

N° 643.

**BULGARIE
ET ROYAUME DES SERBES,
CROATES ET SLOVÈNES**

Convention relative à l'extradition
des malfaiteurs et à l'aide judiciaire
en matière criminelle, signée à
Sofia le 26 novembre 1923.

**BULGARIA AND
KINGDOM OF THE SERBS,
CROATS AND SLOVENES**

Convention relating to extradition of
malefactors and to legal assistance
in criminal proceedings, signed at
Sofia, November 26, 1923.

TEXTE SERBE. — SERBIAN TEXT.

№. 643. — КОНВЕНЦИЈА¹ ИЗМЕЂУ КРАЉЕВИНЕ БУГАРСКЕ И КРАЉЕВИНЕ СРБА, ХРВАТА И СЛОВЕНАЦА О ИЗДАВАЊУ КРИВАЦА И О ПРАВНОЈ ПОМОЋИ У КРИВИЧНИМ ДЕЛИМА, ПОТПИСАНА У СОФИЈИ 26 НОВЕМБРА 1923.

Bulgarian and Serbian official texts communicated by the Bulgarian Chargé d'Affaires at Berne
The registration of this Convention took place July 16, 1924.

КРАЉЕВИНА БУГАРСКА и КРАЉЕВИНА СРБА, ХРВАТА И СЛОВЕНАЦА, желећи да регулишу питање о узајамном издавању криваца и о правној помоћи у кривичним делима и у намери да у ту сврху закључе једну конвенцију, именовале су својим пуномоћницима :

ЊЕГОВО ВЕЛИЧАНСТВО КРАЉ БУГАРА :

Г. г. Христу КАЛФОВА, Министра Спољних Послова и Јосифа ФАДЕНХЕХТА, доктора права, бившег министра правде и професора Софијског универзитета ;

ЊЕГОВО ВЕЛИЧАНСТВО КРАЉ СРБА, ХРВАТА И СЛОВЕНАЦА :

Г. г. Милана РАКИЋА, Пуномоћног Министра и Изванредног Посланика и Милету НОВАКОВИЋА, доктора права и редовног професора Београдског универзитета,

који су, пошто су положили своја пуномоћија за које се установило да су пуноважна, закључили следеће :

А. ИЗДАВАЊЕ КРИВАЦА.

Члан I.

Уговорне стране обавезују се, да ће дати пронаћи и притворити и да ће узајамно предавати лица која су окривљена или осуђена од надлежне судске власти једне од двеју земаља за једно од кривичних дела означених у следећем члану а која се лица налазе на територији друге стране.

Члан II.

Обавеза о којој се говори у претходном члану односи се на сва кривична дела, сем оних која су побројана у члану IV.

Ако се захтев односи на осуђено лице, оно ће бити издато ако је осуђено на казну лишења слободе не мању од шест месеци.

Ако се пак тражи издавање лица које још није осуђено, оно ће бити издато ако је минимум казне лишења слободе једна година за дело за које се његово издавање тражи.

Ови минимуми казне треба да су предвиђени законом оне уговорне стране која тражи издавање.

Дело мора да је кажњиво по законима обе уговорне државе.

¹ The exchange of ratifications took place at Belgrade, July 8, 1924.

¹ TRANSLATION.

No. 643. — CONVENTION CONCLUDED BETWEEN THE KINGDOM OF THE SERBS, CROATS AND SLOVENES AND THE KINGDOM OF BULGARIA, RELATING TO EXTRADITION OF MALEFACTORS AND TO LEGAL ASSISTANCE IN CRIMINAL PROCEEDINGS, SIGNED AT SOFIA, NOVEMBER 26, 1923.

THE KINGDOM OF BULGARIA and THE KINGDOM OF THE SERBS, CROATS AND SLOVENES, desirous of regulating the question of the reciprocal extradition of malefactors and of legal assistance in criminal proceedings, have resolved to conclude a Convention to that effect, and have for this purpose appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BULGARIANS :

M. Christo KALFOFF, Minister of Foreign Affairs ; and
M. Joseph FADENHECHT, Doctor of Laws, former Minister of Justice and Professor at the University of Sofia ;

HIS MAJESTY THE KING OF THE SERBS, CROATS AND SLOVENES :

M. Milan RAKITCH, Minister Plenipotentiary and Envoy Extraordinary ; and
M. Mileta NOVAKOVITCH, Doctor of Laws and Professor at the University of Belgrade ;
who, having exchanged their full powers, found in good and due form, have agreed as follows :

A. EXTRADITION OF MALEFACTORS.

Article 1.

