

No. 3702

**BELGIUM
and
ISRAEL**

**Extradition Convention (with exchange of letters). Signed
at Brussels, on 26 March 1956**

Official texts of the Convention: French and Hebrew.

Official text of the exchange of letters: French.

Registered by Belgium on 2 February 1957.

**BELGIQUE
et
ISRAËL**

**Convention d'extradition (avec échange de lettres). Signée
à Bruxelles, le 26 mars 1956**

Textes officiels de la Convention: français et hébreu.

Texte officiel de l'échange de lettres: français.

Enregistrée par la Belgique le 2 février 1957.

[TRANSLATION — TRADUCTION]

No. 3702. EXTRADITION CONVENTION¹ BETWEEN BELGIUM AND THE STATE OF ISRAEL. SIGNED AT BRUSSELS, ON 26 MARCH 1956

The Belgian Government and the Government of the State of Israel,

Desirous of regulating relations between their two countries with regard to extradition and the transit of criminals, as well as judicial assistance in criminal matters, have resolved to conclude a Convention for that purpose, and have appointed as their plenipotentiaries :

The Belgian Government : His Excellency, Mr. P.-H. Spaak, Minister of Foreign Affairs,

The Government of the State of Israel : His Excellency, Mr. Joseph Ariel, Envoy Extraordinary and Minister Plenipotentiary at Brussels,

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

Article 1

EXTRADITION OF CRIMINALS

The Contracting Parties undertake to surrender to each other, in the circumstances and under the conditions stipulated in the present Convention, persons who are in the territory of one Party and are charged with or have been convicted by the judicial authorities of the other Party of one of the offences enumerated below.

Article 2

OFFENCES FOR WHICH EXTRADITION MAY BE GRANTED

The following offences are extraditable :

- (1) Voluntary culpable homicide (including murder, parricide, infanticide and poisoning), as well as the offence denoted by the term *hariga* in Israel law ;

¹ Came into force on 2 February 1957, the thirtieth day after the exchange of the instruments of ratification which took place at Brussels on 3 January 1957, in accordance with article 19. This Convention is not applicable to the territories of Belgian Congo and Ruanda-Urundi. This Convention abrogates and replaces the Provisional Extradition Agreement between Belgium and Israel concluded by an exchange of notes of 8 February 1954, as well as the first and second agreements of 28 February and 2 March 1955 and of 23 and 28 March 1956, prolonging the Provisional Agreement. See United Nations, *Treaty Series*, Vol. 188, p. 251 ; Vol. 207, p. 367, and Vol. 234, p. 367.

- (2) Deliberate assault or wounding causing a disease or bodily harm resulting in permanent injury to health, or permanent incapacity for work, loss or deprivation of the free use of a member or an organ, serious mutilation or unintended death ;
- (3) The deliberate administering of substances capable of causing death or of seriously injuring health, with intent to do bodily harm but without intent to cause death ;
- (4) Abortion ;
- (5) Rape ; indecent assault with violence ; indecent assault without violence or threats committed on, or with the aid of, a minor of either sex under the age of sixteen years ; indecent assault without violence or threats committed by an ascendant on, or with the aid of, a person of the feminine sex who is under twenty-one years and who has not been married ; recruiting, enticing or abducting a person of the feminine sex for purposes of prostitution to gratify the passions of others ; detention against her will of a person of the feminine sex in a disorderly house or a house of prostitution ; threats or intimidation calculated to exercise pressure on a person of the feminine sex for purposes of prostitution ; keeping a house of prostitution ; habitual exploitation of prostitution by others ;
- (6) Abduction of a minor under the age of fourteen years or sixteen years if the person concerned is of the feminine sex ;
- (7) Kidnapping or unlawfully detaining a child under the age of seven years ;
- (8) Exposing or abandoning a child ;
- (9) Theft, robbery with violence, house breaking or burglary, extortion, false pretences and fraud ;
- (10) Embezzlement or misappropriation to the detriment of other persons of valuable securities, moneys, goods, receipts and documents of all kinds which contain or convey an undertaking or a discharge and were entrusted to the offender on condition that they be returned or put to a definite use ;
- (11) Wrongfully receiving money, valuable securities or other movables obtained by false pretences, theft or embezzlement ;
- (12) Offences against the freedom of the individual ;
- (13) (a) Counterfeiting, including the counterfeiting and altering of currency and the uttering and putting into circulation of counterfeit or altered currency ;
(b) Knowingly making, without lawful authority, any instrument, tool or engine adapted and intended for the counterfeiting of currency ;
- (14) Forgery, or counterfeiting or altering or uttering what is forged, counterfeited or altered ;
- (15) Perjury, false witness and false statements by experts or interpreters and the subordination of witnesses, experts or interpreters ;

