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## AUTRICHE ET FINLANDE

Convention d'extradition et de coopération judiciaire en matière de procédure pénale. Signée à Stockholm, le 22 octobre 1928.

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## AUSTRIA AND FINLAND

Convention relating to Extradition and Judicial Assistance in Criminal Matters. Signed at Stockholm, October 22, 1928.

<sup>1</sup> TRADUCTION — TRANSLATION.

No. 2007. — CONVENTION<sup>2</sup> RELATING TO EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN AUSTRIA AND FINLAND. SIGNED AT STOCKHOLM, OCTOBER 22, 1928.

*French official text communicated by the Finnish Minister for Foreign Affairs. The registration of this Convention took place May 8, 1929.*

THE PRESIDENT OF THE FINNISH REPUBLIC and THE FEDERAL PRESIDENT OF THE AUSTRIAN REPUBLIC, having jointly resolved to conclude a Convention relating to the reciprocal extradition of criminals and judicial assistance in criminal matters, have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE FINNISH REPUBLIC :

M. Einar BORENIUS, Acting Finnish Chargé d'Affaires at Stockholm ;

THE FEDERAL PRESIDENT OF THE AUSTRIAN REPUBLIC :

M. Carl BUCHBERGER, Austrian Chargé d'Affaires in Finland ;

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

*Article 1.*

The Finnish and Austrian Governments undertake to deliver up to each other, under the circumstances and conditions stated in the present Convention, those persons, other than their own nationals, who are being prosecuted for or have been convicted of an offence committed in the territory of one of the two Parties and who shall be found within the territory of the other Party.

If, however, the offence for which extradition is requested was committed outside the territory of the applicant country, the requisition may be granted, provided that the laws of the country applied to allow of the prosecution of such offences when committed outside its territory.

*Article 2.*

Extradition shall be granted for any of the acts enumerated below, if it constitutes under Finnish law an offence punishable by a penalty more severe than that of imprisonment, and under Austrian law an offence coming under the heading of *Verbrechen*, namely :

- (1) Wilful homicide, infanticide, abortion ;
- (2) Exposure of a person unable to protect himself, or wilful desertion of such a person ;

<sup>1</sup> Traduit par le Secrétariat de la Société des Nations, à titre d'information.

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

<sup>2</sup> The exchange of ratifications took place March 27, 1929.

(3) Bodily harm wilfully inflicted, poisoning or wilfully administering any other dangerous substance ;

(4) Participation in a quarrel resulting in death or grievous bodily harm ;

(5) Wilfully depriving a person of his freedom ;

(6) Replacement or substitution of children ;

(7) Abduction of a minor, or abduction of an adult against his will ;

(8) Bigamy ;

(9) Rape ;

Incest ;

Indecent assault on the person of a minor of either sex under the age of fourteen ;

Indecent assault committed upon a person under the authority of the delinquent ;  
Procuring, enticing or leading away, even with his or her consent, a person of either sex under twenty-one for immoral purposes, in order to gratify the passions of another ;

Procuring, enticing or leading away a woman or girl over age for immoral purposes, when the act is committed by fraud or by means of violence, threats, abuse of authority or any other method of compulsion, for the purpose of gratifying the passions of another ;

Procuring ;

(10) Larceny, receiving stolen goods, embezzlement, peculation, extortion ;

(11) Swindling ;

(12) Fraudulent bankruptcy ;

(13) Counterfeiting or altering of currency or paper money or securities, banknotes, shares or other paper treated by the criminal law as equivalent to paper money, or the utterance of counterfeit or altered currency or paper.

(14) Counterfeiting or altering of State marks, in particular, postage stamps and fiscal and other tax stamps ;

(15) Forging of documents, use of a forged document or false attestation ; destruction, displacement or false erection of landmarks, defacement, destruction or suppression of documents, committed wilfully and illegally ;

(16) Arson, and wilfully causing explosions, the collapse of buildings, or floods ;

(17) Wilful stranding or sinking of a ship ; wilful interference with the safety of shipping ;

(18) Wilful interference with the safety of a railway service ;

(19) Poisoning of springs, wells, aqueducts or reservoirs, or of articles for public sale or for the consumption or use of another, admixture of substances dangerous to health, circulation of poisoned articles or articles mixed with such substances ;

(20) Endangering the life, limb or property of another by the use of explosive substances, when the danger was intended ;

(21) Concerted acts of violence committed in public against persons or property ;

(22) Wilfully rescuing a prisoner or assisting in his rescue or escape ;

(23) False oath by a party to a case, a witness or an expert ; false statements amounting to perjury, malicious accusations.

The foregoing classes of offence shall include complicity in and attempts to commit such offences, under the conditions mentioned in the first paragraph of the present Article.

The list of offences in respect of which extradition may be granted may at any time be amplified by agreement between the contracting Governments, and the provisions of the present Convention shall apply to the offences added to the list, just as if they had been enumerated in it.

*Article 3.*

Extradition shall not be granted for political offences, except such as partake principally of the character of ordinary political offences. The State applied to shall be free to decide the nature of the offence.

*Article 4.*

Extradition shall not take place :

(1) If, subsequently to the acts alleged, 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 requisition for extradition is based upon an offence in respect of which the person claimed has been prosecuted and discharged, or is being proceeded against or has already been tried in the country from which extradition is requested.

*Article 5.*

If the person claimed is being proceeded against or has been sentenced 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 shall have undergone his sentence.

