

N° 589.

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**ALLEMAGNE  
ET TCHÉCOSLOVAQUIE**

Convention relative à l'extradition et  
aux autres moyens d'assistance ju-  
diciaire en matière pénale, signée  
à Prague le 8 mai 1922.

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**GERMANY  
AND CZECHOSLOVAKIA**

Convention concerning extradition  
and other legal assistance in  
criminal cases, signed at Prague,  
May 8, 1922.

## TEXTE TCHÈQUE. — CZECH-TEXT.

No. 589. — SMLOUVA<sup>1</sup> MEZI REPUBLIKOU ČESKOSLOVENSKOU A ŘÍŠÍ NĚMECKOU O VYDÁVÁNÍ ZLOČINCŮ A JINÉ PRÁVNÍ POMOCI VE VĚCECH TRESTNÍCH ZE DNE 8. KVĚTNA 1922.

*Textes officiels allemand et tchèque communiqués par le délégué permanent de la République tchécoslovaque auprès de la Société des Nations et par le Consul d'Allemagne à Genève. L'enregistrement de cette convention a eu lieu le 24 mars 1924.*

REPUBLIKA ČESKOSLOVENSKÁ a ŘÍŠE NĚMECKÁ shodly se v tom, že upraví smlouvou vydávání zločinců a poskytování jiné vzájemné právní pomoci v trestních věcech.

K tomu účelu jmenovali svými zmocněnci :

PRESIDENT ČESKOSLOVENSKÉ REPUBLIKY :

pana Dra Pavla WELLNERA, ministerského radu a přednostu právního odboru v ministerstvu zahraničních věcí,

pana Dra Emila SPIRU, odborového přednostu v ministerstvu spravedlnosti ;

PRESIDENT ŘÍŠE NĚMECKÉ :

Jeho Excellenci pana Dra Waltera KOCHA, mimořádného vyslance a splnomocněného ministra,

pana Dra Wolfganga METTGENBERGA, vrchního vládního radu v říšském ministerstvu spravedlnosti.

Zmocněnci sdělivše si navzájem své plné moci a shledavše je v řádné a náležitě formě, usnesli se na těchto ustanoveních :

Článek 1.

*Zásada vzájemnosti.*

1. Smluvní strany se zavazují, že, pokud jest zaručena vzájemnost, poskytnou sobě navzájem podle dalších ustanovení právní pomoc v trestních věcech jakéhokoliv druhu, ať jsou projednávány před soudy či před úřady správními.

2. Předpisy této smlouvy nevztahují se na právní pomoc ve finančních trestních věcech před úřady správními ; úprava této právní pomoci vyhražuje se zvláštní dohodě, kterou má na zřeteli článek XIX, smlouvy o právní ochraně a právní pomoci ve věcech daňových ze dne 31. prosince 1921.

<sup>1</sup> L'échange des ratifications a eu lieu à Berlin le 4 octobre 1923.

TEXTE ALLEMAND. — GERMAN TEXT.

No. 589. — VERTRAG<sup>1</sup> ZWISCHEN DER TSCHECHOSLOWAKISCHEN REPUBLIK UND DEM DEUTSCHEN REICH ÜBER DIE AUSLIEFERUNG UND DIE SONSTIGE RECHTSHILFE IN STRAFSACHEN, GEZEICHNET IN PRAG AM 8. MAI 1922.

*German and Czech official texts communicated by the permanent delegate of the Czechoslovak Republic accredited to the League of Nations and by the German Consul at Geneva. The registration of this Convention took place March 24, 1924.*

Die TSCHECHOSLOWAKISCHE REPUBLIK und das DEUTSCHE REICH, sind übereingekommen, die Auslieferung von Verbrechern und die sonstige Leistung gegenseitiger Rechtshilfe in Strafsachen durch einen Vertrag zu regeln.