- (16) Extortion (the act of a public official who demands or collects anything to which he is not entitled), malversation committed by a public official ;
- (17) Bribery of a public official ;
- (18) Fraudulent bankruptcy, provided that the penalty prescribed by law exceeds three years' imprisonment ;
- (19) Any punishable act committed with the malicious intent, of endangering the safety of persons travelling in a railway train ;
- (20) Arson ;
- (21) The destruction of, or damage to, buildings, machines, plantations, crops, agricultural implements, telephonic and telegraphic apparatus, works of art, ships or tombs, or the malicious damage to cattle or movable property, offences punishable in Israel under the designation of "*grimat nezek l'rechush b'zadon*". The penalty prescribed by law for these offences must exceed three years' imprisonment ;
- (22) Stranding, sinking or destroying a ship at sea by the master or officers and crew ;
- (23) Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master ;
- (24) Traffic in slaves, provided that the penalty prescribed by law exceeds three years' imprisonment ;
- (25) Piracy.

The above enumeration shall include the attempt to commit any of the aforesaid crimes or participation therein as an accessory before or after the fact.

Extradition shall also be granted in the case of an association of criminals for the purpose of committing any of the offences specified in this article.

In every case extradition shall not be granted unless the act in question constitutes a punishable offence under the legislations of both Contracting Parties.

Article 3

EXTRADITION OF NATIONALS

Each Contracting Party reserves the right to grant or refuse extradition of its own nationals.

Article 4

CASES IN WHICH EXTRADITION SHALL BE REFUSED

Extradition shall be refused in the following cases :

(a) If the offence was committed outside the territory of the applicant State and the legislation of the State applied to does not authorize the prosecution of the offence in question when committed outside its territory ;

(b) If, at the time when extradition is possible, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of either Contracting Party ;

(c) If the person claimed has already been sentenced or acquitted on the same charge in the State applied to ;

(d) If the person claimed has already been sentenced on the same charge in a third State and has served his sentence ;

(e) If the person claimed has been pardoned in the applicant State or the offence is covered in that State by an amnesty ;

(f) If extradition is applied for in respect of a political offence or of an act connected therewith or if, according to the authorities of the State applied to, the charges amount in effect to racial or religious discrimination.

The State applied to shall be the sole judge of the question whether the offence has this character.

Extradition may be refused in the following cases :

(a) If the offence was committed in the territory of the State applied to ;

(b) If the offence was committed in the territory of a third State and the courts of the State applied to have competence to try it.

Article 5

REQUISITION FOR EXTRADITION

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

The requisition shall be accompanied by the original, or a certified copy, of the sentence or of the warrant of arrest or other document having the same validity, issued by a judge or competent legal officer or, in the case of a requisition made by Belgium, by any competent judicial authority.

The nature of the offence for which the requisition for extradition is made, the time and place of its commission, its legal classification or description, and the legal provisions applicable to it, must be specified as precisely as possible.

The requisition shall also be accompanied by a copy of the criminal law provisions that are applicable to the case, together with the fullest possible description of the person claimed and any other particulars which may serve to establish his identity and nationality.

In the case of a person accused of an offence, the requisition shall be accompanied in addition by the original or certified copy of the statements of witnesses and declarations of experts, made on oath or otherwise to a judge or competent legal officer or, in the case of a requisition made by Belgium, to an officer of the criminal police or any other competent judicial authority.

In this case, extradition shall take place only if, according to the authorities of the State applied to, the existing evidence would be sufficient to justify committal for trial if the offence had been committed in the territory of that State.

All warrants, statements and declarations, made or received on oath or otherwise, and copies thereof, as well as all certificates or judicial documents in proof of the conviction of the person in question, shall be accepted as valid evidence in the proceedings for a requisition for extradition, if they bear the signature of, or are accompanied by an attestation from, a judge, competent legal officer or official of the State where they were made or received, provided always that such warrants, statements, declarations, copies, certificates and judicial documents are authenticated with the official seal of the Minister of Justice or other Minister of State.

Article 6

ADDITIONAL EXPLANATIONS

In case of doubt whether the offence in respect of which a requisition of extradition is made comes under the provisions of the present Convention, additional explanations or evidence shall be requested from the applicant State and extradition shall only be granted if the explanations or evidence furnished are such as to dispel this doubt.