*Article 6.*

No person surrendered by one of the Contracting Parties to the other may be proceeded against or punished for any act committed prior to extradition other than that in respect of which extradition was requested, and may not (except in the case mentioned in Article 9, paragraph 2) be surrendered to a third State, without special consent given in accordance with Article 8, or unless, after final acquittal or release following the expiry of his full sentence or as a result of a decision that there are no grounds for prosecution that he has been exempted from a penalty imposed upon him, the surrendered person has failed to leave the country within thirty days (without being hindered from so doing), or returns to that country again.

During the period of thirty days mentioned in the preceding paragraph, the surrendered person shall be in no way prevented from leaving the country unless he has committed a fresh offence.

No person surrendered by one of the Contracting Parties to the other may be proceeded against for the offence in respect of which his extradition was requested, before a court which is only temporarily or in certain particular circumstances empowered to deal with such cases.

*Article 7.*

The requisition for extradition shall be made through the diplomatic channel. It shall be accompanied by the original or a certified copy either of a sentence pronounced by a court or of a warrant of arrest issued by a court or, in Finland, by a competent prefect of a department (" *maaherra* " or " *landshövding* "), and such judgment or warrant shall contain an exact description of

the nature of the offence and shall indicate the date when and place where it was committed. The demand for extradition shall be accompanied by the text of the penal provisions in force in the applicant State and applicable to the offence in question and, whenever possible, by a description of the person claimed.

If the documents transmitted are incomplete or if additional information is thought necessary in any particular, the applicant State may be called upon to furnish the information lacking.

In no case shall the applicant State be required to produce proof of the guilt of the person claimed.

*Article 8.*

Application for the consent provided for in Article 6 shall be made through the diplomatic channel, and shall indicate the nature of the offence and the date when and place where it was committed, or shall be accompanied by documents furnishing such information. If the application has for its object the prosecution of the person surrendered and if the offence in question is such that, under the terms of the present Convention, extradition cannot be refused, authority shall be granted.

*Article 9.*

If the person whose extradition is demanded by one of the Contracting Parties under the provisions of the present Convention is at the same time claimed by one or more other States, it shall be for the State applied to to decide to which of the applicant States preference shall be given.

If, in the case mentioned above, demands for extradition relate to different offences, the State applied to may, when according extradition, make it a condition that the person claimed shall, on the expiry of his sentence, be surrendered to another State.

*Article 10.*

Pending the formal requisition for extradition, a person may be arrested provisionally. The request for his arrest shall be made through the diplomatic channel. Nevertheless, in urgent cases and in particular when there is a fear that the person in question may seek to escape, the competent police authorities and Public Prosecutors of the two States may transmit this request to one another direct. The request shall indicate the offence of which the person in question is accused, the date when and place where it was committed and, whenever possible, the nationality of the person and his description, and shall give notice of the existence of any sentence or warrant of arrest in accordance with the provisions of Article 7.

If the person in question has been provisionally arrested in accordance with the foregoing provisions, and the State applied to has not, within thirty days from the date on which the applicant State has received notice of the arrest, received through the diplomatic channel a formal requisition for the extradition of the person detained in custody, he may be set at liberty.

*Article 11.*

When extradition has been granted, the applicant State shall be bound to have the person claimed surrendered within thirty days from the date on which it has received notice to the effect that the extradition can be effected immediately. After this period has elapsed, the person in question may be set at liberty.

Extradition shall be effected at a point on the frontier of the State applied to which shall be indicated by the applicant State.

*Article 12.*

When a person has been arrested in accordance with the provisions of the present Convention, all articles in his possession at the time of his arrest which may be of any importance as furnishing proof of the offence with which he is charged, or the surrender of which might be demanded by the civil party, shall be seized and, if extradition is granted, handed over to the authorities of the applicant State.

The State applied to may make any reservations with regard to these articles which it may deem necessary for the purpose of safeguarding the rights of third parties.

*Article 13.*

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 simple production, either in the original or in a certified copy, of the extradition warrant or 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 4.

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

*Article 14.*

If, in a penal case of a non-political nature, the hearing of persons in one of the two countries or any other act connected with the judicial enquiry is deemed to be necessary, a " commission rogatoire " shall be sent for this purpose through the diplomatic or consular channel, and shall be executed in so far as the laws of the country in which the witness is to be heard or the act is to be carried out permit of this being done.

*Article 15.*

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 where the witness resides shall call upon him to comply with the subpoena served.

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 subpoenaed in one of the two countries, voluntarily appears before the Courts of the other country, may be prosecuted or detained in that country for previous acts or criminal convictions or on the ground of complicity in the acts forming the subject of the case in which he is a witness.

*Article 16.*

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.

*Article 17.*

The expenses occasioned by the execution of the measures laid down in the present Convention shall be borne by the State in whose territory such measures have been taken, with the exception of the costs of transit mentioned in the second paragraph of Article 13.

*Article 18.*

The documents produced in the cases coming under the present Convention must be drawn up in French or accompanied by a certified French translation.

*Article 19.*

The present Convention shall be ratified and the ratifications shall be exchanged as soon as possible. It shall come into force ten days after the exchange of the ratifications.

Either of the Contracting Parties may at any time denounce it by notifying the other Party of its intention six months in advance.

In faith whereof the Plenipotentiaries have signed the present Convention.

Done at Stockholm, October 22, 1928.

(L. S.) E. BORENIUS.

(L. S.) BUCHBERGER.