

No. 582

**IRAQ
and
TURKEY**

**Extradition Convention (with exchange of notes). Signed
at Ankara, on 29 March 1946**

*Arabic, Turkish and French official texts communicated by the Minister of
Foreign Affairs of Iraq and the Permanent Representative of Turkey to
the United Nations. The registration took place on 15 September 1949.*

**IRAK
et
TURQUIE**

**Convention d'extradition (avec échange de notes). Signée
à Ankara, le 29 mars 1946**

*Textes officiels arabe, turc et français communiqués par le Ministre des affaires
étrangères de l'Irak et le représentant permanent de la Turquie auprès de
l'Organisation des Nations Unies. L'enregistrement a eu lieu le 15
septembre 1949.*

TRANSLATION — TRADUCTION

No. 582. EXTRADITION CONVENTION¹ BETWEEN THE KINGDOM OF IRAQ AND THE REPUBLIC OF TURKEY. SIGNED AT ANKARA, ON 29 MARCH 1946

His Majesty FEISAL II, King of Iraq,

and

His Excellency ISMET INÖNÜ, President of the Turkish Republic

desirous of concluding a Convention with a view to regulating the extradition of offenders, have appointed to this end as their plenipotentiaries:

His Majesty FEISAL II, King of Iraq:

His Excellency Al Farik Nuri ESSAID, President of the Senate, Order of Rafidain, First Class,

His Excellency Abdul Ilah HAFIDH, Member of the Chamber of Deputies,

His Excellency ISMET INÖNÜ, President of the Turkish Republic:

His Excellency Hasan SAKA, Deputy of Trabzon, Minister of Foreign Affairs,

His Excellency Feridun Cemal ERKIN, Secretary-General of the Ministry of Foreign Affairs, Ambassador of Turkey,

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

Article 1

The High Contracting Parties undertake, in accordance with the provisions of the present Convention, to surrender to each other all persons who, being accused or convicted by the judicial authorities of either of them, shall be found within the territory of the other.

It is understood that the High Contracting Parties shall not extradite their own nationals.

¹ Came into force on 25 May 1948, in accordance with article 17, the instruments of ratification having been exchanged at Baghdad on 10 May 1948.

Extradition shall only be granted in case of prosecution or conviction for an offence committed outside the territory of the State which is asked to grant extradition.

Article 2

A requisition for the extradition of a person who is being proceeded against or on whom sentence has been passed shall only be complied with if the offence with which the person is charged is punishable under the law of the two countries with at least one year's imprisonment or a more severe penalty.

Extradition applied for with a view to the execution of a judgment which has acquired force of law shall only be granted if the offender has been finally sentenced to a penalty exceeding six months' imprisonment for an offence punishable under the laws of the two countries with at least one year's imprisonment or a more severe penalty.

Article 3

Extradition shall also be granted in case of attempts to commit offences or of complicity in any form or of any nature whatsoever, provided the attempt or complicity is punishable, in accordance with the provisions of article 2, under the laws of the State making application and the State to which application is made.

Article 4

Extradition shall not be granted in the following cases:

- (a) For political offences and acts connected therewith;
- (b) For military offences and acts connected therewith;
- (c) For offences in regard to which proceedings can only be taken on the complaint of the aggrieved party and where proceedings must be stopped if the latter withdraws his complaint;
- (d) If the person claimed is being proceeded against by the applicant State for an offence in respect of which exemption from prosecution or punishment has been acquired by lapse of time or in some other manner under the laws of that State, the laws of the State to which application is made or those of the State in whose territory the offence was committed;
- (e) If the person claimed is being proceeded against for the same act in the country to which application is made, and if he has already been definitely discharged from the proceedings, convicted, declared to be irresponsible or acquitted in respect of the same act;

(f) If the authorities of the State to which application is made have competence in accordance with its laws to try the offence;

(g) If the act is committed in the territory of a third State and the laws of the Party to which application is made do not admit of proceedings in respect of such an act committed abroad.

The following shall not, however, be regarded as political offences or as acts connected with such offences:

1. An offence committed against the person of the Head of State and against members of his family;
2. Assassination of the Head of the Government or attempted assassination or complicity therein;
3. Acts of brigandage, torture and robbery accompanied by torture, for whatever purpose the acts are committed.

Article 5

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

Article 6

In cases not involving the extradition of the offender and provided for and enumerated in article 4, the decision as to the nature of the acts is exclusively reserved for the State which is asked to grant extradition.

In any event, a requisition for extradition for a political offence cannot be refused unless a decision defining the political nature of the offence has been taken by a competent court of the State to which application is made.

