

N° 2911.

**DANEMARK
ET TCHÉCOSLOVAQUIE**

Convention concernant l'extradition
réciproque des malfaiteurs et
l'assistance judiciaire en matière
criminelle, avec protocole final.
Signés à Copenhague, le 7 octobre
1931.

**DENMARK
AND CZECHOSLOVAKIA**

Convention regarding the reciprocal
Extradition of Offenders and Judi-
cial Assistance in Criminal Matters,
with Final Protocol. Signed at
Copenhagen, October 7, 1931.

¹ TRADUCTION. — TRANSLATION.

No. 2911. — CONVENTION² REGARDING THE RECIPROCAL EXTRADITION OF OFFENDERS AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN DENMARK AND THE CZECHOSLOVAK REPUBLIC. SIGNED AT COPENHAGEN, OCTOBER 7, 1931.

French official text communicated by the Permanent Delegates of Denmark and of the Czechoslovak Republic accredited to the League of Nations. The registration of this Convention took place March 8, 1932.

HIS MAJESTY THE KING OF DENMARK AND ICELAND and THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC, having resolved to conclude a convention concerning the reciprocal extradition of offenders and judicial assistance in criminal matters, have appointed for this purpose as their Plenipotentiaries :

HIS MAJESTY THE KING OF DENMARK AND ICELAND :

M. Axel NØRGAARD, Minister Plenipotentiary, Chief of Department in the Ministry of Foreign Affairs, and
M. Frederik LUCAS, Chief of Section in the Ministry of Justice ;

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Bohdan PAVLŮ, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic at Copenhagen, and
M. Antonin KOUKAL, Doctor of Laws, Counsellor in the Ministry of Justice,

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

CHAPTER I.

EXTRADITION OF OFFENDERS.

Article I.

GENERAL PROVISIONS.

1. The High Contracting Parties undertake to surrender to each other, upon requisition being made and in the circumstances and conditions laid down in the present Convention, those

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, February 8, 1932.

persons who are being proceeded against for or have been convicted of a punishable offence by the Courts of the Party making application and who shall be found within the territory of the State applied to, provided that in the case of accused persons, the offence in question is punishable under the laws of both States with at least one year's imprisonment or a heavier penalty or, in the case of convicted persons, the person claimed has been sentenced to at least six months' imprisonment and the offence is punishable with at least six months' imprisonment under the laws of the State applied to.

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

3. Extradition shall not be granted by either State for offences committed in its own territory, nor for offences committed outside such territory, if the laws of the State applied to provide that such offences shall be dealt with by the judicial authorities of that State.

4. If the offence for which extradition is claimed was committed outside the territory of the State making application, extradition shall not be granted unless the laws of the State applied to would in similar circumstances allow action to be taken against a like offence committed outside its territory.

Article 2.

EXTRADITION AND PROSECUTION OF NATIONALS.

1. The High Contracting Parties shall not surrender their own nationals.

2. The High Contracting Parties reserve the right to refuse to surrender aliens who have resided permanently in their territory for a period of two years previous to the requisition for extradition unless such requisition refers to an offence committed prior to the date on which the alien settled in the country.

3. In cases in which extradition is not granted for the reasons specified in the preceding paragraphs, the High Contracting Parties shall proceed against such persons under the provisions and in accordance with the practice of their own criminal laws.

4. The State which desires action to be taken under the preceding paragraph shall forward a request through the channel specified in Article 15, accompanying such request with articles, records, documents and all necessary information.

Article 3.

PUNISHABLE OFFENCES FOR WHICH EXTRADITION IS NOT GRANTED.

1. Extradition shall not be granted :

(a) For political offences or for acts connected with such offences. The fact that an offence has been committed against the person of the Head of either contracting State shall not in itself be sufficient to bring it within the category of political offences.

(b) For purely military offences.

(c) For offences against the Customs, revenue or other finance laws.

(d) If under the law of the State applied to, immunity from prosecution or conviction, or from the execution of the sentence, has been acquired by the accused person prior to his arrest or, if arrest has not yet taken place, prior to his committal for examination.

