

N° 2889.

LITHUANIE
ET TCHÉCOSLOVAQUIE

Convention relative à l'extradition et
à l'assistance judiciaire en matière
pénale. Signée à Kaunas, le 24
avril 1931.

LITHUANIA
AND CZECHOSLOVAKIA

Convention regarding Extradition
and Judicial Assistance in Criminal
Matters. Signed at Kaunas, April
24, 1931.

¹ TRADUCTION. — TRANSLATION.

No. 2889. — CONVENTION ² BETWEEN THE REPUBLIC OF LITHUANIA AND THE CZECHOSLOVAK REPUBLIC REGARDING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT KAUNAS, APRIL 24, 1931.

French official text communicated by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations and the Lithuanian Minister for Foreign Affairs. The registration of this Convention took place February 7, 1932.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC and THE PRESIDENT OF THE REPUBLIC OF LITHUANIA, having resolved by common agreement to conclude a Convention for the extradition of offenders, extradition in transit and judicial assistance in criminal matters, have appointed for this purpose as their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Miloslav NIEDERLE, Doctor of Laws, Chargé d'Affaires *ad interim* ;
M. Antonin KOUKAL, Doctor of Laws, Chief Counsellor at the Ministry of Justice ;

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA :

M. Dovas ZAUNIUS, Doctor of Laws, Minister for Foreign Affairs ;

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

CHAPTER I.

EXTRADITION OF OFFENDERS.

Article I.

GENERAL PROVISIONS.

The Contracting Parties undertake to surrender to each other on request, according to the rules established by the present Convention, all persons in the territory of one of them who are

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 Prague, January 7, 1932.

being proceeded against or who have been convicted by the judicial authorities of the other Party for an extraditable offence under the laws of the Party applied to :

(a) Provided the offence in question is punishable under the laws of both States with at least one year's imprisonment or a severer penalty, or, if the person claimed has been already sentenced for an identical offence, to at least six months imprisonment or to a severer penalty ;

(b) Provided the offence has been committed on the territory of the State making the application ;

(c) Provided the institution of proceedings in connection with the offence is not, under the law of the State applied to, a matter solely within the competence of its own judicial authorities.

If the offence has been committed outside the territory of the State applying, extradition shall only be granted in cases in which the laws of the State applied to authorise in similar circumstances the prosecution for the same offence when committed outside its own territory.

Extradition shall also be granted for attempts to commit the above offences or for complicity therein of every kind, when such acts are punishable under the laws of both Contracting Parties.

Article 2.

EXTRADITION AND PROSECUTION OF NATIONALS.

In so far as the laws of the Contracting Parties allow, nationals may be extradited.

In cases in which extradition is not granted by reason of the provisions of the previous paragraph, the Contracting Parties undertake to prosecute and judge in accordance with their own laws their respective nationals who have committed offences against the laws of the other State, provided that these offences come within the category of punishable acts mentioned in Article 1 of the present Convention.

The State which desires that action should be taken under the previous paragraph shall apply through the channel provided for in Article 15, its application being accompanied with exhibits, papers, documents and all necessary information.

Article 3.

NON-EXTRADITABLE OFFENCES.

Extradition shall not be granted :

(a) For political crimes and offences or acts connected therewith ;

(b) For purely military offences ;

(c) For Press offences in the strict sense of the term ;

(d) For offences in respect of which proceedings can only be instituted on the complaint of the injured party and can be discontinued when the complainant withdraws his complaint ;

(e) If immunity from prosecution or punishment has been acquired through prescription under the law in force in the territory of one of the Contracting Parties, or under the law of the State in which the offence was committed, before the accused has been arrested or committed for examination, or if it is impossible for other legal reasons to take proceedings against him or to carry out sentence ;

(f) If proceedings have also been instituted against the person claimed for the same offence in the country applied to, or if proceedings in that country have been stopped,

or if the person claimed has already been convicted or acquitted in respect of the same offence, unless the law of the country in question allows the reopening of criminal proceedings in consequence of new facts brought forward by the Party applying.

The State applied to shall be the sole judge whether the offence is one coming under the present Article.

Article 4.

REQUEST FOR EXTRADITION.

The request for extradition shall be made through the diplomatic channel. It shall be accompanied either by the indictment, warrant of arrest or other equivalent judicial act or the judgment pronounced against the person claimed. These documents shall be produced in original or in authenticated copies ; they must indicate briefly the offence in question and its particular character and denomination, and should be accompanied by the text of the penal law of the applicant State which applies to the offence, with a statement of the penalty involved.

Wherever possible, a description of the person claimed shall be attached, together with his photograph or other particulars which may help to establish his identity.

In the case of offences against property, the amount of the damage actually caused or, where that is possible, of the damage which the offender purposed to cause shall be indicated.

Article 5.

LANGUAGE TO BE EMPLOYED.

The documents mentioned in the preceding Article shall be drawn up in the official language of the applicant State in the form required by its laws and shall bear its official seal. Translations in the official language of the State applied to, made, or certified correct, either by a sworn translator who shall sign and seal them, or by an official translator of the applicant Party, shall be attached thereto.

