

No. 1589

BELGIUM
and
LUXEMBOURG

**Fifth supplementary declaration (with exchange of notes)
to the Convention regarding the reciprocal extradition
of offenders, signed at The Hague on 23 October 1872.
Signed at Luxembourg, on 24 August 1948**

Official text : French.

Registered by Belgium on 17 December 1951.

BELGIQUE
et
LUXEMBOURG

**Cinquième déclaration additionnelle (avec échange de notes)
à la Convention, signée à La Haye le 23 octobre 1872,
pour l'extradition réciproque des malfaiteurs. Signée à
Luxembourg, le 24 août 1948**

Texte officiel français.

Enregistrée par la Belgique le 17 décembre 1951.

[TRANSLATION — TRADUCTION]

No. 1589. FIFTH SUPPLEMENTARY DECLARATION¹ TO THE CONVENTION BETWEEN BELGIUM AND LUXEMBOURG REGARDING THE RECIPROCAL EXTRADITION OF OFFENDERS, SIGNED AT THE HAGUE ON 23 OCTOBER 1872². SIGNED AT LUXEMBOURG, ON 24 AUGUST 1948

The Belgian Government and the Government of Luxembourg, considering it desirable in the relations between Belgium and the Grand Duchy of Luxembourg to extend the application of the Belgium-Luxembourg Extradition Convention of 23 October 1872 to offences committed against the external security of the State, have agreed on the following provisions :

Article 1. The Governments of Belgium and Luxembourg undertake, at the request of either Government, to surrender to each other all persons, with the exception of their own nationals, who are being proceeded against, taken into custody or indicted, or convicted as authors or accomplices by the courts of either country for offences committed either during a war waged against a common enemy or during the occupation of the territory of the High Contracting Parties by the same invader or hostilities launched against them by the same aggressor, which have been perpetrated in violation of the provisions here below :

(a) articles 113, 114, 115, 116 to 123^{quater} of the Belgian Penal Code ;

(b) articles 113, 114, 115, 116 to 123^{sexies} of the Luxembourg Penal Code.

When the act has been committed wholly or mainly on the territory of the State to which application is made, extradition shall be granted only if the corresponding act is punishable under the laws of that State as a threat to its external security.

Article 2. Extradition shall be granted in accordance with the procedure laid down in article 3 of the Convention of 23 October 1872, as amended by subsequent arrangements.

If there is any doubt as to the identity of the person wanted or any doubt whether the offence for which extradition is requested comes under the terms of the present declaration, additional explanations may be requested from the applicant State.

¹ Came into force on 19 November 1951 by exchange of the instruments of ratification at Brussels. The declaration is not applicable to the territories of the Belgian Congo and Ruanda-Urundi.

² De Martens : *Nouveau Recueil général de Traités*, deuxième série, tome I, p. 189, and League of Nations, *Treaty Series*, vol. LXI, p. 311.

The additional information shall be produced within thirty days of the notification of the request for information.

Upon request based on good reasons, however, that time-limit may be extended for fifteen days by the State to which application is made.

During that period, the extradition procedure shall remain suspended.

Article 3. In cases of emergency, provisional arrest shall be made on presentation of a warrant for arrest issued by the proper magistrate and substantiated by an official notice containing a recital of the facts given, by the authorities of the applicant State to the authorities of the State to which application is made.

In such cases, however, the alien shall be released if within thirty days of his arrest, any one of the documents referred to in the above-mentioned article 3 is not communicated to him.

Article 4. The extradition by transit through the territory of one of the High Contracting Parties of a person surrendered to the other Party shall be granted upon simple presentation of the original or an authentic copy of one of the documents mentioned in the aforesaid article.

Article 5. No person who has been extradited may be prosecuted in the applicant State on account of political activities carried out in the interest of the State to which application has been made.

Article 6. The rogatory commissions effecting either a domiciliary visit or the seizure of the *corpus delicti* or of evidence shall execute their functions in respect of the offences referred to in article 1 above and subject to the reservations stated in that article.

Article 7. All the articles of the Convention of 23 October 1872 from which the foregoing provisions do not derogate shall be applicable to extraditions granted in accordance with article 1 above.

In applying the present Declaration, article 3 of the Declaration of 21 June 1877 is to be interpreted as follows :

When the offence has been committed outside the territory of the applicant Party, the request for extradition may be complied with in cases where the laws of the State to which application is made would authorize prosecution for the same acts had they been directed against the public safety or the external security of that State.

Article 8. The present supplementary Declaration shall remain in force for the same period as the Extradition Convention of 23 October 1872, to which it relates.

It shall be applicable to offences committed prior to its entry into force.

IN FAITH WHEREOF the undersigned, le Vicomte Joseph Berryer, Envoy

Extraordinary and Minister Plenipotentiary of Belgium to Luxembourg, and Joseph Bech, Honorary Minister of State and Minister of Foreign Affairs and Foreign Trade, duly authorized by their Governments, have affixed their signatures to the present declaration.

DONE in Luxembourg, in two original copies, on 24 August 1948.

(Signed) BERRYER

(Signed) J. BECH

EXCHANGE OF NOTES

I

MINISTRY OF FOREIGN AFFAIRS

Luxembourg, 24 August 1948

Sir,

In signing the Supplementary Declaration of the Extradition Convention concluded on 23 October 1872 between Belgium and Luxembourg, I have the honour to state the following :

If one of the Contracting Parties, at some future date, should alter one of the texts enumerated in article 1 of the Declaration of today's date, it shall inform the other Party forthwith. An extradition in virtue of the amended text may be granted as from the day upon which the other Party shall have notified its consent and published the amendment in the form prescribed by its domestic law.

I have the honour to be, etc.

(Signed) BECH

His Excellency le Vicomte Joseph Berryer
Envoy Extraordinary and Minister Plenipotentiary
of Belgium to Luxembourg

II

BELGIAN LEGATION

No. 3193.D.6219

Luxembourg, 24 August 1948

Sir,

[See note I]

(Signed) BERRYER

His Excellency Mr. Joseph Bech
Honorary Minister of State
Minister of Foreign Affairs,
Luxembourg