Zu diesem Zwecke haben zu Bevollmächtigten ernannt :

DER PRÄSIDENT DER TSCHECHOSLOWAKISCHEN REPUBLIK :

Herrn Dr. Paul WELLNER, Ministerialrat und Leiter der Rechtsabteilung im Ministerium der äusseren Angelegenheiten,

Herrn Dr. Emil SPIRA, Sektionschef im Justizministerium ;

Der PRÄSIDENT DES DEUTSCHEN REICHS :

Seine Exzellenz Herrn Dr. Walter KOCH, ausserordentlichen Gesandten und bevollmächtigten Minister,

Herrn Dr. Wolfgang METTGENBERG, Oberregierungsrat im Reichsjustizministerium.

Die Bevollmächtigten haben sich, nachdem sie einander ihre Vollmachten mitgeteilt und diese in guter und gehöriger Form befunden haben, über folgende Bestimmungen geeinigt :

*Artikel 1.*

*Grundsatz der Gegenseitigkeit.*

1. Die vertragschliessenden Teile verpflichten sich, einander in Strafsachen aller Art, mögen sie bei Gerichts- oder Verwaltungsbehörden schweben, nach Massgabe der folgenden Bestimmungen Rechtshilfe zu leisten, soweit die Gegenseitigkeit verbürgt ist.

2. Die Bestimmungen dieses Vertrages erstrecken sich nicht auf die Rechtshilfe in Finanzstrafsachen vor Verwaltungsbehörden ; die Regelung dieser Rechtshilfe bleibt dem besonderen Abkommen vorbehalten, das im Artikel XIX des am 31. Dezember 1921 geschlossenen Vertrags über Rechtsschutz und Rechtshilfe in Steuersachen vorgesehen ist.

<sup>1</sup> The exchange of ratifications took place at Berlin October 4, 1923.

<sup>1</sup> TRANSLATION.

No. 589. — CONVENTION BETWEEN GERMANY AND CZECHOSLOVAKIA CONCERNING EXTRADITION AND OTHER LEGAL ASSISTANCE IN CRIMINAL CASES, SIGNED AT PRAGUE, MAY 8, 1922.

THE CZECHOSLOVAK REPUBLIC and THE GERMAN REICH have agreed to conclude a treaty dealing with the extradition of criminals and other matters in regard to the giving of mutual legal assistance in cases of criminal offences.

For this purpose the following plenipotentiaries have been appointed :

BY THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Dr. Paul WELLNER, Councillor and Head of the Legal Department in the Ministry of Foreign Affairs,

Dr. Emil SPIRA, Head of the Department in the Ministry of Justice ;

BY THE PRESIDENT OF THE GERMAN REICH :

His Excellency Dr. Walter KOCH, Envoy Extraordinary and Minister Plenipotentiary,  
Dr. Wolfgang METTGENBERG, Councillor in the Imperial Ministry of Justice.

The Plenipotentiaries, after having exchanged their full powers, which were found in good and due form, agreed to the following provisions :

*Article I.*

*Principle of reciprocity.*

(1) The Contracting Parties undertake, in criminal cases of every description which come before the judicial or administrative authorities, to afford each other, subject to reciprocity, legal assistance in accordance with the following provisions.

(2) The provisions of the present Treaty shall not apply to legal assistance in regard to penal offences connected with financial matters brought before the administrative authorities ; legal assistance in these cases shall continue to be governed by the regulations contained in the special agreement provided for in Article XIX of the Treaty concluded on December 31st, 1921, regarding legal protection and assistance in questions of taxation.

<sup>1</sup> Translated by the Secretariat of the League of Nations.

## SECTION I.

## SURRENDER AND CONVEYANCE IN TRANSIT OF EXTRADITED PERSONS.

*Article 2.**Persons liable to extradition.*

(1) Each of the Contracting Parties undertakes to surrender to the other Contracting Party, at the request of the competent authorities, any person other than one of their own nationals who is accused or has been convicted of a crime.

(2) If the person claimed is not a national of the Party making the requisition, the Party applied to shall be at liberty to send notice of the requisition to the Government of the country to which the person claimed belongs. If the Party in question uses this right, it must at once give the Government concerned an opportunity of making a requisition for extradition and appoint a reasonable period within which this requisition must be sent, such period to be notified simultaneously to the requiring Party.