(e) If within the territory of the State applied to proceedings for the same offence have been instituted against the person claimed and if such proceedings have been terminated by a sentence or in any other way, unless under the laws of the State applied to criminal proceedings have to be re-opened.

2. The decision whether the acts enumerated in paragraphs *a*) to *e*) are of the nature therein specified shall in every case lie with the State applied to.

Article 4.

REQUISITION FOR EXTRADITION.

1. The requisition for extradition shall be made through the diplomatic channel. It shall contain full information regarding the national status of the person in question and shall be accompanied either by a sentence of a Court, or by a warrant of arrest or imprisonment issued by a Court and giving full particulars of the nature of the offence and of the time and place of its commission.

2. If the offence is one in respect of which proceedings can only be taken on the application or instructions of the injured party, the requisition for extradition shall state expressly that such application has been made or instructions given.

3. These documents in support shall be attached in the original or in copies legalised by the Court or by any other competent authority of the State making application. Whenever possible a description of the person claimed shall also be sent, together with his photograph or other information which may assist in his identification.

4. Legalised copies of the text of the penal provisions applicable to the offence and determination of the penalty shall be attached.

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. Translations in the official language of the State applied to, or in French, shall be attached thereto. Documents and translations shall comply in external form with the laws of the applicant State.

Article 6.

ADDITIONAL EXPLANATIONS.

Should there be any doubt whether the offence which forms the subject of the requisition for extradition comes within the provisions of the present Convention, the applicant State shall be asked to furnish additional explanations within a reasonable period. Extradition shall only be granted if the explanations furnished are of a nature to dispel such doubt (Article 9, paragraph 3).

Article 7.

MEASURES TO ENSURE EXTRADITION.

Unless extradition should appear to be *a priori* inadmissible, it is understood that the State applied to shall, immediately on receipt of the requisition for extradition together with the documents mentioned in Articles 4 and 5, take all necessary steps to keep the accused under its control and to prevent the possibility of escape, while still reserving the decision on the requisition for extradition.

Article 8.

PROVISIONAL ARREST.

1. In urgent cases the person claimed may be arrested provisionally even before the requisition for extradition has been submitted, provided always that notice has been given of a warrant of arrest or of a sentence against the person claimed and that the punishable offence has at the same time been indicated. The requisition for extradition may be addressed direct, either by letter or by telegram, by the Court or competent authority of the applicant State to the competent authority of the State applied to. It must state the time and place of the commission of the offence and if possible the nationality and description of the person in question.

2. Provided the requisition contains the above information, it may be inserted, should a request be made for the purpose, in the Police Bulletin of the State applied to. The address of this publication is, in the case of the Czechoslovak Republic, the Police Headquarters (*Policejní ředitelství*), Prague and, in the case of Denmark, the Chief of the State Police ("Chefen for Statspolitiet"), Copenhagen.

Article 9.

PROVISIONAL ARREST (CONTINUATION).

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

2. Should the requisition for extradition, accompanied by the supporting documents specified in Articles 4 and 5, not be received within four weeks from the date on which the communication mentioned in paragraph 1 was despatched, the person arrested may be set at liberty.

3. If additional explanations regarding extradition have been asked for under Article 6, the person arrested may also be set at liberty when such explanations are not furnished to the State applied to within the period laid down.

Article 10.

CONCURRENT REQUISITIONS FOR EXTRADITION.

If the person whose extradition is requested is at the same time claimed by one or more other States, the State applied to shall decide which of these requisitions shall be granted.

Article 11.

POSTPONEMENT OF EXTRADITION.

1. If the person claimed is being proceeded against or has been convicted, in the State applied to, for an offence other than that which gave rise to the requisition for extradition, or if he is being kept there in custody for other reasons, his surrender may be postponed until the proceedings are concluded or, in the event of his conviction, until he has served his sentence or the sentence has been remitted, or until he is released from custody.

