EXTRADITION TREATY¹ BETWEEN BELGIUM AND TURKEY. SIGNED AT BRUSSELS, FEBRUARY 9TH, 1938.

HIS MAJESTY THE KING OF THE BELGIANS
and

HIS EXCELLENCY THE PRESIDENT OF THE TURKISH REPUBLIC,

Having resolved to conclude a Treaty for the reciprocal extradition of malefactors and for reciprocal judicial assistance in criminal proceedings, have for that purpose appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BELGIANS :

M. Paul-Henri SPAAK, His Minister for Foreign Affairs and External Trade ;

HIS EXCELLENCY THE PRESIDENT OF THE TURKISH REPUBLIC :

M. Emin Ali SIPAHI, Chargé d'Affaires of the Turkish Republic at Brussels ;

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

Article 1.

The Government of His Majesty the King of the Belgians and the Government of the Turkish Republic undertake to surrender to one another, in the circumstances and under the conditions determined by the present Treaty, persons other than their own nationals who, being proceeded against or having been convicted for an offence committed within the territory of the Party applying, are found within the territory of the other Party.

Nevertheless, where the acts constituting the offence in respect of which extradition is applied for have been committed outside the territory of the Party making application, extradition may be granted if the law of the country applied to authorises proceedings for the same offences committed outside its own territory.

Article 2.

The following offences shall be subject to extradition :

(1) Homicide consisting in premeditated or unpremeditated murder, parricide, infanticide or poisoning ;

(2) Malicious wounding causing permanent disablement, permanent incapacity, serious mutilation of a member or organ of the body, or death without intent to kill ;

(3) Voluntary abortion ;

(4) Rape, indecent assault with violence or threats, and indecent assault without violence or threats where the victim is under 15 years of age ;

(5) Offences against public morals by inciting, aiding or abetting the seduction, corruption or prostitution of a person under 18 years of age in order to gratify the carnal desires of another person, together with offences under the International Conventions of May 4th, 1910², for the Suppression of the White Slave Traffic, September 30th, 1921³, for

¹ The exchange of ratifications took place at Ankara, July 10th, 1939.

² *British and Foreign State Papers*, Vol. 103, page 244.

³ Vol. IX, page 415 ; Vol. XV, page 311 ; Vol. XIX, page 283 ; Vol. XXIV, page 163 ; Vol. XXVII, page 419 ; Vol. XXXV, page 301 ; Vol. XXXIX, page 167 ; Vol. XLV, page 99 ; Vol. L, page 160 ; Vol. LIV, page 388 ; Vol. LXIII, page 378 ; Vol. LXXXIII, page 373 ; Vol. XCII, page 367 ; Vol. C, page 156 ; Vol. CVII, page 462 ; Vol. CXI, page 403 ; Vol. CXVII, page 49 ; Vol. CXXII, page 322 ; Vol. CXXXIV, page 399 ; Vol. CXXXVIII, page 417 ; Vol. CXLVII, page 319 ; Vol. CLVI, page 182 ; Vol. CLX, page 330 ; Vol. CLXXII, page 391 ; Vol. CLXXVII, page 384 ; and Vol. CXCVI, page 404, of this Series.

the Suppression of the Traffic in Women and Children, and October 11th, 1933¹, for the Suppression of the Traffic in Women of Full Age ;

(6) Abduction of minors or others, being a criminal offence under the law of both countries ;

(7) Arson ;

(8) Premeditated obstruction of railway traffic of such a nature as to cause or be liable to cause an accident ;

(9) Destruction of immovable or movable property, in so far as such offences are extraditable under the law of both countries ;

(10) Offences on the high seas, being extraditable under the law of both countries ;

(11) Larceny, robbery and extortion ;

(12) Counterfeiting currency, including offences under the International Convention² concluded at Geneva on April 20th, 1929, for the Suppression of Counterfeiting Currency, falsification or fraudulent alteration of postage stamps, official stamps, marks or seals of the State or of public offices, fraudulent use of such falsified or altered objects or utterance, issue or circulation of the same with fraudulent intent, and fraudulent or improper use of genuine seals, stamps or marks ;

(13) Forgeries of public or private documents, falsification of public or commercial documents or securities of any kind, and fraudulent use of such falsified or counterfeited documents ;

(14) Embezzlement of public moneys ;

(15) Fraud and breach of trust ;

(16) Receiving ;

(17) False witness and false statements by experts or interpreters, and suborning of witnesses, experts or interpreters.

