

N° 1747.

BELGIQUE ET FINLANDE

Convention d'extradition et d'assistance judiciaire en matière pénale.
Signée à Stockholm, le 23 janvier
1928.

BELGIUM AND FINLAND

Convention relating to Extradition
and Legal Assistance in Criminal
Matters. Signed at Stockholm,
January 23, 1928.

¹ TRADUCTION. — TRANSLATION.

No. 1747. — CONVENTION ² BETWEEN THE KINGDOM OF BELGIUM AND THE REPUBLIC OF FINLAND RELATING TO EXTRADITION AND LEGAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT STOCKHOLM, JANUARY 23, 1928.

French official text communicated by the Belgian and Finnish Ministers for Foreign Affairs. The registration of this Convention took place June 13, 1928.

HIS MAJESTY THE KING OF THE BELGIANS and THE PRESIDENT OF THE FINNISH REPUBLIC, having jointly resolved to conclude a Convention for the reciprocal extradition of certain offenders and for legal assistance in criminal matters, have appointed as Plenipotentiaries :

HIS MAJESTY THE KING OF THE BELGIANS :

Baron DE GROOTE, Grand Cross of the Order of Leopold II, Grand Officer of the Orders of Leopold and the Crown, His Envoy Extraordinary and Minister Plenipotentiary at Helsingfors ;

THE PRESIDENT OF THE FINNISH REPUBLIC :

Dr. Werner SÖDERHJELM, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Stockholm ;

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

Article 1.

The Belgian and Finnish Governments undertake to deliver up to each other, in the circumstances and under the conditions established by the present Convention, persons other than their own nationals who have fled from Belgium to Finland or from Finland to Belgium and who are accused or have been convicted of a crime or misdemeanour committed in the territory of the Party making application, provided that such persons had reached the age of sixteen at the time the offence was committed.

Nevertheless, when the crime or misdemeanour giving rise to the request for extradition has been committed outside the territory of the applicant country, the request may be granted, provided that the laws of the country applied to permit the prosecution of the same offence when committed outside its territory.

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 Stockholm, May 5, 1928.

Article 2.

The crimes and misdemeanours for which extradition may be granted are as follows :

- (1) Assassination, poisoning, parricide, infanticide, murder ;
- (2) Deliberate assault which has caused an apparently incurable disease, permanent incapacity for work, complete loss of the use of an organ, serious mutilation or unintended death ;
- (3) The deliberate or culpable administering of substances capable of causing death or of seriously injuring health, but without intent to cause death ;
- (4) Abortion ;
- (5) Rape ;
- Indecent assault on the person of a minor of either sex who has not completed his or her fifteenth year ;
- Indecent assault on the person of a minor of either sex between fifteen and sixteen years of age who has not been corrupted ;
- Sexual intercourse of a relative in the ascending line with a minor, even if he or she is over sixteen years of age, but is not emancipated by marriage ;
- Offences committed against morals by encouraging, in order to gratify the passions of another, the debauching, corruption or prostitution of a minor of either sex under seventeen years of age ;
- Procuring, enticing or leading away for immoral purposes, even with his or her consent, a person of either sex who is under twenty-one years of age, in order to gratify the passions of another ;
- Procuring, enticing or leading away for immoral purposes a woman or girl of full age, when the act was committed by fraud or by violence, threats, abuse of authority or any other means of compulsion, in order to gratify the passions of another ;
- Detention of a person in a disorderly house against her will ;
- (6) Bigamy ;
- (7) The abduction of minors ;
- (8) The abduction, receiving, removal, replacement or substitution of a child ;
- (9) The exposing or abandoning of a child ;
- (10) Larceny, breach of trust, fraud, if punishable under the Finnish Penal Code with a graver penalty than imprisonment ; extortion, obtaining money or goods by false pretences ;
- (11) Offences committed by private persons against personal liberty ;
- (12) Counterfeiting, including the counterfeiting and altering of currency, the uttering and putting into circulation of counterfeit or altered currency ;
- (13) The counterfeiting or falsification of public bonds or banknotes or public or private securities ; the issuing or putting into circulation of such counterfeit or forged bonds, banknotes or securities ; falsification of documents or telegrams and the use of such counterfeit, forged or falsified telegrams, bonds, notes or securities, so far as the laws of the two countries authorise extradition on these grounds ;
- (14) The counterfeiting or falsification of seals, dies, stamps, marks, tickets for the conveyance of persons or things, postage or other adhesive stamps ; use of such counterfeit or forged articles ; improper use of genuine seals, stamps, dies and marks ; the malicious or fraudulent placing upon a work of art or literary work or musical composition of the name of an author or of any distinctive sign adopted by him to indicate his work ; the

sale, offering for sale, possession in shops, and introduction into the country for sale, of the said objects ;