If the person claimed is detained with a view to his extradition, he may be released if such explanations or evidence have not been furnished within a time-limit of sixty days reckoned from the date on which the request therefor was made through the diplomatic mission of the State making the requisition. This time-limit may, however, be extended in response to a request stating the reasons.

Article 7

CONCURRENT REQUISITIONS

If requisitions for extraditions are made concurrently by several States, in respect either of the same or other acts, the State applied to shall decide freely thereon, taking into consideration all the circumstances of the case and, in particular, the possibility of a subsequent extradition as between the States making the requisition, the nationality of the person claimed, the dates of each requisition and the comparative gravity and place of commission of the offences.

The above provisions shall not prejudice any undertakings entered into previously by either Contracting Party with respect to other States.

Article 8

MEASURES FOR CARRYING OUT EXTRADITION

All measures to carry out extradition shall be taken in accordance with the provisions of the law of the State to which a requisition is addressed.

Article 9

PROVISIONAL ARREST

In cases of emergency, the authorities of the State making the requisition may request the authorities of the State to which the requisition is addressed to arrest provisionally the person claimed until the necessary documents in support of the requisition for extradition mentioned in article 5 can be transmitted.

The request for provisional arrest shall be transmitted by telegram or by letter, in the case of Belgium, to the judicial or police authorities and in the case of Israel, to the police authorities.

This request shall specify that it will be followed by a requisition for extradition and that there exists a warrant for arrest or a conviction, as the case may be; it shall furthermore describe the act in respect of which extradition is requested and the time and place of its commission, and give as full a description as possible of the person claimed.

Provisional arrest shall be made in the manner and in accordance with the rules laid down in the legislation of the State to which the requisition is addressed. The authorities making the arrest shall inform the authorities of the State making the requisition without delay.

A person provisionally arrested under the terms of this article shall be released if within a time limit of sixty days reckoned from the date of his arrest, the requisition for extradition, accompanied by the documents mentioned in article 5, has not reached the State to which the requisition is addressed and, in the case of a person detained in Belgium, if within the same time-limit, one of the documents mentioned in the second paragraph of article 5, has not been notified to that State. Such notification shall be made within the shortest possible time.

Article 10

POSTPONEMENT OF EXTRADITION

If the person claimed is being prosecuted or has been convicted in the State applied to for the extradition for an offence other than that in respect of which extradition is requested, or if he is under arrest in that State on other grounds, his extradition may be deferred until the conclusion of the proceedings, until he has served the sentence, has been pardoned, has benefited from an amnesty or his detention ends for other reasons.

A decision with respect to the requisition for extradition may however be taken immediately.

Article 11

PERFORMANCE OF EXTRADITION

The State applied to for the extradition shall inform the other State in writing and through the diplomatic channel of its decision on the requisition for extradition. In case of total or partial rejection, the reasons shall be stated.

If extradition is granted, the person claimed shall be conducted by the authorities of the extraditing State to the frontier or the port of embarkation indicated by the diplomatic or consular agent of the State making the requisition.

If, within fifty days reckoned from the date on which the State making the requisition was informed that the extradition has been granted it has not been possible to hand over the person claimed to that State, or to a transit State, he may be released. This time-limit may be extended if the State making the requisition so requests at least ten days before its expiry, provided that there are special reasons to justify it.

If a person has been released in virtue of the provisions of the last preceding paragraph, the State to which the requisition was addressed may refuse to arrest him again for the same offence with a view to his extradition.

The person claimed shall not be surrendered until the judgement given in the State to which the requisition is made is no longer subject to appeal in accordance with the law in force in the said State.

Article 12

EFFECTS OF EXTRADITION

The person surrendered shall not be arrested, prosecuted or punished in the State of which extradition has been granted, and he shall not be extradited to another State, for any offence not covered by the present Convention and committed before extradition.

Similarly, he shall not be arrested, prosecuted or punished in the State to which extradition has been granted for an offence covered by the present Convention and committed before extradition but is not that for which he has been extradited, without the written consent of the State which surrendered him and to which the documents specified in article 5 shall be produced.

Furthermore, he may not be re-extradited to a third State for any offence covered by the present Convention and committed before extradition, without the written consent of the State which surrendered him and to which the documents specified in article 5 shall be produced.

The provisions of the foregoing paragraphs shall not apply if the extradited person, being at liberty to do so, has not left within sixty days following his final release the territory of the State to which he was surrendered, or if he returns subsequently thereto.

Article 13

HANDING OVER OF MATERIAL EVIDENCE

If extradition is granted, all articles found in the possession of the person claimed at the time of his arrest, or discovered subsequently, which were obtained as a result of the offence, or may serve as material evidence, shall be seized and

handed over to the State making the requisition in so far as this may be permitted by the law of the State applied to for the extradition.