(18) Perjury ;

(19) Criminal offences under the law of both countries concerning the abolition of slavery and the slave trade ;

(20) Exposure or desertion of children or helpless persons ;

(21) Corruption of officials and extortion ;

(22) Fraudulent bankruptcy ;

(23) Conspiracy to commit offences ;

(24) Criminal administering of substances capable of causing death or serious injury to health, without intent to kill ;

(25) Suppression of evidence of civil status, substitution or supposition of children, being extraditable offences under the law of both countries ;

Complicity in offences, attempts to commit offences, and the instigation or abetting of offences, being themselves criminal offences under the law of both countries, shall also be extraditable.

Extradition may in no case take place unless a similar act is punishable under the law of the country applied to.

¹ Vol. CL, page 431 ; Vol. CLX, page 439 ; Vol. CLXIV, page 421 ; Vol. CLXVIII, page 239 ; Vol. CLXXII, page 427 ; Vol. CLXXVII, page 464 ; Vol. CXXXI, page 423 ; and Vol. CLXXXV, page 411, of this Series.

² Vol. CXII, page 371 ; Vol. CXXII, page 366 ; Vol. CXXX, page 464 ; Vol. CXXXIV, page 427 ; Vol. CXXXVIII, page 450 ; Vol. CXLVII, page 351 ; Vol. CLII, page 301 ; Vol. CLVI, page 227 ; Vol. CLX, page 380 ; Vol. CLXIV, page 388 ; Vol. CLXXII, page 412 ; Vol. CLXXVII, page 406 ; Vol. CLXXXI, page 392 ; Vol. CLXXXIX, page 467 ; and Vol. CXCVI, page 416, of this Series.

Article 3.

Extradition shall not take place :

(1) If, since the facts alleged or the last act in the proceedings or the conviction of the accused, the offence has ceased to be indictable or the penalty has ceased to be enforceable, through lapse of time, under the law of the country in which the accused has taken refuge, at the time when the surrender could take place ;

(2) If the ground stated in the application for extradition is an act for which the person applied for has been proceeded against and acquitted, or is being proceeded against or has already been tried in the country applied to.

Article 4.

If the person claimed is being proceeded against or has been convicted in the country applied to for an offence other than that in respect of which his extradition is applied for, extradition may be deferred until the conclusion of the proceedings or, if he has been convicted, until he has served his sentence.

The fact of his being proceeded against or detained in the country applied to by reason of obligations incurred in relation to private persons shall not debar his extradition, subject to the rights of such persons subsequently to enforce their claims before the competent authority.

Article 5.

Extradition shall not be granted if the offence in respect of which it is applied for is treated by the Party applied to as a political offence or an act in connection with such an offence, or if it is a revenue offence, or a purely military offence punishable only under military law, or an offence under the press laws offence.

Foreigners whose extradition has been granted may not be tried by extraordinary courts. They may not be proceeded against or penalised for any offence preceding their extradition.

Attacks upon the person of a chief of State or members of his family shall not be held to be political offences or acts in connection therewith, if such attacks consist in unpremeditated or premeditated murder or poisoning.

Surrendered persons may, however, be proceeded against or punished, after argument heard on both sides, for offences other than those in respect of which extradition was applied for, in the following cases :

(1) If the person surrendered applies to be tried or to serve his sentence, in which case the Government by which he was surrendered shall be advised of his application ;

(2) If he has not quitted the country to which he has been surrendered within a month of his final discharge ;

(3) If the offence comes within the terms of the present Treaty and if the Government to which the offender has been surrendered has obtained the previous consent of the Government granting extradition. The Government granting extradition may, if it sees fit, require the production of one of the documents referred to in Article 7 of the present Treaty.

Re-extradition to third countries shall be subject to the same rules.

Article 6.

Applications for extradition must be made in all cases through the diplomatic channel.

Article 7.

Extradition shall be granted on production of the original or of an authentic copy either of the judgment or sentence, or of the warrant of arrest, or of any other act having the same force issued by the competent judicial authority. Such acts shall contain full particulars of the offence to which they relate, or shall be accompanied by a statement of the facts.

The said documents shall be legalised by the competent authority of the State making application and, where needful, by a diplomatic or consular agent of that State. They shall be accompanied by a copy of the text of the law applicable to the alleged offence and, when necessary,

by a translation into French and also, whenever possible, by a description of the person claimed or any other particulars calculated to establish his identity.

Article 8.

In urgent cases, the accused shall be provisionally arrested on postal or telegraphic notification of the existence of any of the documents referred to in Article 7, provided that such notification is regularly given to the Minister for Foreign Affairs of the country applied to.

