

N° 4717.

GRÈCE ET TURQUIE

Traité d'extradition et d'entr'aide judiciaire en
matière pénale. Signé à Ankara, le 7 mars
1939.

*Texte officiel français communiqué par le représentant a. i. de la Grèce près
la Société des Nations. L'enregistrement a eu lieu le 28 avril 1940.*

GREECE AND TURKEY

Treaty regarding Extradition and Reciprocal
Judicial Assistance in Criminal Matters.
Signed at Ankara, March 7th, 1939.

*French official text communicated by the Acting Representative of Greece to
the League of Nations. The registration took place April 28th, 1940.*

TRADUCTION. — TRANSLATION.

No. 4717. — TREATY¹ BETWEEN GREECE AND TURKEY REGARDING EXTRADITION AND RECIPROCAL JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT ANKARA, MARCH 7TH, 1939.

HIS MAJESTY THE KING OF THE HELLENES, of the one part,
and

HIS EXCELLENCY THE PRESIDENT OF THE TURKISH REPUBLIC, of the other part,
Being desirous of concluding a Treaty for the purpose of regulating the extradition of offenders and judicial assistance in criminal matters, have appointed as their respective Plenipotentiaries:

HIS MAJESTY THE KING OF THE HELLENES :

Monsieur Raphael RAPHAEL, Envoy Extraordinary and Minister Plenipotentiary of Greece at Ankara ;

HIS EXCELLENCY THE PRESIDENT OF THE TURKISH REPUBLIC :

Monsieur Numan MENEMENCIOLU, Ambassador, Secretary-General of the Ministry of Foreign Affairs ;

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

CHAPTER I. — EXTRADITION.

Article I. — GENERAL PROVISIONS.

(a) The High Contracting Parties undertake to deliver up to each other, on requisition being made, persons other than their own nationals, within the territory of either Party, who are being proceeded against or have been sentenced by the ordinary judicial authorities of the other Party.

(b) This undertaking shall relate to any offence which, according to the laws of both States, is punishable with imprisonment for at least one year, or with a heavier penalty, and to any offence which is punishable according to the laws of both States and in respect of which the person claimed has been sentenced to imprisonment for at least six months or to a heavier penalty. Extradition shall also be granted in respect of attempts to commit such offences or complicity therein, provided that such attempts or such complicity are punishable according to the laws of both High Contracting Parties.

(c) If more than one offence is involved, extradition shall be granted only if the penalty applicable in such circumstances amounts, according to the laws of the High Contracting Parties, to imprisonment for at least one year or if the person claimed has been sentenced for such offences to imprisonment for at least six months.

(d) In respect of offences subsequent to the first offence, extradition may be granted irrespective of the penalty applicable or applied in regard to the new offence if, for a previous offence, the person claimed has been sentenced to imprisonment for at least six months. Extradition shall nevertheless not be granted if the new offence is merely a petty offence.

¹ The exchange of ratifications took place at Ankara, March 28th, 1940.
Came into force April 28th, 1940.

Article 2. — EXCEPTIONS TO EXTRADITION.

Extradition shall not be granted :

- (1) For purely military offences ;
- (2) For press offences strictly so called ;
- (3) For offences against fiscal laws ;
- (4) For offences in respect of which proceedings can be instituted only on the complaint of the injured party and can be discontinued as the result of the withdrawal of such complaint ;
- (5) In cases in which the criminal action or the penalty is barred in accordance with the laws of either High Contracting Party, provided that the action or penalty is barred for reasons which became effective before the requisition for extradition was officially received by the State applied to ;
- (6) If the offence was committed in the territory of the State applied to, or if proceedings in respect thereof are reserved, by the laws of the State applied to, to its own judicial authorities ;
- (7) If proceedings have been instituted against the person claimed in respect of the same offence in the country applied to, or if proceedings against him in that country have been dropped or if he has been sentenced or acquitted in respect of the same offence, unless the laws of the country in question permit of the re-opening of criminal proceedings in consequence of new facts ;
- (8) If the offence is of a political character or if it is connected with a political offence to such an extent that it constitutes an act concerned with the preparation, committal or concealment of such an offence, or if, on the contrary, the act is concerned with preventing the committal of such an offence, the State applied to being alone competent to decide whether the offence is of such a character.

Nevertheless, extradition may be granted in the case of offences against the person of the Head of the State if the offence in question constitutes wilful murder or involves serious injury to the body or health or constitutes an attempt to commit such a crime or complicity therein.

Extradition may be granted also in the case of offences that partake of various characters or are connected with political offences, provided that the act in question is, in the light of all the facts, of a particularly odious character.

Article 3. — REQUISITION FOR EXTRADITION.

The requisition for extradition shall be transmitted through the diplomatic channel and shall be accompanied by : (a) the judgment pronounced against the person claimed or the bill of indictment or warrant of arrest or any other judicial document having the same authority and specifying the nature and gravity of the offence ; (b) the text of the criminal law of the applicant State which is applicable to the offence and which prescribes the penalty involved.