(15) Perjury and false statements by experts or interpreters ; subornation of witnesses, experts or interpreters, so far as the laws of the two countries authorise extradition on these grounds ;

(16) False swearing ;

(17) Embezzlement and malversation by public officials ;

(18) Fraudulent bankruptcy ;

(19) Deliberate obstruction of railway traffic by placing objects of any kind on the line, by interfering with the rails or their supports, by removing bolts or pins, or by the use of any other means calculated to stop the train or cause it to leave the rails, so far as the laws of the two countries authorise extradition on these grounds ;

(20) Arson ;

(21) The poisoning of cattle ;

(22) Crimes and misdemeanours committed at sea which are extraditable offences according to the legislation of the two countries ;

(23) Receiving of articles obtained by means of theft or extortion ;

(24) Dealing in slaves.

The foregoing classes of offences shall include complicity in and attempts to commit such offences when punishable under the laws of both countries.

In all cases, and for all crimes and misdemeanours extradition may not take place unless the like offence is punishable under the laws of the country to which the request is made.

Article 3.

Extradition shall not take place :

(1) If, subsequently to the acts alleged or to the last stage in the proceedings, or to the sentence, exemption from prosecution or punishment has been acquired by lapse of time under the laws of the country in which the accused person has taken refuge, at the time when his surrender might take place ;

(2) When the request for extradition is based upon an offence in respect of which the person claimed has been prosecuted and discharged or is still being proceeded against, or has already been tried, in the country to which the request for surrender is made.

Article 4.

If the person claimed is being proceeded against or has been convicted in the country applied to for an offence other than that for which extradition is requested, the extradition may be deferred until the conclusion of the proceedings and, in the event of a conviction, until he has served his sentence.

Should he be proceeded against or detained in the same country by reason of obligations contracted towards private persons, his extradition shall nevertheless take place, subject to the right of such persons to present their claims before the competent authority later.

Article 5.

Extradition shall not be granted if the offence for which it is requested is regarded by the Party applied to as a political offence or as an act connected with a political offence.

An alien whose extradition has been granted may not be proceeded against or punished for any political offence committed prior to his extradition, nor for any act connected with such an offence, nor for any crimes or misdemeanours not covered by the present Convention.

An attack made or attempted upon the person of the head of a foreign State or the members of his family shall not be regarded as a political offence, or as an act connected with a political offence, when it constitutes assassination.

Nevertheless, the surrendered person may, in the following cases, be proceeded against, or, if he has been given an opportunity of being heard, may be punished, for an offence other than that for which extradition was granted :

(1) If he has asked to be brought to trial or to serve his sentence, in which case his request shall be communicated to the Government surrendering him ;

(2) If he has failed to leave the country to which he was surrendered within one month after his final release ;

(3) If the offence is covered by the Convention and if the Government to which he has been surrendered has previously obtained the approval of the Government granting extradition. The latter may, if it thinks fit, require the production of one of the documents mentioned in Article 7 of the present Convention.

Re-extradition to a third country shall be subject to the same regulations.

Article 6.

The request for extradition must always be made through the diplomatic channel.

Article 7.

Extradition shall be granted on the production, either in the original or in a certified copy, of the judgment or sentence, or the decree of the *Chambre du Conseil*, the order of the *Chambre des mises en accusation* or the writ issued by the competent judge, expressly ordering or effecting as of full right the bringing of the detained or accused person before the criminal courts. Extradition shall also be granted on the production of a warrant of arrest or any other document having the same validity issued by the competent foreign authority, provided that these documents contain an exact description of the act in respect of which they have been issued.

These documents shall be legalised by the Minister for Foreign Affairs of the applicant State and, when necessary, by the diplomatic or consular agent of the said State. They shall be accompanied by a copy of the text of the law applicable to the subject of the charge, and, if necessary, by a translation in French and, whenever possible, by a description of the person claimed or any other indications calculated to establish his identity.

Article 8.

In urgent cases, provisional arrest shall be effected on notification by post or telegraph of the existence of one of the documents mentioned in Article 7, provided always that such notification is duly made to the Minister for Foreign Affairs of the country applied to.

This arrest shall be optional if the request has been made direct to a judicial or administrative authority in one of the two countries.