*Article 3.**Extraditable offences.*

(1) Extradition shall only be granted if the crime in respect of which it is demanded constitutes a crime or offence punishable by the laws of both Parties.

(2) Extradition shall also be granted in respect of attempts to commit extraditable crimes or for participation (complicity, incitement or aiding and abetting) therein, provided that such attempt or participation is punishable by the laws of both Parties.

*Article 4.**Non-extraditable offences.*

Extradition need not be granted if the offence for which it is claimed is :

- (1) Punishable by fine or confiscation of property, when imprisonment is not an alternative ;
- (2) A political offence ;
- (3) An offence which is only punishable by military law.

*Article 5.**Right of prescription.*

Extradition need not be granted if exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

Article 6.

*Competence of the home authorities to deal with the case.*

The extradition need not be granted if the authorities of the Party applied to are competent in law to prosecute for the crime in respect of which the surrender is demanded or if the person claimed has already been exempted from prosecution therefor or if judgment has been finally pronounced or if the person concerned has been pardoned by the authorities of that Party.

Article 7.

*Deferment of extradition.*

If the person claimed is being tried or has already been sentenced by the authorities of the Party applied to in respect of some other offence than that for which extradition is demanded, or if he is in custody on any other ground, extradition may, without prejudice to the decision to be taken immediately, with regard to the requisition, be deferred until the proceedings have been concluded, judgment has been passed, the punishment has been remitted or the sentence has been served.

Article 8.

*Procedure in the event of more than one requisition for extradition being received in respect of the same person.*

(1) If the extradition of a person is demanded by more than one State, including the State to which the accused belongs, he shall be surrendered to the Government of his own country.

(2) If the person claimed does not belong to any of the States which have applied for his extradition, the provisions of Article 2, paragraph 2, shall apply. If the state to which he belongs does not apply for his extradition, he shall be surrendered to that one of the claiming States in whose territory the most serious crime has been committed according to the laws of the Party applied to; if the crimes are equally serious, he shall be surrendered to the State whose requisition for extradition first reaches the Party to which it is sent.

Article 9.

*Provisional arrest.*

(1) Each of the Contracting Parties undertakes to arrest provisionally a person whose surrender is demanded before receiving the requisition for his extradition, if asked to do so by a competent authority of the other Party, provided that such authority indicates the circumstances of the offence in respect of which extradition is demanded, or has issued a notice regarding the person claimed in the *Official Police Gazette* (Fahndungsblatt) of the other Party, and provided also that the offence appears on *prima facie* evidence to be extraditable, and that arrest is necessary to ensure surrender or is in the interests of the case. The authority which has applied for the arrest shall at once be notified of the date of the arrest.

(2) A request for provisional arrest and the notification of the granting of such a request may be transmitted directly, if necessary by telegraph, from one authority to the other.

(3) The person provisionally arrested may be liberated if the request for extradition is not lodged with the Party to which it should be sent within a period of six weeks from the date of arrest.

*Article 10.*

*Requests for extradition.*

- (1) Requests for extradition shall be made through diplomatic channels.
- (2) The request shall be accompanied by a warrant of arrest or by a sentence of condemnation in respect of the crime in question passed against the convicted person by a competent Court of the Party which makes the request for extradition.
- (3) If there are any facts which have an essential bearing upon the examination of the request for extradition, but which are not made clear in the above documents, the above-mentioned Court shall at once, if requested to do so, send a document containing the missing information.

*Article 11.*

*Measures for ensuring extradition.*

If the request for extradition has been received and is not found inadmissible on *prima facie* evidence, the Party applied to shall at once take the measures required by its laws to effect the extradition.

*Article 12.*

*Special conditions governing extradition*

- (1) A person surrendered may not be brought to trial or convicted for a crime committed before he was extradited nor may he be handed over to a third State unless extradition has been granted for the crime in question, or unless the Party to which the request was made agrees to such trial or punishment.
- (2) This condition shall not apply if the person surrendered does not leave the territory of the Party making the request within a period of one month after having been liberated or should he return to that territory after he has left it.