Article 7

1. The requisition for the extradition of an accused person must be accompanied by the following documents:

(a) A warrant of arrest or a document of arrest issued by a competent judicial authority.

(b) A document indicating the nature of the offence and the text of the provisions of the law applicable to the offence in question.

(c) A declaration or an identity card with as many details as possible indicating the identity and the description of the accused person, and if possible a photograph of the accused person.

(d) The reports of evidence, if any, certified correct by the judge who has made the inquiry.

2. If the requisition for examination relates to a person who has been sentenced by default through not appearing or not defending himself, the requisition shall be accompanied, in addition to the documents mentioned in the previous paragraph, by a summary of the judgment and the text of the articles of the law on which the judgment is based.

3. If the requisition for extradition relates to a person convicted after a full hearing, the following documents must be annexed to the requisition:

(a) A copy of the judgment.

(b) A declaration or an identity card indicating the identity of the convicted person in a sufficiently detailed manner, and if possible a photograph of the convicted person.

(c) A copy of the provisions of the law on which the judgment is based.

(d) A document issued by a competent authority declaring the judgment to be enforceable.

4. In the case of offences against property, the approximate amount of the real or attempted damage shall always be indicated.

5. The documents to be produced shall be drawn up in the form prescribed by the laws of the State making application, and the originals or copies thereof certified correct by the court or by any other competent authority of that State shall be forwarded. They shall be accompanied by a translation in the language of the State to which application is made, certified correct by the diplomatic agent of the State making application or by a sworn translator of the State to which application is made.

6. It is understood that, while reserving their right to decide on the requisition for extradition, the competent authorities of the State to which application is made shall, as soon as the said State has received the documents mentioned above, prevent the possibility of escape by means of the arrest of the accused person or by any other suitable measure, unless the extradition appears *a priori* to be inadmissible.

7. In case of doubt as to whether the offence in respect of which extradition is applied for is included in the offences provided for in the present Convention as involving extradition, explanations shall be requested of the State making application, and extradition shall not be granted so long as the explanations furnished are not such as to remove this doubt. The arrested person may be released or the measures taken with regard to him may be cancelled if the explanations have not been furnished within three months of the date when the request for information was transmitted to the diplomatic agent of the State making application.

Article 8

The High Contracting Party of which extradition is requested shall order the arrest of the offender and investigation of the matter if it is convinced that the offence involves extradition under the terms of the present Convention, and shall order the extradition if, on the conclusion of the investigation, it acquires the conviction that the evidence is complete or sufficient, that the person whose extradition is requested is identical with the person mentioned as being accused or convicted, and in case of conviction, that the offence on which it is based is one of those which involved extradition when the judgment was pronounced.

Article 9

If the offender's escape appears likely pending the presentation to the Party to which application is made of the requisition for extradition and of the document which, under the terms of the present Convention, must accompany that requisition, the State to which application is made shall, in virtue of a notice from the State making application which is to be sent by post or telegraph to the Ministry of Foreign Affairs of the State to which application is made, or in virtue of a request to be made by the diplomatic agent of the State making application, prevent such escape by provisionally detaining the offender or by adopting any other measure, without waiting for the arrival of the required documents.

In this case, however, information must be given as to the character and nature of the offence and the severity of the penalty, and a notification must be made that the warrant of arrest has been issued against the offender by the competent authority.

If the requisition for extradition and the documents relating thereto in respect of the person thus provisionally arrested or with regard to whom any other steps have been taken, have not been forwarded to the State to which application is made within one month of the date of arrest or of the adoption of any other measure, the person arrested shall be released or the steps taken with regard to him shall be cancelled.

Article 10

Articles of which the person claimed has obtained possession through the commission of the offence or which have been seized on him, the instruments which were used for committing the offence and any other articles likely to serve as proof of the offence shall, subject to the rights of third parties and in accordance with the decision of the competent authority, be handed over at

the same time as the person claimed to the State applying for extradition; they shall be sent even in cases where extradition has already been granted but cannot be carried out owing to the death or escape of the guilty person.

This surrender shall also comprise all articles of the same kind hidden or deposited by the person claimed in the country granting extradition and subsequently discovered.

Article 11

If the person claimed is being proceeded against or has been convicted in the territory of the State to which application is made for an offence other than that forming the subject of the requisition for extradition, his extradition may be postponed until the proceedings have been concluded or the person claimed has served his sentence or has obtained the remission thereof.

Similarly, if proceedings are taking place before the authorities of the Party to which application is made for a reason other than the violation of the penal laws and involving the compulsory appearance or the detention of the person claimed, extradition may be postponed until the proceedings or detention have terminated.