Article 6.

ADDITIONAL EXPLANATIONS.

Should there be any doubt whether the offence comes within the provisions of the present Convention, the applicant State shall be asked to furnish explanations, and extradition shall only be granted when the explanations furnished are of a nature to dispel such doubts. The State applied to may in every case fix a time-limit within which further information must be supplied. This time-limit may be extended on reasoned application.

The applicant State shall in no case be required to produce proof of the guilt of the person applied for.

Article 7.

MEASURES TO ENSURE EXTRADITION.

On receipt of the request for extradition together with the documents mentioned in Articles 4 and 5, the State applied to shall take all the necessary measures to arrest the person claimed and prevent his escape unless extradition should appear to be *a priori* inadmissible.

Article 8.

PROVISIONAL ARREST.

In urgent cases the person claimed may be taken into provisional custody, even before the request for extradition has been submitted, on notification by post or telegraph, provided reference is made in such notification to a warrant of arrest or a judgment, and that the nature of the offence is also indicated. This notification may be addressed direct by the Court or competent authority of the applicant State to the competent authority of the State applied to. The applicant authority shall, however, confirm the telegraphic notice within a period of eight days.

The competent authorities of each of the Contracting Parties may, even in the absence of such notification, provisionally arrest any person discovered in their territory whose description has been given by the authorities of the other Party, or who is entered as wanted by the police in their respective bulletins or registers.

The authority which has effected the arrest of the person in conformity with paragraphs 1 and 2 shall at once inform the authority applying for this arrest, at the same time mentioning the place in which he is being kept in custody.

If within a period of fifteen days from the date on which this information was forwarded in conformity with the above provisions, the other Contracting Party has not intimated that it will ask for the surrender of the person arrested, the latter may be set at liberty.

Article 9.

Persons arrested in conformity with the preceding paragraph may also be set at liberty, if the request for extradition accompanied by the relevant documents set out in Articles 4 and 5 have not been received within a period of six weeks as from the date on which the notice of arrest provided for in paragraph 3 of the preceding Article was despatched.

Should additional explanations have been requested in accordance with Article 6, the person arrested may also be set at liberty, if these explanations have not been furnished to the State applied to within the due period which that State has fixed or extended.

Article 10.

SIMULTANEOUS REQUESTS FOR EXTRADITION.

If the person whose extradition is requested by one of the Contracting Parties is at the same time claimed in respect of the same offence by one or more other States, the State applied to shall decide to which of the applicant States preference shall be given.

The same rule applies, if the requests for extradition refer to different offences; nevertheless, the State applied to, in granting extradition in such cases, may impose the condition that the person claimed shall be handed over to another State on the expiration of his sentence.

These provisions shall not affect any obligations which either of the Contracting Parties may have previously assumed towards third States.

Article 11.

POSTPONEMENT OF EXTRADITION.

If proceedings are in progress against the person claimed, or if that person has already been sentenced in the territory of the State applied to for an offence other than that leading to the

request for extradition, or if he is being kept there in custody for other reasons, the latter State shall nevertheless give a decision on the claim for extradition. But the handing over of the extradited person may be postponed until the proceedings are abandoned, or until he has been acquitted or pardoned, or until he has served his sentence, or until the sentence has been remitted, or until he ceases for other reasons to be kept in custody.

This provision shall not, however, prevent the foreign national from being sent temporarily to appear before the judicial authorities of the applicant State, on the express condition that he shall be sent back as soon as these judicial authorities have given a decision on the offence which led to the application for extradition, or as soon as the proceedings for the purpose of which the person has been temporarily applied for shall be concluded.

Article 12.

EFFECTS OF EXTRADITION.

An extradited person may not be proceeded against or sentenced in the applicant State, nor be handed over by such State to a third State for an offence committed before his extradition, other than that for which such extradition was granted, unless :

- (a) The State applied to consents to such a course, or
- (b) The extradited person, having been at liberty to do so, has not of his own accord, and within one month of his being finally set free, left the territory of the State to which he was surrendered, or if he returns to the territory subsequently.

The State which has requested extradition or has asked for the consent to which paragraph (a) of the present Article relates shall inform the State applied to, provided that the latter demands it, of the final result of the proceedings, at the same time transmitting to it a certified copy of the definitive judgment.

Article 13.

CESSATION OF THE EFFECTS OF EXTRADITION.

If within a period of one month as from the date on which the applicant State was informed that the handing over of the extradited person could take place immediately, the latter State has not provided for the handing over of such person, he may be set at liberty.

Article 14.

EXTRADITION IN TRANSIT.

Conveyance in transit across the territory of one of the two Contracting Parties of a person handed over to the other Party by a third State shall be granted upon the production, either in original or in authenticated copy, of one of the documents mentioned in Article 4, provided that the grounds on which transit is demanded are within the provisions of the present Convention.

The provisions regarding the authorisation of extradition shall also apply to such cases of conveyance in transit.

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

CHAPTER II.

JUDICIAL ASSISTANCE IN CRIMINAL MATTERS.