The documents to be transmitted shall be drawn up in the form prescribed by the laws of the applicant Party. They shall be legalised by the Diplomatic Agent of the applicant Party and shall be accompanied by a translation in the language of the Party applied to or in the French language, such translation being certified correct by the Diplomatic Agent of the applicant Party.

The requisition for extradition shall, whenever possible, be accompanied by a description of the person claimed, his photograph and all other particulars that may serve to establish his identity.

Article 4. — SUPPLEMENTARY INFORMATION.

Should there be any doubt whether the offence which forms the subject of the proceedings comes within the scope of the provisions of the present Convention, the applicant State shall be requested to furnish supplementary information and the extradition shall be granted only when the explanations furnished are of such a nature as to dispel such doubt.

Article 5. — MEASURES TO ENSURE THE ARREST OF THE PERSON CLAIMED.

On receipt of the requisition for extradition, together with the documents specified in Article 3, the State applied to shall immediately take all necessary measures for the purpose of arresting the person claimed and preventing his escape, unless extradition should *a priori* appear to be inadmissible.

Article 6. — PROVISIONAL ARREST.

Application for provisional arrest shall in all cases be submitted through the diplomatic channel. The provisional arrest of the person claimed shall be effected on receipt by the competent authority of the country applied to of the judgment pronounced or the warrant issued by the competent authority of the applicant country. Nevertheless, in urgent cases, the arrest may be effected on receipt merely of notification by post, telegraph or telephone, mentioning the existence of the warrant or judgment and specifying the nature and gravity of the offence with which the person concerned is charged. Such notification shall in all cases be confirmed in writing, through the diplomatic channel, within 24 hours.

The competent authorities of each High Contracting Party may, even in the absence of the notification referred to in the preceding paragraph, provisionally arrest any person discovered in their territory concerning whom the authorities of the other Party have issued a notice or who is reported as wanted by the Police in their respective bulletins or registers.

It is understood that provisional arrest shall be effected only if the offence in respect of which the person concerned is wanted is an offence for which extradition is granted.

The authority which has effected the provisional arrest in accordance with the first and second paragraphs of the present Article, shall, without delay, notify the authority which applied for the arrest or the authority which, according to the notice published in the Police bulletins or registers, is taking proceedings against the person concerned, and shall at the same time specify the place where he is being held in custody.

Article 7. — RELEASE OF THE PERSON ARRESTED.

If, within a period of fifteen days as from the date on which the notification referred to in the fourth paragraph of the preceding Article was despatched, the other Party has not intimated that he will apply for the extradition of the person arrested, the latter may be released.

Furthermore, if the requisition for extradition, accompanied by the documents in support thereof specified in Article 3, is not received within a period of six weeks as from the date on which the notification relating to the provisional arrest referred to in the first paragraph of the preceding Article was despatched, the person arrested may be released.

Finally, the release of the person arrested may be ordered if the supplementary information requested in accordance with the terms of Article 4 does not reach the State applied to within a period of one month as from the date on which the request therefor was despatched. This period may, on receipt of a reasoned request, be prolonged, provided, however, that the total period of provisional custody shall not exceed two months.

Article 8. — CONCURRENT REQUISITIONS FOR EXTRADITION.

If the extradition of an offender is requested simultaneously by several States in respect of the same offence, the order of preference shall be as follows :

- (a) The State in whose territory the offence was committed ;
- (b) The State of which the offender is a national.

If the concurrent requisitions relate to different offences, extradition shall, by preference, be granted to the State which is competent to pronounce judgment in respect of the most serious offence.

Should there be several applications for extradition in respect of the most serious offence, the order of preference shall be that which is specified in the first paragraph of the present Article.

In all cases, the right to decide which is the most serious offence shall be reserved to the State applied to.

If, within a period of one month as from the date on which the first requisition for extradition was delivered, no other requisition has been received, the State applied to shall surrender the person claimed to the applicant State, even if other requisitions for extradition were received subsequently to the expiration of that period.

The provisions of the present Article shall not affect any obligations which either High Contracting Party may have previously assumed towards other States.

Article 9. — 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 in respect of an offence other than that to which the application for extradition relates, or if he is being held there in custody for other reasons, his extradition may be postponed until the proceedings are concluded, or, in the event of his conviction, until he has served his sentence or until the sentence has been remitted, or until he ceases to be held in custody for other reasons.

Such postponement shall not prevent the giving of a decision without delay in regard to extradition.

Article 10. — LIMITS TO THE RIGHT OF EXTRADITION.

The surrendered person shall not be proceeded against or sentenced in the State to which extradition has been granted, or surrendered to a third country for an offence other than that in respect of which his extradition was granted.