*Article 13.*

*Conveyance in transit.*

- (1) The Contracting Parties undertake at the request of a competent authority to allow persons who are being surrendered to one of the Contracting Parties by a third State to pass through their territory.
- (2) In such cases the provisions in force regarding extradition shall be applied *mutatis mutandis*.
- (3) The authorities of the Party applied to shall convey such persons through its territory in such manner as may appear to them most suitable.

## SECTION 2.

## HANDING OVER OF ARTICLES, FORWARDING OF DOCUMENTS AND HOLDING OF ENQUIRIES.

*Article 14.**Handing over of articles.*

(1) The Contracting Parties undertake to hand over to each other, at the request of the competent authorities, any documentary evidence or articles which the culprit has procured as the result of his criminal act or which are liable to seizure, destruction or confiscation.

(2) If a request for the handing over of articles is preferred in conjunction with the request for extradition or conveyance in transit, the articles shall as far as possible be handed over at the same time as the person concerned is surrendered or conveyed in transit.

(3) If the documentary evidence and articles are handed over on the condition that they are to be returned, they shall be given back on request without delay. The rights of third parties shall in no case be affected.

*Article 15.**Forwarding of documents and service of writs.*

(1) The Contracting Parties undertake to return, at the request of the competent authorities, the documents connected with any criminal proceedings which may have been taken, together with the judgments.

(2) Under no circumstances may a witness or expert, to whatever State he may belong, who voluntarily appears before the authorities of the claimant Party in response to a writ served on him by the authorities of the Party applied to, be criminally prosecuted during his stay in the territory of the claimant Party on suspicion of having committed the offence forming the subject of the criminal proceedings or any other offence committed previously or of complicity, concealment or aiding and abetting in respect of such offence. Nor may he be arrested for the purpose of serving a sentence pronounced before his entry into the country or on any other legal grounds of an earlier date.

*Article 16.**Holding of enquiries.*

The Contracting Parties undertake, at the request of the competent authorities, to hold enquiries and in particular to hear accused persons, witnesses or experts and to carry out judicial inspections, examinations and sequestrations.

*Article 17.**Grounds for refusal.*

(1) The legal assistance provided for in Articles 14–16 may be refused if the obligation to extradite, as defined in the provisions of the present Treaty, does not apply to the criminal proceedings in respect of which such legal assistance is demanded.

(2) A request for the serving of a writ shall be refused if the person concerned is threatened with coercive measures or other prejudicial treatment in the event of his failing to appear.

*Article 18.*

*Transmission of requests.*

Requests for the legal assistance provided for in Articles 14–16 should as a rule be transmitted direct from one authority to the other through the ordinary official channel.

*Article 19.*

*Manner of dealing with requests.*

Requests for the legal assistance provided for in Articles 14–16 shall be dealt with, in the manner prescribed for official acts of this kind and by employing the necessary coercive measures, by those authorities of the Party applied to who are competent under their national laws to carry out such official acts in the case of criminal proceedings in their own country.

SECTION 3.

NOTIFICATION OF SENTENCES AND REQUESTS FOR INFORMATION FROM THE CRIMINAL REGISTER

*Article 20.*

*Notification of sentences.*

(1) The Contracting Parties undertake to communicate to each other all valid judgments involving penalties which are pronounced by the authorities of the one Party against nationals of the other Party and which have to be inserted in the Criminal Register according to the law of the Party whose authorities pronounced them. They will likewise supply each other with such particulars concerning these judgments as are entered in the Criminal Register.

(2) Notification shall be made by transmitting a copy of the judgment involving penalties or of the particulars to be entered in the Criminal Register. The documents will be forwarded by the Ministry of Justice at Prague and the Minister of Justice of the Reich at Berlin.

*Article 21.*

*Information from the Criminal Register.*

(1) The Contracting Parties undertake to communicate to each other, at the request of the competent authorities, information from the Criminal Register.

(2) Requests for information from the Criminal Register should be forwarded direct to the competent Criminal Register authorities.