Article 15.

In criminal matters the Contracting Parties shall accord each other judicial assistance. They shall provide for the service of writs in connection with penal proceedings upon persons who are in their territories ; they shall institute judicial investigations, such as the examination of witnesses and of experts, the taking of affidavits, the conducting of searches and the seizure of objects ; they shall transmit to each other all judicial acts and exhibits.

The request for judicial assistance shall be drawn up in the official language of the applicant State, and shall bear the seal of the authority making the application. The provisions of Article 5 regarding translation shall also apply. All communications regarding judicial assistance shall be exchanged directly between the Ministries of Justice or the Ministries of National Defence of the two States, as the case may be.

The action to be taken on a request for judicial assistance shall be subject to the laws of the State in whose territory the required examination is to take place. The record of proceedings shall not be translated into the official language of the applicant State.

Article 16.

REFUSAL OF JUDICIAL ASSISTANCE.

Judicial assistance in criminal matters may be refused when, according to the provisions of the present Convention, there is no obligation to grant extradition.

Article 17.

SUMMONING AND ATTENDANCE IN COURT OF PERSONS WHO ARE IN THE TERRITORY OF THE OTHER STATE.

Should it be considered necessary or desirable in a criminal case pending before the Courts of one Contracting State to secure the attendance in Court of a witness or expert who is in the territory of the other Contracting State, the authorities of the latter shall call upon such person to comply with the subpoena served upon him by them on behalf of the Courts of the first State.

The expenses connected with the attendance in Court of a witness or expert shall be borne by the applicant State, and the subpoena shall indicate the sum to be allocated to the witness or expert by way of travelling expenses and subsistence allowance ; it shall also indicate the sum which may be advanced to him by the State applied to, provided the applicant State repays these sums, as soon as the person summoned has declared his willingness to comply with the subpoena.

No witness or expert, whatever his nationality, who, when summoned by that Party in accordance with the first paragraph, voluntarily attends in the Courts of the other Party, may be prosecuted or detained in the territory of the latter for previous offences or convictions or on the ground of complicity in the offence forming the subject of the cases in which he is concerned.

Such persons shall, however, forfeit the above privilege, should they fail of their own free will to leave the territory of the applicant State within three days from the date on which their attendance before the judicial authorities has been declared by the Court to be no longer necessary.

Should the person whose attendance is required be in custody in the territory of the State applied to, a request may be made for his attendance in Court, if assurances are given that he will

be sent back at the earliest possible date. A request of this kind may only be refused for special reasons, for instance, if the person in question expressly declares that he is opposed to such proceeding.

Similarly, subject to the above provisions, the conveyance and return through the territory of one of the Contracting Parties of a person in custody in a third State, shall be permitted if the other Contracting Party considers it necessary to confront him with the accused or to take his verbal evidence.

Article 18.

DELIVERY OF EXHIBITS.

The authorities of one of the Contracting Parties shall on request deliver up to the authorities of the other Party the articles which an accused person may have obtained as a result of his offence or which may constitute exhibits ; this shall apply even when the objects in question are liable to seizure or confiscation.

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 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 provision 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.

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

The State applied to may retain provisionally the articles seized, if it requires them in connection with criminal proceedings. It may also, when handing them over, reserve its right to have them restored for the same purpose, undertaking in turn to restore them as soon as possible.

Article 19.

COMMUNICATION OF CONVICTIONS AND EXTRACTS FROM CRIMINAL RECORDS.

The Contracting Parties undertake to communicate to each other through the channel appointed in Article 15 the criminal records regarding all sentences having acquired the force of *res judicata*, with or without conditional postponement of execution (*sursis*), pronounced by their judicial authorities against the nationals of the other Party.

They shall also communicate to each other any further decisions concerning the said judgments.

The authorities of either of the Contracting Parties responsible for keeping the records of previous convictions or the records of the Courts, shall furnish without charge to the authorities of the other Party, upon their request made through the channel appointed in Article 15, information from the records of previous convictions or the records of the Courts regarding particular cases. The Contracting Parties shall notify one another as to the authorities entrusted with the keeping of criminal records or records of the Courts and the furnishing of information thereunto relating.

Article 20.

EXPENSES OF JUDICIAL ASSISTANCE IN CRIMINAL MATTERS.

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

Fees paid for expert opinions of any kind and the expenses of conveyance in transit across the territory of the State applied to shall remain chargeable to the applicant State. The applicant State shall also bear the expenses of all steps taken under Article II, paragraph 2, or Article I paragraphs 2, 5 or 6, of the present Convention.

CHAPTER III.

FINAL PROVISIONS.

Article 21.

The present Convention shall be ratified and the instruments of ratification shall be exchanged at Prague as soon as possible.

The present Convention shall come into force one month after the exchange of ratifications and shall remain in force until six months after one of the Contracting Parties has denounced it.

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

Done in duplicate at Kaunas, April 24, 1931.

(L. S.) Dr. NIEDERLE.

(L. S.) Dr. KOUKAL.

(L. S.) ZAUNIUS.