Each of the Contracting Parties undertakes to search for, apprehend and deliver to the other Contracting Party any persons prosecuted or sentenced by the local authorities of one of the Contracting Parties for any of the punishable offences mentioned in Article 2 below who may be in the territory of the other Party.

Article 2.

The undertaking referred to in the previous article shall cover all punishable offences with the exception of those specified in Article 4.

If the application for extradition relates to a convicted person, such person shall be extradited provided he has been sentenced to a minimum term of six months' imprisonment. If the application for extradition relates to a person who has not yet been convicted, such person shall be extradited if the punishable offence of which he is accused involves a minimum term of one year's imprisonment.

These minimum sentences must be provided for in the laws of the Contracting Party applying for the extradition.

The offence must be punishable under the legislation of both Contracting Parties.

¹ Translated by the Secretariat of the League of Nations.

Article 3.

Extradition shall not be granted in respect of a national of the country to which application is made.

Article 4.

Extradition shall not be granted :

1. For political offences ;
2. For purely military offences, *i.e.*, for offences only punishable under military law ;
3. For offences committed in the Press ;
4. For offences in respect of which proceedings can only be taken at the instance of the injured party and in respect of which an arrangement releases the prisoner from the charge.

When one of the Contracting Parties applies for the extradition of a foreign national for a punishable offence committed abroad, the Party to which application is made may refuse to grant extradition if its own laws allow it to try the party and if the said party has been convicted or prosecuted and released and there are no grounds, according to the laws of the State to which application is made, for resuming criminal proceedings.

The State to which application is made shall decide whether the offence in respect of which extradition has been applied for is one of the offences covered by the present article.

Article 5.

If the person wanted is prosecuted or sentenced in the State to which application is made for any other offence in addition to that which gave rise to the application for extradition, the extradition of such person may be postponed until the proceedings are concluded, and, in the event of his conviction, until he has served his sentence.

Article 6.

Extradition shall not be carried out if under the laws of the State making application the period of prescription in respect of the proceedings or the sentence has expired.

Article 7.

The person extradited shall be tried only for the offence which gave rise to the application for extradition and for any punishable offences committed prior to the extradition and connected with the offence which gave rise to the application for extradition, except the offences specified in Article 4 of the present Convention.

The person extradited may, however, be tried for a punishable offence committed prior to the offence which gave rise to the application for extradition, if for one month after his final release he remains in the territory of the State to which extradition was granted.

The person extradited may, at his own request, be tried for punishable offences other than those giving rise to the application for extradition, provided that notification of such trial is given to the State granting the extradition.

Article 8.

The application for extradition shall always be made through the diplomatic channel : the Ministry of Justice of the State making application shall communicate with the Ministry of Justice of the State in which extradition is applied for.

Extradition shall be granted either on production of the judgment given or on production of a warrant for arrest or on the establishment by the examining magistrate of evidence of the guilt of the person whose extradition is applied for. The legal documents on which the application for extradition is based, or the application for extradition supported by evidence established by the examining magistrate, shall state the nature of the offence committed.

The State making application shall forward legalised copies of the documents in accordance with the procedure laid down by its own legislation ; these copies shall be accompanied by the text of the penal law applied or applicable to the offence in question, and, where possible, by a description and photograph of the person wanted, or other particulars which may help to establish his identity.

The application for extradition and the legal documents attached will be drawn up in the official language of the State making application.

Article 9.

In urgent cases provisional arrest may be effected immediately on notification of the existence of any of the legal documents specified in the second paragraph of the preceding article ; such notification may be transmitted telegraphically.

The competent authorities, diplomatic agents and consular officials of the State applying for extradition shall be authorised to communicate the notification in question to the Ministry of Justice or the competent authority of the State in which extradition is applied for.

A person who is provisionally arrested shall be released if the Ministry of Justice of the State to which application is made has not received written communication of the application for extradition and the requisite legal documents within 45 days from the date of his arrest.

Article 10.

If the person whose extradition is applied for by one of the Contracting Parties is also wanted by one or more other Governments, precedence shall be given to the application for extradition arising from what in the opinion of the State to which application is made is the most serious offence.

When two or more charges are equally serious, the first application received shall be taken into consideration. If the person wanted is a national of one of the States applying for his extradition, he shall be handed over to his Government provided that the offences committed by him in the territory of other States are punishable by the laws of his own State.

Article 11.

Money and effects of which the accused is in possession at the time of his arrest shall be seized and handed over to the State applying for his extradition. Money and effects which are the lawful property of the person arrested shall be handed over even if they are at the time in the possession of third parties, should they fall into the hands of the authorities as a result of the arrest. In addition to the effects which the accused has in his possession as the result of the punishable offence which gave rise to the application for extradition, any other incriminating evidence shall also be handed over even if extradition becomes impossible by reason of the death or escape of the accused.