2. The State applied to shall nevertheless give a decision without delay on the requisition for extradition.

3. If, however, the observance of the above rule might, under the laws of the applicant State, lead to immunity being acquired by lapse of time or to other serious difficulties in the taking of proceedings, the person claimed may, unless special circumstances render such a course undesirable, be provisionally surrendered, subject to the obligation to return him immediately on the conclusion of proceedings in the applicant State or of the judicial investigation for the purpose of which he was temporarily surrendered.

Article 12.

LIMITS TO THE RIGHT OF PROCEEDING AGAINST A PERSON WHO HAS BEEN SURRENDERED.

1. An person who has been surrendered may not be proceeded against or sentenced or delivered up to a third State for any punishable offence whatsoever committed before his extradition other than the offence for which extradition has been granted :

(a) Unless the State which has granted extradition subsequently consents thereto. Such consent may not be refused if the punishable offence in question is also an extradition offence under the present Convention. The request for consent shall furnish particulars of the nature of the offence and of the time and place of its commission, and shall be accompanied by an authenticated copy of the penal provisions in question ;

(b) Unless the person who has been surrendered has, through his own fault, failed to leave the territory of the State to which he was surrendered within a period of four weeks from the date on which he had served his sentence or the sentence had been remitted, or unless he subsequently returns of his own free will to the territory in question. If the criminal proceedings taken in respect of the matter for which extradition was granted terminate without the infliction of a penalty, the period laid down shall be reckoned from the date on which the person concerned was informed that no further action would be taken.

2. If the State which has authorised extradition so requests, it shall be informed of the final result of the criminal proceedings and shall, if necessary, be given a legalised copy of the judgment.

Article 13.

CESSATION OF THE EFFECTS OF EXTRADITION.

If the applicant State has not caused the person whose extradition has been granted to be delivered up to it within a period of four weeks from the date on which it was notified that he could be surrendered immediately, such person may be set at liberty.

Article 14.

PASSAGE OF CRIMINALS WHO HAVE BEEN SURRENDERED.

1. If the extradition of an offender has been granted between one of the High Contracting Parties and a third Power, the other Party shall, if requested to do so, allow him to be conveyed through its territory.

2. The provisions relating to the authorisation for extradition shall also apply to such conveyance of criminals.

3. As regards escort, the conveyance shall be effected with the assistance of officers of the Party applied to ; the said Party shall determine the conditions and route.

CHAPTER II.

JUDICIAL ASSISTANCE IN CRIMINAL MATTERS.

Article 15.

GENERAL PROVISIONS.

1. The High Contracting Parties undertake on receipt of a request forwarded through the diplomatic channel to afford each other judicial assistance in criminal matters. They shall in particular provide for the service of documents relating to judicial procedure and shall cause to be executed any other measure connected with judicial investigations, such as the hearing of accused persons, witnesses and experts, the taking of affidavits, searches and the seizure of articles ; they shall transmit to each other documents and articles relating to criminal proceedings.

2. *Commissions rogatoires* for the searching of a person or a dwelling, or the seizure of material evidence of articles serving as proof of the crime may only be executed if, under the provisions of the present Convention, extradition must be granted for the offence in question.

3. *Commissions rogatoires* shall be drawn up in the official language of the applicant State.

4. The provisions of Article 5 shall apply to the external form and to the translations of the request and of the accompanying documents.

5. The *commission rogatoire* shall be executed in accordance with the laws of the State in whose territory it is to be carried out. The papers shall not be translated into the official language of the applicant State.

Article 16.

WHEN THE EXECUTION OF " COMMISSIONS ROGATOIRES " MAY BE REFUSED.

Judicial assistance in criminal matters may be refused when the provisions of the present Convention impose no obligation to grant the extradition of the person against whom proceedings have been instituted.

Article 17.

SUMMONING AND ATTENDANCE IN COURT OF PERSONS RESIDING ABROAD.

1. Should it be necessary or desirable in a criminal case of a non-political nature to secure the attendance in court of a witness or expert who is resident in the other State, the authorities of that State shall, when requested to do so, call upon the witness or the expert to comply with the request addressed to them for this purpose.

