

N° 4491.

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**GRÈCE ET GRAND-DUCHÉ  
DE LUXEMBOURG**

Convention d'extradition et d'assistance judiciaire en matière pénale.  
Signée à Luxembourg, le 1<sup>er</sup> septembre 1937.

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**GREECE  
AND GRAND DUCHY OF  
LUXEMBURG**

Convention regarding Extradition and Judicial Assistance in Criminal Matters. Signed at Luxemburg, September 1st, 1937.

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

No. 4491. — CONVENTION <sup>2</sup> BETWEEN THE KINGDOM OF GREECE AND THE GRAND DUCHY OF LUXEMBURG REGARDING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT LUXEMBURG, SEPTEMBER 1ST, 1937.

*French official text communicated by the Permanent Delegate of Greece to the League of Nations. The registration of this Convention took place December 15th, 1938.*

HIS MAJESTY THE KING OF THE HELLENES  
and

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG,

Having decided, by common consent, to conclude a Convention for the reciprocal extradition of criminals and for judicial assistance in criminal matters, have appointed as Plenipotentiaries :

HIS MAJESTY THE KING OF THE HELLENES :

Monsieur Nicolas POLITIS, His Envoy Extraordinary and Minister Plenipotentiary at the Grand-Ducal Court ;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG :

Monsieur Joseph BECH, Her Minister of State, President of the Government ;

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

*Article 1.*

The High Contracting Parties undertake to deliver up to one another, in the circumstances and under the conditions laid down in the present Convention, all persons other than their own nationals who, being in the territory of one of the Parties and having reached the age of 16 years at the time of the crime (*crime*) or delict (*délit*), are being prosecuted, or have been convicted, by the judicial authorities of the other Party, either as principals or accessories in respect of an act, whether committed or attempted, constituting a crime or delict punishable under the laws of both States, provided always that the maximum penalty prescribed by the laws of both Contracting Parties for the offence in respect of which extradition is required is not less than imprisonment for one year or that the person claimed has been sentenced to imprisonment for at least six months.

Should the person claimed be charged with more than one offence, extradition shall be granted in respect of all such offences, if the maximum penalty prescribed by the law of both States for any one of them is not less than imprisonment for one year ; should the person claimed have been convicted of more than one offence, extradition shall be granted for all such convictions, if any one of them has resulted in a sentence of not less than six months' imprisonment.

<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 at Brussels, October 20th, 1938.

*Article 2.*

If, under the laws of one of the two States an offence which, under the laws of the other State, entails only a penalty involving loss of liberty, is punishable by death, extradition shall not be granted unless the State making the requisition formally undertakes not to enforce the death penalty in the case concerned.

*Article 3.*

Extradition shall not take place :

(1) If the crime or delict was committed in the territory of the State applied to, or if, under the laws of that State, proceedings in respect of the offence are a matter for its own courts, or if, the offence having been committed outside the territory of the State making the requisition by a person not a national of such State, the law of the State applied to does not authorise proceedings in respect of such offences when committed outside its own territory.

(2) If, subsequently to the commission of the offence, the completion of the preliminary proceedings or the conviction, exemption from prosecution or punishment has been acquired by lapse of time under the laws of either of the Contracting Parties and, in general, whenever criminal proceedings, on the part of the State making the requisition, are barred.

(3) If proceedings have been instituted against the person claimed for the same offence in the State applied to or if he has already been discharged after preliminary proceedings, convicted or acquitted there in respect of the same offences.

(4) In respect of a political crime or delict, or any act connected with such an offence. Such an act shall be deemed to be one which, through its connection with a political offence, is calculated to prepare the said offence, to ensure or facilitate its commission or to prevent its detection. The same shall apply to an offence committed with the object of preventing the commission of a political crime or delict. The decision as to whether an offence is of such a nature shall rest solely with the State applied to.

By way of exception to the above, extradition shall be granted in the event of any attempt on the person of the head of a State or of members of his family, constituting the offence either of wilful and intentional homicide or of intentionally causing grievous bodily harm or injury to health, or of an attempt to commit, or complicity in, such offences.

Similarly, extradition may take place in respect of crimes or delicts of a composite character, or connected with political offences, if the act, having regard to all the circumstances, is particularly heinous.

*Article 4.*

The requisition for extradition shall be made through the diplomatic channel.

Extradition shall be granted on production of the sentence passed by a court of first instance, or the judgment of a higher court, or of the order of a court sitting in Chambers, the decision of the Chamber of Committals (*Chambre des Mises en accusation*), or the procedural instrument issued by the competent judge formally ordering, or legally entailing, the committal of the person charged or accused for trial by a criminal court, or of a warrant of arrest or any other judicial instrument equivalent thereto, issued by the competent foreign authority.

The documents produced shall be either the originals or authentic copies thereof ; they shall state briefly the particulars of the charge, together with the name and description of the offence, and shall be accompanied by the text of the penal law of the State making the requisition applicable to the offence and mentioning the penalty involved.

As far as possible, a description of the person claimed shall be attached, together with his photograph or any other particulars such as may help to establish his identity.