Provisional arrest may also be effected on direct application to a judicial or administrative authority of either country.

Provisional arrest shall be effected in the manner and in accordance with the rules established by the law of the Government applied to. It shall cease to be effective if, within thirty full days of the date on which such arrest became effective, the accused has not had delivery of one of the documents referred to in Article 7 of the present Treaty.

Article 9.

In case of extradition, all proceeds of the offence or objects serving as evidence found in the possession of the person applied for at the time of his arrest or discovered subsequently shall be confiscated and handed over to the State applying, if the competent authority of that State so requests.

The said objects may be handed over to the State applying even where extradition cannot take place owing to the escape or death of the person claimed.

Any rights to the said objects, which may have been acquired by third parties, shall be reserved, however, and the objects must if necessary be returned to them free of charge on the conclusion of the proceedings.

Article 10.

The cost of arrest, maintenance and transport of persons whose extradition has been granted, and the cost of despatch and transport of the objects to be returned or handed over under the terms of the foregoing Article, shall be at the charge of the two States within the limits of their respective territories.

Transport or other costs within the territory of intermediate States shall be at the charge of the applicant State.

Article 11.

Extradition in transit, through the respective territories of the contracting States, of persons other than nationals of the country of transit shall be granted merely on production of the original or of an authentic copy of one of the documents referred to in Article 7, provided that the act in respect of which extradition is applied for lies within the terms of the present Treaty and does not come under the provisions of Articles 3 or 5.

The cost of transit shall be at the charge of the Party making application.

Article 12.

Where it is considered necessary, in criminal proceedings of a non-political character, to take the evidence of persons in one or other of the two countries, or to take other investigatory action, a letter of request, accompanied if necessary by a translation into French, shall be sent for that purpose through the diplomatic channel, and shall be executed in accordance with the laws of the country in which the evidence is to be taken or the investigatory action is to take place, unless the Government applied to finds it impossible to have it executed.

Letters of request for domiciliary search or for the confiscation of incriminating objects or objects serving as evidence may not be executed for any offence other than one of those referred to in Article 2, and subject to the reservation stated in the last paragraph of Article 9 above.

The costs of execution of letters of request in criminal matters, even when expert opinion is taken, shall be at the charge of the Government applied to.

Article 13.

In criminal proceedings of a non-political character, when the Government of one of the two countries considers it necessary to serve a procedure document or judgment on a person resident

within the territory of the other country, the document, which shall be sent through the diplomatic channel, accompanied where necessary by a translation into French, shall be served on the person concerned, at the instance of the Public Prosecution for the latter's place of residence by a competent official. The original document establishing service shall be returned through the same channel to the Government making application without refund of costs.

Article 14.

Where in a criminal case of a non-political character the personal attendance of a witness is necessary, the Government of the witness's country of residence shall call upon the latter to comply with the invitation to attend.

As regards the payment to be made to a witness, an agreement shall be concluded in each particular case between the Government making application and the Government applied to.

No witness of whatever nationality who, being summoned in one of the two countries, appears of his own free will before the judges of the other country, may be proceeded against or detained in the latter country for former criminal acts or convictions, or on charges of complicity in the acts which are the occasion of the proceedings in which he appears as a witness.

Article 15.

When in a criminal case of a non-political character instituted in one of the two countries the delivery of objects in evidence or documents in the hands of the authorities of the other country is considered necessary or desirable, application shall be made through the diplomatic channel and shall be granted unless considerations of particularly serious character preclude such delivery and subject to the obligation to return the objects or documents delivered.

The costs of despatch and return of the objects in evidence and documents within the limits of their respective territories shall be at the charge of the Government applied to.

Article 16.

The two Governments undertake to notify one another, without refund of costs, of all convictions by courts of law of one of the two States for offences of whatever kind committed by nationals of the other State.

The said notification shall be sent through the diplomatic channel in the form of a record or extract (accompanied where necessary by a translation into French) of the final judgment to the Government of the country of which the convicted person is a national.

Article 17.

The present Treaty shall be ratified and the instruments of ratification thereof shall be exchanged as soon as possible at Ankara.

It shall come into force two months after the exchange of ratifications.

It shall not be applicable to the Colony of the Belgian Congo or to the territories of Ruanda-Urundi, over which Belgium exercises a mandate on behalf of the League of Nations.

Either Contracting Party may at any time denounce it by notice given to the other Party six months beforehand.

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

Done in duplicate at Brussels, this 9th day of February, 1938.

(Signed) P. H. SPAAK.

(Signed) Emin ALI.