Nevertheless, if, according to the laws of the country applying for extradition, such postponement is likely to lead to exemption from prosecution or punishment by lapse of time or other serious difficulties as regards proceedings against the accused person, his temporary surrender shall be granted, unless there are special objections thereto, provided that an undertaking is given to return the surrendered person as soon as the proceedings in the country making application have been concluded.

If the person claimed is unable by reason of the extradition to fulfil obligations contracted by him towards private persons, his extradition shall nevertheless take place, subject to such persons bringing their claims before the competent authority.

Article 12

If extradition is granted, the person claimed shall be placed at the disposal of the State making application at the frontier station or port of embarkation of the State to which application is made.

The said person may be released if, within one month after the notification of the decision regarding extradition, the State making application has not taken delivery of him.

Article 13

The person surrendered may only be tried for the offence or offences on which his surrender was based.

The person surrendered, may, however, be arrested and tried for an offence other than the offence or offences on which his surrender was based, provided that the consent of the State to which application is made has been obtained or that he has had the possibility of returning to the country which surrendered him and has not taken advantage of this possibility.

Moreover, the extradition to a third State of a person who has been surrendered may only take place under the above-mentioned conditions. Nevertheless, if the person surrendered agrees to be tried, the consent of the State which surrendered him is no longer required; notice thereof shall merely be sent to that State.

The provisions of the present article shall not apply to offences committed after surrender in the territory of the States which requested extradition.

Article 14

If the person whose extradition is applied for by one of the Contracting Parties is also claimed by one or more other States on account of other offences, he shall be surrendered to the State in whose territory the most serious offence was committed and, if the offences are of equal seriousness, to the State of which he is a national.

When the person claimed is not a national of the States applying for his extradition and the offences are of equal seriousness, he shall be surrendered to the State whose requisition was first received. The seriousness of the offence shall be determined according to the laws of the State to which application is made.

Article 15

If the extradition of an offender takes place between one of the Contracting Parties and a third Power, and if the offence on which the extradition is based is not included among the acts provided for in article 4, the other Party shall authorize the conveyance in transit through its territory of this person and of the articles mentioned in article 10, unless the person in question is one of its nationals.

The application for transit shall be made through the diplomatic channel, and the originals or duly certified copies of the documents mentioned in article 7 must be produced.

Article 16

The Contracting Parties reciprocally waive any claim for the refund of expenses occasioned in their respective territories by the arrest, maintenance and transport of the offender and by the temporary surrender mentioned in article 11.

The cost of transit in the territory of one of the Contracting Parties of a person surrendered or temporarily handed over to the other Party by a third Power shall be payable by the State making application.

Article 17

The present Convention, which shall enter into force fifteen days after the exchange of the instruments of ratification, shall remain in force for one year. If neither of the Parties notifies the other of its desire to denounce the Convention six months before expiry of this period, it shall be considered as having been extended by tacit consent for an indeterminate period and shall remain in force until six months after the notification provided for above.

This Convention shall be ratified and the instruments of ratification shall be exchanged at Baghdad as soon as possible.

DONE at Ankara, 29 March 1946, in three copies, in Arabic, Turkish and French, the latter being authentic in case of dispute.

Noury SAÏD

A. HAFIDH

Hasan SAKA

Feridun Cemal ERKIN

EXCHANGE OF NOTES

I

Ankara, 29 March 1946

Your Excellency,

With reference to the relevant paragraph of article 4 of the Extradition Convention signed on today's date under which any offence committed against the person of the Head of State and against members of his family is not considered as a political offence or as an act connected therewith, I have the honour to inform you that offences committed against persons actually invested with the functions of Head of State, as well as against their successors, heirs

or appointees, shall cease to be considered as a political offence or as an act connected therewith.

I have the honour to be, etc.

Feridun Cemal ERKIN

His Excellency
Al Farik Nuri Essaid
President of the Senate of Iraq
Ankara

II

Ankara, 29 March 1946

Your Excellency,

I have the honour to acknowledge receipt of your letter on the relevant paragraph of article 4 of the Extradition Convention signed on today's date, under which any offence committed against the person of the Head of State and against members of his family is not considered as a political offence or as an act connected therewith, and to inform you, in reply, that offences committed against persons actually invested with the functions of Head of State, as well as against their successors, heirs or appointees, shall cease to be considered as a political offence or as an act connected therewith.

I have the honour to be, etc.

Noury SAÏD

His Excellency
Feridun Cemal Erkin
Ambassador of Turkey
Secretary-General of the Ministry of Foreign Affairs
Ankara