*Article 5.*

In case of doubt as to whether the offence in respect of which extradition is required falls within the provisions of the present Convention, additional explanations shall be sought from the

State making the requisition, and extradition shall only be granted if the explanations supplied are such as to remove such doubt.

*Article 6.*

Immediately on the receipt of a requisition for extradition accompanied by the documents mentioned in Article 4, the State applied to shall take all necessary measures to apprehend the person claimed and to prevent his escape, unless extradition appears from the outset to be unwarranted.

*Article 7.*

Not only shall provisional arrest take place on the production of one of the documents mentioned in Article 4, but, in urgent cases, on notification by post or telegraph of the existence of one of the said documents, provided always that such notification is duly conveyed through the diplomatic channel.

Arrest shall be discretionary, if the request is conveyed direct by the competent authority of the country making the requisition to that of the country applied to.

Provisional arrest shall be effected in the manner and in accordance with the rules prescribed by the laws of the Government applied to.

The authority which has effected an arrest in conformity with the provisions of the present Article shall at once inform the authority at whose request the arrest has been made, at the same time indicating the place of detention.

Such provisional arrest shall, nevertheless, not be maintained if, within a period of one month from the day on which it took place, the person charged has not received communication of one of the documents mentioned in Article 4 of the present Convention.

Should additional explanations have been asked for under Article 5, the person arrested may also be released if such explanations are not forthcoming within a reasonable time, as fixed by the State applied to. The time-limit may be extended on the receipt of a request, duly setting forth the grounds therefor.

*Article 8.*

Should the person whose extradition has been required by one of the High Contracting Parties also be claimed for the same offence by one or more other States, the order of preference shall be as follows :

- (a) The State whose interests have been injured by the commission of the offence ;
- (b) The State in whose territory the offence was committed ;
- (c) The State of which the offender is a national.

Should the requisitions refer to different offences, extradition shall be granted, preferably, to the State competent to try the most serious offence.

Should several requisitions for extradition be received in respect of the most serious offence, the order of preference shall be as set out in the first paragraph of the present Article.

The decision as to which is the most serious offence shall, in all cases, rest with the State applied to.

The provisions of the foregoing paragraph shall also apply to cases in which the interests of several States have been injured by the same offence and several requisitions for extradition have been received in respect of it.

If, within one month of the date on which the first requisition for extradition is received, no requisition is made by any other State or States, the State applied to shall deliver up the person claimed to the State making the requisition, even if other requisitions for extradition are received after the expiry of the above-mentioned period.

The provisions of the present Article shall not affect any undertakings which may previously have been entered into by either of the High Contracting Parties with other States.

*Article 9.*

If the person claimed is being proceeded against or has been convicted in the territory of the State applied to for an offence other than that giving rise to the requisition for extradition, or

if he is under detention there on other grounds, his extradition may be postponed until the proceedings are concluded or, in the event of his conviction, until he has served his sentence or obtained the remission thereof, or until his period of detention on other grounds is concluded.

Such postponement shall not prevent an immediate decision in the matter of extradition.

Nevertheless, if postponement of extradition under the first paragraph might have the effect, under the laws of the State making the requisition, of enabling the offender to obtain exemption from prosecution through lapse of time, or of placing other serious difficulties in the way of the prosecution, the person claimed may be surrendered temporarily, failing special reasons to the contrary, provided always that he is returned as soon as the preliminary examination, in the State making the requisition, for which his temporary surrender was required is completed.

#### *Article 10.*

A person surrendered may be prosecuted or punished for an offence other than, and committed previously to, that for which his extradition was granted, even if such offence is not within the terms of the Convention :

1. If he has asked to be brought to trial or to serve his sentence, and the Government surrendering him explicitly consents thereto ;

2. If, having been free to do so, he has not, within one month after his final discharge, left the territory of the State to which he was surrendered, or if he has subsequently returned thither ;

3. If the State granting extradition consents. Such State may require that its consent shall be requested in the form prescribed for the requisition for extradition, with the supporting documents mentioned in Article 4.

The same rules shall apply to re-extradition to a third State.

#### *Article 11.*

In extradition cases, any articles obtained through the crime or delict, or which may serve as proof of guilt, found in the possession of the person claimed at the time of his arrest or discovered later, shall, if the competent authority of the State applied to so decides, be impounded and handed over to the State making the requisition.

This may be done even if extradition cannot take place owing to the escape or death of the person claimed.

Nevertheless, the rights which the State applied to or third parties may have acquired in these articles shall be reserved, and such articles shall, if necessary, be restored to them free of charge at the end of the trial.

The State applied to may provisionally retain the articles impounded, if it considers them necessary for the purposes of the examination preliminary to criminal proceedings. It may also, when forwarding them, stipulate that they shall be returned to it for that purpose, while undertaking in its turn to send them back as soon as possible.

#### *Article 12.*

The conveyance in transit through the respective territories of the contracting States of a person surrendered not belonging to the State of transit shall be granted on the production either of the original or of an authentic copy of one of the documents mentioned in Article 4.

Such transit shall be governed by the provisions relating to extradition.

