

N° 2176.

FRANCE ET POLOGNE

Traité d'extradition. Signé à Paris,
le 30 décembre 1925.

FRANCE AND POLAND

Extradition Treaty. Signed at Paris,
December 30, 1925.

¹ TRADUCTION. — TRANSLATION.No. 2176. — EXTRADITION TREATY² BETWEEN FRANCE AND POLAND. SIGNED AT PARIS, DECEMBER 30, 1925.

French official text communicated by the Polish Delegate accredited to the League of Nations. The registration of this Treaty took place October 22, 1929.

THE GOVERNMENT OF THE POLISH REPUBLIC and THE GOVERNMENT OF THE FRENCH REPUBLIC having agreed to cooperate judicially in criminal matters and to conclude a Convention relating to the extradition of malefactors, the undersigned, being duly empowered to that effect, have agreed as follows :

Article 1.

The High Contracting Parties undertake to surrender to each other, in the circumstances and under the conditions laid down in the present Convention, all persons who, being accused or convicted of an offence committed either in the home territory or in the colonies and possessions or within the consular jurisdiction of either Party, shall be found in the home territory or in the colonies and possessions or within the consular jurisdiction of the other.

Should the offence giving rise to the demand for extradition have been committed outside the above-mentioned territories or areas of the applicant State, extradition may be granted if the laws of the country applied to authorise prosecution for the same offence when committed outside its territory.

Article 2.

Should the same person be claimed by several States, whether for different offences or for the same offence, the Government applied to shall freely decide to which of the said States the accused person shall be surrendered.

Article 3.

Extradition shall be granted for offences punishable under the laws of both States (it being understood that in the case of Poland it shall be sufficient if the offence is punishable under the laws of either country) :

(1) Wilful manslaughter, murder with premeditation, parricide, infanticide and poisoning ;

(2) Arson ;

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 Paris, July 27, 1929.

(3) Deliberate assault and wounding, either when premeditated or when causing disablement or permanent incapacity for personal work, complete loss or deprivation of the use of a limb or any other organ, or unintended death ;

(4) Rape, indecent assault with violence, indecent assault without violence on children below the age fixed by the penal laws of both countries ;

(5) Abduction of minors ;

(6) Larceny of all kinds and extortion ;

(7) Destruction of or interference with a railway or telegraphic or telephonic communications, with culpable intent ;

(8) Forgery of documents or falsification of public, commercial or private documents, falsification of telegraphic messages, use of forgeries ;

(9) Falsification or fraudulent alteration of official documents issued by the Government or a public authority, fraudulent use of documents so altered or falsified ;

(10) Coining of counterfeit money, falsification or alteration of certificates or coupons of the public debt, national or foreign banknotes, paper money or other public securities, seals, stamps, dies, marks of the State or public administrations, uttering or fraudulent use of the above-mentioned altered or falsified objects ;

(11) Embezzlement of public funds by public officials or depositaries ; bribery of officials ;

(12) Fraudulent bankruptcy ;

(13) Threats to commit offences against persons or property ;

(14) Offences by private persons against personal liberty or inviolability of domicile ;

(15) Perjury, subornation of witnesses, experts or interpreters ;

(16) Swindling, breach of trust ;

(17) Abortion ;

(18) Bigamy ;

(19) Offences committed against morals :

(a) By habitually encouraging, aiding or abetting the defilement or corruption of any young person of either sex under the age of twenty-one years ;

(b) By procuring enticing or leading away a woman or girl under age with a view to her defilement, even with her consent, to gratify the passions of another.

The foregoing offences shall include complicity in and attempts to commit such offences, and receiving, when covered by and punishable under the laws of the two countries.

It is understood that alteration or additions to the list of offences enumerated above may be made by mutual agreement, by declarations made by the two Governments.

Article 4.

Extradition shall not be granted :

(1) In the case of persons convicted after a full hearing or by default, when the sentence amounts to less than two months' imprisonment (this term being understood to include all penalties restrictive of liberty) ;

(2) In the case of accused persons, when the maximum sentence imposable for the alleged offence, according to the law of both countries, amounts to less than two years' imprisonment (this term being understood to include all penalties restrictive of liberty) ;

(3) If, according to the law of the country applied to, the authorities of that country are competent to institute criminal proceedings and cannot waive such competence in favour of the authorities of the applicant country ;

(4) If, in the territory of the State applied to, criminal proceedings have been instituted in respect of the same offence, or if the alien has been sentenced, acquitted or discharged, or if he has served his sentence or has been pardoned ;

(5) If the Party applied to considers the offence for which extradition is demanded to be a political offence or an act connected with such an offence. An offence committed or attempted against the person of the Head of a foreign State shall not be regarded as a political offence or as an act connected with a political offence when it constitutes manslaughter, assassination or poisoning ;

(6) If the person accused is a national of the country applied to or in the case of Poland, a citizen of the Free City of Danzig.

