

N° 2344.

HONGRIE ET LETTONIE

Convention d'extradition et d'assistance judiciaire en matière criminelle, avec protocole de signature. Signés à Riga, le 4 mai 1929.

HUNGARY AND LATVIA

Convention regarding Extradition and Legal Assistance in Criminal Matters, with Protocol of Signature. Signed at Riga, May 4, 1929.

¹ TRADUCTION. — TRANSLATION.No. 2344. — CONVENTION² BETWEEN HUNGARY AND LATVIA REGARDING EXTRADITION AND LEGAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT RIGA, MAY 4, 1929.

French official text communicated by the Latvian Minister for Foreign Affairs and the Chargé d'Affaires a. i. of the Hungarian Delegation accredited to the League of Nations. The registration of this Convention took place June 8, 1930.

THE LATVIAN REPUBLIC and THE KINGDOM OF HUNGARY have resolved to conclude a Convention regarding extradition and legal assistance in criminal matters.

For this purpose the following have been appointed as Plenipotentiaries :

BY LATVIA :

M. Germain ALBAT, Secretary-General of the Ministry for Foreign Affairs ;

BY HUNGARY :

Dr. Michel JUNGERTH, Hungarian Chargé d'Affaires ;

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

Article 1.

The Contracting Parties undertake to deliver up to each other, in the circumstances and under the conditions laid down in the present Convention, those persons who, having been convicted of, or indicted or proceeded against for, one of the crimes specified in Article 2, committed in the territory of either of the Contracting Parties, shall have been found in the territory of the other Party.

Article 2.

Extradition shall be granted for any one of the following acts provided that, under Latvian and Hungarian law, it is a crime or offence punishable with not less than one year's imprisonment :

- (1) Wilful or unpremeditated homicide, infanticide, abortion ;
- (2) Exposure of a person unable to protect himself ; wilful desertion of any such individual ;

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 May 28, 1930.

(3) Serious bodily injuries inflicted maliciously, poisoning or the intentional administration of any other substance injurious to health ;

(4) Participation in an affray resulting in death or serious bodily injuries ;

(5) Premeditated offences against individual liberty ;

(6) Wrongful exchange or substitution of a child ;

(7) Kidnapping of a minor, the abduction of a person of full age against his will ;

(8) Offences against the inviolability of the dwelling ;

(9) Bigamy, incest, indecent assault, rape, procuring ;

(10) Larceny, receiving stolen goods, embezzlement, robbery, extortion ;

(11) Swindling ;

(12) Fraudulent bankruptcy and frauds committed in bankruptcy ;

(13) Bribing of public officials, judges or jurors ;

(14) Counterfeiting or falsification of money or paper money bonds, banknotes, share certificates or other securities ranking, under the penal code, as paper money, with intent to put into circulation the counterfeit money or forged paper as being genuine, or clipped coin as being valuable ; the importation from foreign countries of counterfeit money, forged paper or clipped coin for the same purpose, or the wilful putting into circulation of counterfeit money, forged paper or clipped coin ;

(15) The forgery or falsification of State emblems, particularly postage stamps and fiscal or other stamps for the payment of duties ;

(16) Forgery or falsification of public or private documents and the use of such documents ; destruction, defacement or suppression of a document with intent to injure a third party ; wrongful use of documents signed in blank ; destruction, removal or displacement of boundary marks ;

(17) Arson, and wilful damage by causing explosion, subsidence or flood ;

(18) Acts directed against the security of traffic by rail, or in vessels, aircraft or any other means of transport, whereby the lives of other persons are endangered.

Wilful or unlawful destruction or injury, whether total or partial, and by any means whatever, of railways, vessels and aircraft or any other means of transport, their working stock, steam engines, telegraphs and telephones or wireless telegraphs or telephones, employed for public ends.

Wilful or unlawful destruction or injury, whether total or partial, and by any means whatever, of buildings, bridges, roads or other structures whether belonging to the State or to some other person.

(19) Poisoning of springs, wells, aqueducts or reservoirs or of articles intended for public sale, consumption or use ; the admixture of foreign bodies injurious to health, the wilful putting into circulation of poisoned articles or of articles mixed with such substances.

(20) Wilful endangering of the life, health or property of others by the use of explosive substances ;

(21) Wilful destruction of or injury to movable or immovable property, whether public or private ;

(22) Premeditated release of a prisoner, or abetting his release or escape ;

(23) False witness on the part of a litigant, witness or expert ; false statement equivalent to perjury ; slanderous accusation.

Extradition shall likewise be granted for attempts to commit the aforesaid offences, or for complicity (instigation, aiding and abetting) provided that such attempt or complicity is liable to the penalty stipulated in paragraph 1, under the laws of the two Contracting Parties.