Conveyance in transit shall be carried out by the agents of the Party applied to and by such route as that Party may determine.

Consent shall also be given, under the conditions specified, to the conveyance, both ways, through the territory of one of the Contracting Parties, of a criminal under detention in a third country, whom the other Contracting Party may wish to confront with another person against whom proceedings have been instituted.

*Article 13.*

1. If, in a criminal case of a non-political character under preliminary examination in either of the two countries, the confrontation of the person charged with persons under detention in the territory of the other Party or the communication of articles which may serve as proof of the offence or documents in the possession of the authorities of the other country should be considered necessary or desirable, a request to that effect shall be complied with, failing special reasons to the contrary, on the condition that the persons detained and the documents are returned as soon as possible.

2. Should the proceedings in a criminal case of a non-political character require the hearing of persons in either of the two countries, or should any other proceedings, such as investigations by experts, a judicial record of fact, the searching of premises or the impounding of articles, be considered necessary, a rogatory commission made out in accordance with the laws of the country making the request shall be sent for the purpose, and effect shall be given to it in conformity with the laws of the country in the territory of which the hearing or other proceeding is to take place.

3. If, in a criminal case of a non-political character, the notification of proceedings or of a judgment to a person residing in the territory of the other country should be considered necessary, the document transmitted shall be served on such person, at the instance of the public prosecutor at the place of residence, through the competent officer and the original recording such service shall be returned to the Government making the request.

*Article 14.*

If, in a criminal case of a non-political character pending before the courts of one of the contracting States, the personal attendance of a witness or expert to be found in the territory of the other State should be considered necessary or desirable, the authorities of that State shall transmit any request addressed to him to that effect.

The cost of the personal attendance of a witness or expert shall be borne by the State making the request.

Travelling and subsistence allowances, calculated as from their place of residence, shall be granted to witnesses or experts in accordance with the rates and regulations in force in the country in which the hearing is to take place; the whole or part of their travelling expenses may, on their application, be advanced to them through the judicial authorities of their place of residence, such advance to be subsequently refunded by the Government making the request.

No witness or expert, of whatever nationality, who when cited in the country of one of the Contracting Parties shall voluntarily appear before the judicial authorities of the other Party, may be prosecuted or detained there for previous criminal offences or convictions or on the ground of participation in the acts forming the subject of the proceedings in which he is appearing.

Such persons shall, nevertheless, forfeit this privilege, if, being free to do so, they fail to leave the territory of the State making the request within three days of their presence before the judicial authorities ceasing to be necessary.

*Article 15.*

The High Contracting Parties undertake to communicate to each other, every quarter and without charge, copies all final judgments pronounced by their judicial authorities convicting nationals of the other Party of any crime or delict.

The State which has obtained the extradition of a criminal shall communicate the final result of the criminal proceedings.

The authorities of either Contracting Party responsible for keeping judicial records or registers shall, on request, supply to the authorities of the other Party, free of charge, any information to be found in such records or registers concerning particular cases.

*Article 16.*

Judicial assistance between the High Contracting Parties shall be requested and afforded through the diplomatic channel, failing a special agreement between the Parties providing for direct communication between the judicial authorities of the two countries. Should such an agreement be concluded, a copy of the documents shall at the same time always be sent to such higher authorities of the State applied to as shall be designated by agreement between the High Contracting Parties.

*Article 17.*

Expenses occasioned by a requisition for extradition or by any other request for judicial co-operation in criminal matters shall be borne by the High Contracting Party in whose territory they are incurred.

The authorities of the State applied to shall, nevertheless, inform the State making the request of the amount of such expenses, with a view to their repayment by the person liable.

The amounts thus collected shall be refunded to the State applied to.

The foregoing rule shall not apply to the fees for expert investigations of all kinds or to expenses in connection with the summoning or attendance of persons who are under detention in the territory of the State applied to. Such expenses shall be repaid by the State making the request. The latter shall also bear the cost of transit, and subsistence during transit, through intermediate territories in respect of persons whose extradition or temporary surrender has been granted.

The State making the request shall also bear the costs of temporary surrender and return in accordance with Article 9, paragraph 3, of the present Convention.

*Article 18.*

The High Contracting Parties undertake to supply one another, on request, in connection with criminal cases, with information concerning the laws in force in their respective countries.

They shall communicate to each other a list of the authorities responsible for providing such information.

*Article 19.*

Should nationals of one of the contracting States or the State itself be civil parties in criminal proceedings in the other contracting State, the latter shall grant them all the rights and possibilities enjoyed under its laws by its own nationals.

*Article 20.*

Rogatory commissions and their annexes, together with the documents mentioned in Article 4, shall be drawn up in the official language of the High Contracting Party making the requisition.

*Article 21.*

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

Either of the High Contracting Parties may terminate it at any time, provided always that the other Party is given six months' notice of his intention to do so.

In faith whereof the Plenipotentiaries have signed the present Convention.

Done at Luxemburg, this first day of September, one thousand nine hundred and thirty-seven.

(Signed) N. POLITIS.

(Signed) J. BECH.