In respect of other offences committed before extradition, the person surrendered may be proceeded against, punished or delivered up to a third country only if the State which granted the extradition subsequently consents thereto.

The State which has surrendered the offender may require that such consent should be requested in the form prescribed for the requisition for extradition and that the request should be accompanied by the documents in support thereof specified in Article 3.

Article 11. — EXTRADITION IN TRANSIT.

Extradition in transit through Greek or Turkish territory, or on a vessel of either State, of a person who is not a national of the country of transit and who has been surrendered by a third State shall be authorised on receipt of a request, transmitted through the diplomatic channel, supported by the documents necessary for the purpose of determining that the offence in question is not a political offence.

Such extradition shall be effected by the most rapid means, at the cost of the applicant Government, under the supervision of agents of the State applied to.

CHAPTER II. — RECIPROCAL JUDICIAL ASSISTANCE IN CRIMINAL MATTERS.

Article 12. — GENERAL PROVISIONS.

(a) The High Contracting Parties undertake to afford each other reciprocal assistance in regard to any criminal case pendent before the judicial authorities of the other Party, in particular, by the service of documents and by the execution of letters of request in respect of the taking of the evidence of persons charged and of witnesses and experts or in respect of any other procedure connected with the investigation into the case.

(b) The authorities of the State applied to which, according to the laws of that State, are concerned with the judicial procedure to which the request of the applicant Party relates, shall carry out such procedure in the manner prescribed by the national law and shall, if necessary, employ such measures of constraint as are prescribed in that law.

(c) The State applied to shall transmit to the applicant State such documents as show that the procedure requested has been carried out or shall communicate to that State the reasons why such procedure cannot be carried out.

(d) All requests for reciprocal judicial assistance shall be submitted and dealt with through the diplomatic channel.

Article 13. — EXCEPTION TO THE OBLIGATION TO RENDER RECIPROCAL JUDICIAL ASSISTANCE.

There shall be no obligation to render reciprocal judicial assistance within the meaning of the preceding Article :

(a) If the State applied to considers that the request for assistance is of such a nature as to affect its sovereignty or its security ;

(b) If the offence constituting the grounds for the prosecution is not punishable under the laws of the State applied to or if, according to the said laws, the offence is deemed to be an offence which is political, purely military or fiscal or a press offence.

Article 14. — SURRENDER OF OBJECTS SEIZED.

The Contracting States undertake to surrender to each other, subject to the rights of third parties :

(1) Any money, papers or objects, the possession of which has been acquired by the author of the act which is the subject of proceedings as a result of such act ;

(2) Any money, papers or objects which have been seized on the accused person and also any which have been concealed by him or placed in the custody of other persons ;

(3) Any instruments which have served for the commission of the offence and all documents or objects which are necessary as a means of proof or which are merely connected with the act which is the subject of proceedings.

The State applied to may, if third parties put forward any claim to such objects, make the surrender of the objects in question subject to an undertaking for their restitution.

Article 15. — NOTIFICATION OF SENTENCES.

The High Contracting Parties undertake to inform each other of sentences which have become final pronounced by the Courts of either Party against nationals of the other Party and which are to be entered in the records of previous convictions in accordance with the regulations of the State in which the sentence was pronounced.

The documents thus transmitted shall specify the civil status of the convicted person, the Court which pronounced the judgment, the offence, the date of the sentence and the penalty to which the offender was sentenced.

Article 16. — COSTS OF JUDICIAL ASSISTANCE.

The costs falling on the authorities of the State applied to in respect of the examination of the application and the granting of judicial assistance in accordance with the provisions of the present Treaty shall be defrayed by that State. The Party applied to shall, however, communicate to the applicant State the amount of such costs with a view to the refund thereof by the person who is under an obligation to defray them.

Costs incurred in respect of expert opinions and of extradition in transit shall be defrayed by the applicant State.

Article 17. — TRANSLATIONS AND LEGALISATIONS.

The documents which are to be submitted, in accordance with the provisions of the present Treaty, shall be drawn up in the language and in the form prescribed by the laws of the applicant State. They shall be accompanied by a translation in the language of the State applied to or in the French language, such translation being certified correct by the Diplomatic Agent of the applicant State.

Article 18. — RIGHTS AND POWERS OF PLAINTIFFS CLAIMING DAMAGES IN CRIMINAL CASES.

Should nationals of either Contracting State or the State itself claim damages in a criminal case instituted in the other Contracting State, the latter shall grant them all the rights and powers accorded by its own laws to its own nationals.

Article 19. — FINAL PROVISIONS.

The present Treaty shall be ratified and shall enter into force one month after the exchange of the instruments of ratification, which shall take place as soon as possible. It shall remain in force for a period of one year after the date on which either High Contracting Party notifies the other of its intention to terminate the Treaty.

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

Done in duplicate at Ankara, this seventh day of March, one thousand nine hundred and thirty-nine.

R. RAPHAEL.

N. MENEMENCIOGLU.