If the accused person has applied for naturalisation before the date of the requisition for extradition, the State applied to shall be entitled to postpone its decision for a period of six months ;

(7) If, under the laws of the State applied to, exemption from prosecution or punishment has been acquired by lapse of time.

Article 5.

The person surrendered may not be proceeded against, nor be tried and heard, for any offence other than that which led to his extradition, except in the following cases :

(1) If he has asked to be brought to trial or to serve his sentence, in which case his request shall be communicated to the Government which has surrendered him ;

(2) If he has not left the country to which he was surrendered within one month after his final release ;

(3) If the offence is covered by the Convention and if the Government to which he has been surrendered has previously obtained the consent of the Government which granted the extradition. The latter may, if it thinks fit, require the production of one of the documents mentioned in Article 7 of the present Convention.

The same rules shall apply to re-extradition to a third country.

Article 6.

Requisitions for extradition shall always be made through the diplomatic channel.

Article 7.

Extradition shall be granted only on production of the following documents not accompanied by translations :

(1) A sentence or summons formally ordering or effecting as of full right the surrender of the accused person for punishment, or a warrant of arrest or any other document having the same effect ; the originals of these documents, or certified copies, must be produced ;

- (2) An exact statement of the alleged offences, when this information is not given in the documents mentioned in the preceding paragraph ;
- (3) Whenever possible, the description of the person claimed, distinguishing marks and all particulars which might help to establish his identity ;
- (4) The text of the penal law or laws applicable to the alleged offence.

Article 8.

In urgent cases, the provisional arrest of the accused person shall be effected on notification, transmitted by post or telegraph, of the existence of a warrant of arrest, provided such notification is transmitted through the diplomatic or consular channel.

Such provisional arrest shall cease to be maintained and the alien shall be released if, within five weeks of the day of the arrest, the Government applied to has not received notification of the documents enumerated in Article 7, paragraphs 1, 2 and 4.

Article 9.

If the State applied to thinks it necessary to obtain additional information to enable it to decide as to the requisition for extradition, such information shall be supplied to it within five weeks of the day on which the diplomatic agent of the applicant country receives the request for such additional information.

If this information is not received by the State applied to within the period mentioned above, the alien shall be released.

Article 10.

If the person claimed is being proceeded against or has been convicted in the State applied to, the latter State shall decide as to the requisition for extradition. But the surrender of the accused person may be postponed until the proceedings are abandoned or he has been acquitted or discharged, or has served his sentence or been pardoned.

Should the latter be proceeded against or be in custody in the same country on account of obligations contracted towards private persons, his extradition shall nevertheless be granted, the right of the parties in question to maintain their claims before the competent authority being reserved.

Article 11.

If, by reason of the provisions of Article 4, paragraph 6, extradition cannot be granted, the High Contracting Parties undertake to proceed against and try, according to their own laws, their respective nationals who have committed offences against the laws of the other State, provided such offences come within the categories in respect of which extradition may be granted according to the provisions of the present Convention.

In the case of Article 4, paragraph 6, the foregoing provision applies to offences which were committed before naturalisation and which have given rise to a requisition for extradition.

The applicant State shall transmit a request through the diplomatic channel, accompanied by the objects, records, documents and other information necessary. The authorities of that country shall proceed as if they themselves were conducting the prosecution. In such cases all instruments and documents shall be drawn up free of charge.

Article 12.

Any articles seized which may serve as evidence of the crime, and all articles possibly obtained through the crime or offence in respect of which extradition is claimed, shall, at the discretion

of the competent authorities, be transmitted to the applicant Government, even if extradition cannot take place owing to the death or subsequent disappearance of the person claimed.

All articles which the accused person may have hidden or deposited in the country, even should they be discovered subsequently, shall also be transmitted if the request for their transmission is made either in the warrant of arrest or in a "commission rogatoire".

Nevertheless the rights which third parties not involved in the proceedings may have acquired over the objects mentioned in the present Article shall be reserved.

Article 13.

The cost of the arrest, maintenance and conveyance of the person whose extradition has been granted, together with the cost of the safe-keeping and transport of objects which, under the terms of the preceding article, have to be restored or handed over, shall be borne by the two States within the limits of their respective territories.

Article 14.