Nevertheless, the rights of third parties over effects and money seized shall be excepted from this provision, and such effects and money shall be returned to the lawful owners free of cost after the conclusion of the trial.

Article 12.

A permit to convey across the territory of the Contracting Parties a person who is not a national of the State whose territory he is crossing shall be granted, on application being made, in accordance with Article 8 of the present Convention, by the authorities of the State applying for extradition.

A permit shall be granted without any legal formality by an order issued by the competent Ministry of the State to which application is made, provided the offence in question is not one covered by Article 4, and provided no serious considerations of public order form an obstacle to the grant of such permit.

The person arrested shall be conveyed as speedily as possible under the supervision of an official of the State to which application for the permit is made.

The person arrested shall not enter the territory of the State to which application is made until the said permit has been obtained.

Article 13.

The State to which application is made shall bear the expenses occasioned in its territory by an application for extradition. The transit expenses of the arrested party shall be charged to the State applying for extradition.

B. LEGAL ASSISTANCE IN CRIMINAL PROCEEDINGS.

Article 14.

The Contracting Parties undertake to render each other legal assistance in criminal proceedings.

The Contracting Parties especially undertake to notify each other as to the legal copies to be made — subject to their ultimate return if required — and as to documents and exhibits connected with the legal proceedings, to take the evidence of witnesses and experts and to conduct cross-examinations and all such other legal proceedings as may be deemed necessary.

Applications for these proceedings shall be transmitted through the diplomatic channels. They shall be drawn up in accordance with the laws of the State making application and in the official language of that State.

The costs of such an application shall be borne by the State in whose territory they have arisen. The State making application shall only refund any remuneration allowed to experts.

The sentences passed by the courts of one of the Contracting Parties on nationals of the other Party, and warrants served by the courts of one Contracting Party on nationals of the other Party, shall not, however, be notified to the latter.

In the same way, a national of one of the Contracting Parties shall not at the request of the other Party be cross-examined as a prisoner.

Article 15.

If it is considered necessary in a criminal case to summon a witness or expert who is in the territory of the other Contracting Party, the subpoena shall be sent to the State to which application is made, and this State shall forward it to its destination.

The costs of such a summons shall be borne by the State making application.

The subpoena shall show the amount allowed for travelling expenses and subsistence, together with the amount of the advance that the State to which application is made may make to the witness or expert subject to repayment by the State making application.

No witness or expert of any nationality whatsoever who appears of his own free will before a court of the State making application can be prosecuted in that court or detained for former criminal offences or convictions during a period of 30 days from the day on which his presence in the territory of the State making application is no longer required.

If a person who is summoned to appear before the Court is undergoing a term of detention in the State to which application is made, his temporary extradition may be applied for, on condition that he shall be sent back as soon as possible. His consent is required if he is not a national of the State making application.

Article 16.

If a national of one of the Contracting Parties is sentenced to a term of imprisonment in the territory of the other Party, the latter shall send, through the channels prescribed by the present Convention, an abstract of the final judgment passed or a copy of the legal documents in connection with the case to the judicial authority of the State of which the prisoner is a national.

The competent authorities of the two Contracting Parties shall, if requested to do so, communicate to each other the police dossiers in connection with individual cases.

Article 17.

The Ministry of Justice of one of the Contracting Parties shall, if requested to do so, communicate to the authorities of the other Contracting Party the text of the laws in force in its territory.

Article 18.

Legal documents issued by the competent authorities in the territory of one of the Contracting Parties and bearing the official seal shall, as regards validity, be treated in the territory of the other Party in the same way as documents issued in the territory of the latter, and consequently shall not require legalisation by the diplomatic or consular authorities.

Article 19.

Private documents drawn up in the territory of one of the two Contracting Parties and legalised by the competent authority or by a notary shall not require legalisation by the diplomatic or consular authorities.

C. FINAL PROVISIONS.

Article 20.

The present Convention shall come into force on the day of the exchange of ratifications and shall remain binding for a period of one year from the day on which either Contracting Party shall have denounced it.

In faith whereof the respective Plenipotentiaries have affixed their signatures and set their seals thereto.

Done in duplicate, in the Serbian and Bulgarian languages, at Sofia, on November 26, 1923.

(L. S.) (Signed) M. M. RAKITCH.

(L. S.) (Signed) Dr. MILETA NOVAKOVITCH.

(L. S.) (Signed) CHR. KALFOFF.

(L. S.) (Signed) Dr J. FADENHECHT.