Provisional arrest shall take place in the form and in accordance with the regulations established by the laws of the Government applied to. It shall be discontinued if, within three weeks of his arrest, the accused has not received one of the documents mentioned in Article 7 of the present Convention.

Article 9.

When a person is claimed simultaneously by several States, the State applied to shall decide freely to which country he is to be surrendered.

Article 10.

In extradition cases, all the articles having reference to the crime, or misdemeanour, or which may serve as proof, found in the possession of the person claimed at the time of his arrest or discovered later, shall be seized and handed over to the applicant State, if the competent authorities of the State applied to so decree.

These articles may be handed over even if extradition cannot take place owing to the escape or death of the person claimed.

Nevertheless, the rights which third parties may have acquired over these articles shall be reserved, and such articles shall, if necessary, be returned to them free of charge after the trial.

Article 11.

The expenses occasioned by the arrest, maintenance and conveyance of the person whose extradition has been granted, together with the cost of consigning and transporting objects which have to be restored or surrendered under the preceding Article, shall be borne by the two States within the limits of their respective territories.

The cost of conveyance and other expenses incurred in the territory of intermediate States shall be borne by the applicant State.

The person to be surrendered shall, if necessary, be escorted to the port designated by the applicant Government and be placed on board ship at that Government's expence.

Article 12.

The extradition, by transit through the respective territories of the Contracting States, of a person not belonging to the country of transit, shall be granted on the production, either in the original or in a certified copy, of one of the documents mentioned in Article 7, provided that the act for which extradition is granted is included in the present Convention and does not come under the provisions of Articles 3 and 5.

The expenses of transit shall be borne by the applicant Party.

Article 13.

If the proceedings in connection with a penal case of a non-political nature require the attendance in court of persons in one of the two countries, or if any other judicial enquiry is deemed necessary, letters of request, if necessary accompanied by a French translation, shall be addressed for this purpose through the diplomatic or consular channel, and unless the Government applied to states that it is impossible, they shall be executed in conformity with the laws of the country in which the witness is to appear or the judicial enquiry to be made.

Nevertheless, letters of request for the purpose of effecting either a domiciliary search or the seizure of articles connected with or serving as proof of the crime may only be executed in respect of one of the acts mentioned in Article 2, and subject to the reservation expressed in the last paragraph of Article 10 above.

The respective Governments renounce all claims to the refund of expenses resulting from the execution of letters of request in criminal matters, even where expert opinions are taken, provided always, that such enquiries have not occupied more than one sitting.

Article 14.

If, in a penal case of a non-political nature, the personal attendance of a witness is required in court, the Government of the country in which the witness resides shall request him to comply with the summons.

With regard to the allowance to be paid to the witness, an agreement shall be concluded in each particular case between the applicant Government and the Government applied to.

No witness, whatever his nationality, who, when summoned in one of the two countries, voluntarily attends in the courts of the other country, may be prosecuted or detained in that country for previous criminal acts or convictions or on the ground of complicity in the acts forming the subject of the case in which he is a witness.

Article 15.

If, in a penal case of a non-political nature which is being investigated in one of the two countries, it is deemed necessary or expedient to obtain articles serving as proof of the crime or documents which are in the hands of the authorities of the other country, application shall be made for them through the diplomatic or consular channel, and the request shall be granted unless there are special objections thereto, and subject to the obligation to return such articles and documents.

The contracting Governments renounce all claims to the refund of expenses occasioned, within the limits of their respective territories, by the despatch and return of articles serving as proof of the crime and documents.

Article 16.

The Belgian Government undertakes to communicate to the Finnish Government sentences for crimes or misdemeanours of all kinds pronounced by its courts upon Finnish citizens.

Similarly, the Finnish Government undertakes to communicate to the Belgian Government particulars of previous convictions entered in the Finnish records and affecting Belgian citizens.

Such communications shall be made without refund of expenses by the despatch through the diplomatic or consular channel, to the Government of the country to which the convicted person belongs, of a bulletin or extract of the final decision, accompanied, if necessary, by a French translation.

Article 17.

The present Convention shall be ratified, and the instruments of ratification shall be exchanged as soon as possible. It shall come into force ten days after its publication in the forms prescribed by the laws of the two countries.

Each of the Contracting Parties may denounce it at any time by giving the other Party six months' notice of its intention.

In faith whereof the Plenipotentiaries have signed the present Convention.

Done at Stockholm, January 23, 1928.

(L. S.) Werner SÖDERHJELM.

(L. S.) P. DE GROOTE.