The extradition in transit, through the territory of either Contracting Party, of a person surrendered to the other Party shall be granted on production of the originals or certified copies of the documents mentioned in Article 7, paragraphs 1, 2 and 4.

Extradition in transit shall be granted only in cases in which extradition could be granted. The cost of transit shall be borne by the applicant State.

Article 15.

If, in the prosecution of a criminal case, the taking of depositions from persons who happen to be in either of the countries, or any other act connected with the preliminary legal proceedings, is deemed to be necessary, a "commission rogatoire" shall be sent for this purpose through the diplomatic channel; or shall be duly executed provided the offence giving rise to the warrant is punishable according to the laws of both countries.

The State applied to may refuse to execute the "commission rogatoire" :

- (1) If it considers that such execution affects its sovereignty or security ;
- (2) When a seizure or search is requested, if the offence giving rise to the "commission rogatoire" is not, according to the provisions of the present Convention, an offence in respect of which extradition may be granted ;
- (3) If the offence giving rise to the "commission rogatoire" is regarded by the State applied to as a political offence or an act connected with such an offence, subject to the exception provided for in Article 4, paragraph 5 ;
- (4) If the accused person is a national of the country applied to and is not in the territory of the applicant State.

"Commissions rogatoires" shall be executed in the form prescribed by the laws of the State applied to.

The two Governments shall waive all claim to the refund of expenses resulting from the execution of "commissions rogatoires" except when the preparation of an expert's report necessitated more than one sitting.

In the case of a refusal to execute "commissions rogatoires" the diplomatic agent of the applicant State shall be informed of the reasons for such refusal.

Article 16.

If, in a criminal case, the Government of either country deems it necessary that notice of a summons or of a judgment be given to a person residing in the territory of the other country, the document shall be forwarded through the diplomatic channel to the Government applied to.

The covering letter from the diplomatic agent of the applicant country shall indicate the authority issuing the document the address of the person for whom it is intended, the nature of the document, and the criminal offence to which it relates.

The Government applied to may refuse to execute the document :

- (1) If it considers that such document affects its security or sovereignty ;
- (2) If it considers that the offence to which the document relates is a political offence or an act connected with such an offence, subject to the exception provided for in Article 4, paragraph 5.

As a general rule, the Government applied to shall merely cause the document to be served on a person who accepts it voluntarily.

Proof of service shall be given either by means of a receipt dated and signed by the addressee, or by an attestation by the authority of the State applied to, stating the fact, the manner and the date of such service. If the document to be served has been transmitted in duplicate, the receipt or attestation may be written on the one of the duplicate copies which is to be returned.

Should the addressee refuse to accept the document voluntarily, at the express request of the diplomatic agent of the applicant State, the document shall be served upon the addressee in a manner authorised by the laws of the State applied to.

Documents proving the execution of the request shall be sent to the diplomatic agent without refund of costs in any case.

In the case of a refusal to execute the request, the diplomatic agent of the applicant State shall be informed of the reasons for such refusal.

Article 17.

If, in a criminal case which is being investigated in either State, the transmission of articles serving as proof of the crime, judicial documents, or any documents whatever which are in the possession of the authorities of the other country, is deemed to be necessary, a request therefore shall be made through the diplomatic channel.

The request shall be granted on condition that such articles and judicial and other documents are returned.

The State applied to may refuse the request :

- (1) If it considers that compliance would affect its security or sovereignty ;
- (2) If it considers that the offence giving rise to the request is a political offence or an act connected with such an offence, subject to the exception provided for in Article 4, paragraph 5.

The Contracting Governments shall waive all claim to the refund of expenses occasioned, within the limits of their respective territories, by the despatch and return of articles serving as proof of the crime, and of documents.

Article 18.

The two Governments undertake to communicate to each other, without refund of costs, sentences for offences which are shown in the records of the Court and which have been pronounced by the Courts of either State upon nationals of the other.

Such communication shall be made by the despatch, through the diplomatic channel, of a bulletin or extract to the Government of the country of which the accused person is a national.

Article 19.

The present Convention shall be ratified.

It shall enter into force one month after the date of the exchange of ratifications.

It shall apply to offences committed prior to its entry into force.

It shall cease to have effect on the expiration of a period of six months from the notification of its denunciation by either Contracting Party.

In faith whereof the undersigned, being duly empowered to that effect, have signed the present Convention and have thereto affixed their seals.

Done at Paris in duplicate on the thirtieth day of December, one thousand nine hundred and twenty-five.

(L. S.) (*Signed*) Alfred CHŁAPOWSKI.

(L. S.) (*Signed*) A. BRIAND.

(L. S.) (*Signed*) Leon BABIŃSKI.