2. No witness or expert, whatever his nationality, who on being summoned appears voluntarily before the authorities of the applicant State may be proceeded against or punished for acts committed previously, nor may he be arrested by reason of any circumstances which occurred prior to his appearance or on the ground of complicity in the offences forming the subject of the criminal case in which he is to be heard. Such persons shall, however, lose this privilege if they fail by their own fault to leave the territory of the applicant State within a reasonable period after they have been heard. The length of this period shall be settled by the competent authority, which shall inform the person concerned.

3. The request for the transmission of the summons shall indicate the amount to be allocated to the person summoned as travelling and subsistence allowance and also the amount which may

be advanced to the witness by the State applied to. This advance shall be paid over as soon as the person summoned has declared to the authority transmitting the request his willingness to comply with the summons.

Article 18.

HANDING OVER OF ARTICLES SERVING AS PROOF OF THE CRIME, ETC.

1. The authorities of the High Contracting Parties shall, when requested to do so, hand over to each other in accordance with the provisions of their respective laws the articles which an accused person may possess as the result of a punishable offence or which may serve as proof of the crime; this provision shall apply even when the articles in question are liable to seizure or confiscation.

2. If these articles have been asked for in connection with the extradition or passage of a criminal, they shall so far as possible be handed over at the time of the extradition or passage.

3. Nevertheless the rights which third parties may have acquired over these articles shall be reserved.

4. The State applied to may temporarily retain the articles seized if it regards them as necessary for the purposes of a criminal investigation. It may also, when handing them over, reserve its right to have them restored for the same purpose, undertaking to return them as soon as possible.

Article 19.

COMMUNICATION OF CONVICTIONS AND EXTRACTS FROM CRIMINAL RECORDS.

1. The High Contracting Parties shall communicate to each other extracts of final convictions in criminal proceedings properly so called, in so far as they concern nationals of the other Party. This shall be done, on the termination of each case, by direct communication between the central authorities, viz., for the Czechoslovak Republic: the Ministry of Justice (*Ministerstvo spravedlnosti*), Prague, and for Denmark: the Chief of the State Police (*Chefen for Statspolitiet*), Copenhagen.

2. The authorities of each of the High Contracting Parties responsible for the keeping of the criminal records shall, on a request being addressed direct, furnish to the authorities of the other Party responsible for criminal prosecution particulars taken from the criminal records and relating to individual cases.

Article 20.

EXPENSES OF JUDICIAL ASSISTANCE IN CRIMINAL MATTERS.

1. Expenses occasioned by requisitions for extradition or requests or any other form of judicial assistance in criminal matters shall be borne by the Party in whose territory the measures in question have been taken.

2. The foregoing provision shall not apply to expenses occasioned by requests for certificates from experts or the summoning of persons who are in the territory of the State applied to, by temporary extradition under the provisions of Article 11, paragraph 3, of the present Convention, and by conveyance in transit in accordance with Article 14. These expenses shall be refunded by the applicant State.

CHAPTER III.

FINAL PROVISIONS.

Article 21.

1. The present Convention shall be ratified and the ratifications shall be exchanged as soon as possible at Prague.

2. It shall come into force one month after the exchange of the instruments of ratification, and shall remain in force until six months after one of the High Contracting Parties has notified the other of its denunciation.

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

Done in duplicate at Copenhagen on the seventh day of October one thousand nine hundred and thirty-one.

(Signed) (L. S.) Bohdan PAVLŮ.

(Signed) (L. S.) Dr. Antonín KOUKAL.

(Signed) (L. S.) Axel NØRGAARD.

(Signed) (L. S.) F. LUCAS.

FINAL PROTOCOL.

On proceeding to sign the Convention bearing to-day's date regarding the reciprocal extradition of offenders and judicial assistance in criminal matters between the Czechoslovak Republic and Denmark, the undersigned Plenipotentiaries declare that it is understood that the Convention does not apply to Greenland.

Done in duplicate at Copenhagen, October 7, 1931.

Bohdan PAVLŮ.
Axel NØRGAARD.

Dr. Antonín KOUKAL.
F. LUCAS.