## SECTION 4.

## FINAL PROVISIONS.

*Article 22.**Cost of providing legal assistance.*

(1) The costs of providing legal assistance under the terms of the present Treaty shall be borne by the Party in whose territory they are incurred.

(2) The costs which arise in connection with conveyance in transit or with a request for expert opinions or certificates shall be reimbursed by the claimant Party.

*Article 23.**Language of the requests for legal assistance.*

(1) Requests and documents annexed thereto shall be drawn up in the national (official) language of the claimant Party. For the purposes of the present Treaty, the term "national official language" shall be taken to mean the Czech or Slovak language on the Czechoslovak side and the official German language on the German side.

(2) Documents drawn up in the national language of the claimant Party shall, except in the case of the requests and communications provided for in Articles 9, 20 and 21 of the present Treaty, be accompanied by an official diplomatic translation or an authenticated translation by a sworn interpreter in the national language of the Party applied to. No translation need be provided in the case of annexes to the requests intended for a national of the claimant Party.

(3) In cases in which the procuring of a translation involves very great difficulties for the claimant authorities, the authorities applied to shall afford them every assistance in their power. The costs incurred in procuring the translation shall be borne by the claimant Party.

*Article 24.**Authentication of documents.*

The provisions of the Authentication Treaty of February 25, 1880, referred to in the communication of the Czechoslovak Government of July 9, 1920, shall apply to the authentication of documents issued or authenticated by public authorities and officials of the Contracting Parties.

*Article 25.**Ratification and denouncement.*

(1) The present Treaty shall be drawn up in the Czech and German languages. It shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

(2) The Treaty shall come into force one month after the exchange of the instruments of ratification.

(3) It shall remain in force until the expiration of six months following the day on which it is denounced by either of the two Parties.

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

Done in duplicate at Prague on the eighth day of May, one thousand nine hundred and twenty-two.

(L. S.) Dr. WELLNER.

(L. S.) Dr. EMIL SPIRA.

(L. S.) Dr. KOCH.

(L. S.) Dr. WOLFGANG METTGENBERG.

#### ADDITIONAL PROTOCOL

TO THE TREATY BETWEEN THE CZECHOSLOVAK REPUBLIC AND THE GERMAN REICH,  
CONCERNING EXTRADITION AND OTHER LEGAL ASSISTANCE IN CRIMINAL CASES.

The undersigned Plenipotentiaries of the Czechoslovak Republic and of the German Reich, on proceeding to sign the present Extradition Treaty, declare, in the name of their Governments, that they agree upon the following provisions :

##### 1. *Ad Article 1.*

If proceedings in respect of a criminal offence can only be instituted, according to the law of one of the Contracting Parties, by order of the Public Prosecutor, the Party applied to shall not demand proof that such order has in fact been issued.

##### 2. *Ad Article 8.*

Existing obligations of the Contracting Parties towards other States which may be inconsistent with this stipulation shall not be affected.

##### 3. *Ad Articles 18 and 21.*

The Contracting Parties shall furnish each other with a list of the authorities who are competent to receive the requests provided for in Article 18 of the present Treaty, in so far as tribunals are concerned, and of the Criminal Register authorities who are required to supply information under the terms of Article 21. The list shall be accompanied by a map showing the substitution of the Courts, if such a map exists.

##### 4. *Ad Article 20.*

The Contracting Parties shall communicate to each other the information here referred to at intervals of three months.

5. *Ad Article 25, paragraph 1.*

The texts of the Treaty in the two languages in which it is drawn up shall for purposes of interpretation be regarded as an indivisible whole.

(6) The Contracting Parties shall furnish each other with a list of the frontier stations and authorities of the Czechoslovak Republic and the German Empire responsible for handing over and receiving the accused persons who are to be extradited or conveyed in transit.

In faith whereof the Plenipotentiaries have signed this Additional Protocol, which shall have the same force as the Treaty itself.

Done in duplicate at Prague on the eighth day of May, one thousand nine hundred and twenty two.

Dr. WELLNER.

Dr. EMIL SPIRA.

Dr. KOCH.

Dr. WOLFGANG METTGENBERG.