The list of extradition offences may at any time be extended by agreement between the Governments of the Contracting Parties, and the provisions of the present Convention shall apply to the offences added to the list as if they had been specified therein.

Article 3.

Extradition shall not be granted for political offences.

Where the guilty party alleges a political motive or objective, extradition shall nevertheless be granted if the act in respect of which it is requested constitutes in the main an offence under ordinary law. In each individual case the State to which application is made shall freely determine the nature of the offence, having regard to the facts; it may require the applicant State to produce any necessary information and evidence as to the actual facts.

Article 4.

In no case and in no circumstances shall the Contracting Parties be obliged to deliver up to each other their own nationals, whether native born or naturalised.

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

If the offence for which extradition is requested was committed outside the territory of the applicant State, extradition shall only be granted where the law of the State applied to would, under similar circumstances, permit of the prosecution of a like act committed outside its territory.

Furthermore, the offence must be punished under the laws of the place where it was committed.

Article 5.

Extradition shall not be granted :

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

(b) If the person whose surrender is requested has already been sentenced, proceeded against or discharged from the case in the country applied to in respect of the offence for which surrender was requested, unless, under the law of the State applied to, there are grounds for re-opening criminal proceedings ;

(c) If, under the law of the party applied to, a complaint can only be lodged or a charge be brought by the injured party in respect of the offence for which extradition is requested, unless it is shown that the injured party has demanded that such proceedings be taken.

Note. — If the prosecution is still pending extradition may be refused.

Article 6.

If proceedings are pending in the country to which application is made against the person whose extradition is claimed, or if the said person is under punishment therein for another offence, the extradition may not be effected before the proceedings are terminated or he has served his sentence or the sentence has been remitted. Extradition may, however, be granted provisionally on condition that the person concerned be returned when the applicant State has concluded its investigations or judicial procedure.

Article 7.

A person delivered up by one of the Contracting Parties to the other may not be tried or punished in respect of any act committed prior to extradition other than that for which he was surrendered, and may not, except in the circumstances laid down in Article 10, paragraph 2, be delivered up to a third State unless special consent is given in conformity with Article 9, or unless, after being finally discharged or released on the completion of the sentence, or as the result of an order cancelling the indictment, or of a pardon, the extradited person failed to leave the country within a period of thirty days, though he was in no way hindered from doing so or unless, having done so, he subsequently returned to that country.

During the period of thirty days mentioned in the preceding paragraph, the extradited person shall not in any way be prevented from leaving the country unless he commits another offence.

A person surrendered by one of the Contracting Parties to the other may not be tried for the offence in respect of which he was extradited before a court which is only invested provisionally, or in special circumstances, with extraordinary powers to try such cases.

Article 8.

The requisition for extradition shall be made through the diplomatic channel. It shall state the nationality of the person concerned, and shall be accompanied by the original or a certified copy of a conviction pronounced by a court, or of a warrant for arrest issued either by a court or else in Latvia, by an examining magistrate, and in Hungary by a competent authority; both the conviction and warrant shall specify the exact nature of the offence and the date and place of its commission. In the case of offences against property, the amount of the actual damage shall be indicated. The text of the criminal law in force in the applicant State and applicable to the offence, accompanied, where possible, by a description of the person claimed, shall be annexed to the requisition for extradition.

If the documents thus forwarded are incomplete, or if further information on any point is deemed necessary, the applicant State may be requested to supply the deficiency within a period of sixty days.

In no case shall the applicant State be called upon to furnish proof of the guilt of the person claimed.

Article 9

The request for consent provided for in Article 7 shall be made through the diplomatic channel. This request shall indicate the nature of the offence as well as the date and place of its commission or shall be accompanied by documents furnishing such information. If the request is for the purpose of bringing the surrendered person to trial, and if the offence in question is such that, under the provisions of the present Convention, extradition cannot be refused, the necessary authorisation shall be given.

Article 10.

If the person whose surrender is requested by one of the Contracting Parties under the provisions of the present Convention, is at the same time claimed by one or more other States, the State applied to shall decide which of the applicant States shall be given priority.

If, in the aforesaid case, the requisitions for extradition relate to different offences, the State applied to may, when granting extradition, stipulate that the person claimed shall, on the expiry of his sentence, be delivered up to another State or punished for his offences.

Article 11.

Pending receipt of the formal requisition for the surrender of any person, such person may be provisionally arrested. The application for arrest shall be made through the diplomatic channel. Nevertheless in urgent cases and particularly where there is reason to fear the flight of the person concerned, the competent authorities may communicate such applications direct to each other. The application shall indicate the offence of which the person concerned is accused, and if possible the date and place of its commission, as also the nationality and description of the person concerned, and shall intimate the existence of a conviction or a warrant of arrest, as provided in Article 8. It shall furthermore state that a formal requisition for the surrender of the said person will subsequently be made.

If the person concerned has been provisionally arrested as provided above and if, within a period of forty-five days from the date on which the applicant State was notified of his arrest the State applied to has not received a formal requisition through the diplomatic channel for his surrender, he shall be released.

Article 12.

If extradition has been granted, the applicant State shall be bound to obtain the surrender of the person claimed within a period of sixty days after receipt of the notification that extradition might be carried out forthwith. On the expiry of this period the person concerned may be released.

The State applied to shall determine the point on the frontier at which extradition is to take place.

Article 13.

When a person has been arrested in conformity with the provisions of the present Convention, all articles in his possession at the time of his arrest which may serve as evidence of the alleged offence, or to which claim may be laid by the *partie civile*, shall be taken from him, and, if extradition is granted, handed over to the authorities of the applicant State.

The State applied to may make such reservations as it may deem necessary in order to safeguard the rights of third parties in relation to such articles.

Article 14.

If an offender is to be extradited by one of the Contracting Parties to a third State, the other Party shall allow the offender to be conveyed through its territory, provided that he is not one of its own nationals and provided, of course, that the offence which is the ground of extradition is covered by Articles 1 and 2 of the present Convention and does not fall under the provisions of Articles 3 and 5.

In order that the conveyance of an offender may be authorised under the present Article, it shall suffice that the request has been made through the diplomatic channel, and that one of the legal documents mentioned in Article 8 has been produced either in the original or in an authentic copy.

The person arrested shall be conveyed under escort with the assistance of the police officials of the State which has authorised transit through its territory.

Similarly, conveyance in both directions through the territory of either of the Contracting Parties shall be permitted, under the aforesaid conditions, in the case of an offender in custody in a third country, whom the other Contracting Party desires to confront with a person against whom proceedings are being taken.

Article 15.

If, in the course of proceedings on a non-political criminal charge, a judicial authority of either of the Contracting Parties deems it necessary for witnesses staying in the territory of the other State to be heard, or for any other act connected with the prosecution to be carried out, a written request to that effect shall be sent for this purpose through the diplomatic channel and shall be complied with in so far as admissible under the laws of the country in which the witness is to be heard or the act carried out.

The State making application shall, on request, and where possible, receive previous notice as to the date and place of the execution of the measures applied for.

Article 16.

If, in the course of proceedings on a non-political criminal charge, it is deemed necessary to produce articles or documents which may serve as proof of the crime and which are in the possession of the authorities of the other State, or to seize the principal evidence of the offence and documents serving as proof thereof, or to ascertain the identity of an offender or to make a domiciliary visit, application shall be made through the diplomatic channel and the request shall be granted unless there are special objections thereto in any individual case, and subject to the right of the State to which application is made to make the production of the aforesaid articles and documents conditional on an undertaking to return them.

Nevertheless, in cases of extreme urgency where any delay might endanger the success of the proceedings, the prosecuting authorities may make a direct request to the authorities of the other party to carry out the judicial procedure mentioned in the first paragraph.

Article 17.

Expenses occasioned by the execution of the measures provided for in the present Convention shall be borne by the State within whose territory the said measures have been carried out, with the exception of costs of transit through the territory of either of the Contracting Parties as provided in Article 14.

The costs of provisional extradition (Article 6) as well as the cost of transit (Article 14) shall be borne, in the case of persons whose extradition has been granted, by the State making the application.

Article 18.

The documents submitted in the cases referred to in the present Convention shall be drawn up in German or accompanied by an authentic translation in that language.

Article 19.

The present Convention shall be ratified in accordance with the laws of the Contracting Parties and shall come into force ten days after the exchange of ratifications. It shall remain in force until the expiry of a period of six months from the date of its denunciation by either of the Contracting Parties.

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

Done in duplicate at Riga on May 4, 1929.

(Signed) ALBAT.

(Signed) DR. JUNGERTH.

PROTOCOL OF SIGNATURE.

On proceeding this day to sign the Extradition Convention, the undersigned Plenipotentiaries have agreed upon the following statement :

The Contracting Parties declare that in cases where the arrest of any person has been requested by either Government through the diplomatic channel, or by one of the competent authorities direct, the person claimed shall be immediately arrested, unless the Government to which application is made is acquainted with facts or informed of circumstances, from which it is clear that the extradition of the person claimed cannot be granted under the terms of the present Convention.

The present Protocol shall have the same force and the same validity as the Extradition Convention concluded this day.

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

Done at Riga, in duplicate, May 4, 1929.

(Signed) ALBAT.³

(Signed) DR. JUNGERTH.