These articles may be handed over even if extradition cannot be carried out by reason of the escape or death of the person claimed.

Nevertheless, any rights to the said articles which may have been acquired by third parties shall be reserved, and such articles shall, if necessary, be restored free of charge to the State applied to after the conclusion of the proceedings.

The State applied to for the extradition may provisionally retain the objects seized, if it considers them necessary for any criminal proceedings. It may also transmit them subject to their being returned for that purpose, while undertaking to send them back once more as soon as possible.

Article 14

TRANSIT

The conveyance in transit through the territory of one of the Contracting Parties of a person extradited by a third State to the other Party shall be granted on a written application made through the diplomatic channel and accompanied by the documents specified in article 5, provided that the offence in respect of which transit is requested is one which permits of direct extradition under the present Convention.

Such transit shall be effected by the officials of the Party on the territory of which it is to take place, and subject to the conditions and by the route which that Party may determine.

The said Party shall bear the expenses involved.

The Contracting Parties reserve the right to refuse or grant transit of their own nationals through their territory.

Article 15

JUDICIAL ASSISTANCE IN CRIMINAL MATTERS

The Contracting Parties shall mutually give each other judicial assistance in criminal matters. In particular, they shall arrange for service of documents relating to criminal proceedings on persons present in their territories, carry out acts of investigation such as hearing witnesses and experts, conducting searches and seizing objects, and deliver to each other all documents evidencing the carrying out of these acts, together with all items of material evidence.

Nevertheless, the carrying out of letters rogatory requesting a house search, or the seizing of the *corpus delicti* or of material evidence, may be made subject to the condition that an offence specified in article 2 of the present Convention is involved, and shall not take place except subject to the proviso contained in the third paragraph of article 13.

Requests for judicial assistance shall be carried out with due observance of the laws of the Party in the territory of which such assistance is given.

Judicial assistance may be granted even if under the provisions of the present Convention there is no obligation to extradite, except however in the cases referred to in clause (f) of article 4.

All communications relating to judicial assistance shall be made through the diplomatic channel.

Article 16

SUMMONS AND APPEARANCE OF WITNESSES AND EXPERTS

If, in a criminal case pending before the courts of one of the Contracting Parties, provided that such case is not covered by clause (f) of article 4, the personal attendance of a witness or an expert present in the territory of the other Party is deemed necessary or desirable, the authorities of the latter Party shall transmit to him the relevant summons for that purpose.

No witness or expert of whatever nationality who is present in the territory of one of the Contracting Parties and who, upon being summoned by the other, voluntarily attends in its courts, may be detained, prosecuted or punished for previous offences or for participation as an accessory before or after the fact in the acts forming the subject of the case in which he is a witness or expert.

The above persons shall however cease to benefit from this provision if, being at liberty to do so, they do not leave the territory of the State making the requisition within fifteen days of their presence being no longer necessary before the judicial authorities.

The costs entailed by the personal attendance of a witness or expert shall be borne by the State making the requisition which shall specify in the summons to the witness or expert the amount to be paid to him for travelling and subsistence allowances. At his request, the State applied to may advance all or part of these allowances and this advance shall be refunded subsequently by the State making the requisition.

Article 17

EXPENSES ARISING OUT OF JUDICIAL ASSISTANCE IN CRIMINAL MATTERS

The expenses arising out of a requisition for extradition shall be defrayed by the State applied to, up to the time of the surrender of the extradited person at the port of embarkation to the officials of the applicant State, or at the frontier to the authorities of the transit State designated by the State making the requisition.

The expenses arising out of any other form of judicial assistance in criminal matters shall be defrayed by the Party on the territory of which they were incurred. The cost of expert reports of all kinds shall however be defrayed by the State making the requisition.

Article 18

TERRITORIAL APPLICATION

The present Convention shall not apply to the territories of the Belgian Congo and Ruanda-Urundi.

Its subsequent application to the said territories may be made the subject of special arrangements.

Article 19

FINAL PROVISIONS

The present Convention, drawn up in the French and Hebrew languages both being equally authentic, shall be subject to ratification.

The instruments of ratification shall be exchanged as soon as possible at Brussels.

This Convention shall come into force on the thirtieth day following the exchange of ratifications.

It shall remain in force until the expiry of the period of six months from the day on which either Contracting Party shall give notice of this intention to terminate it.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Convention and have affixed their seals thereto.

DONE in duplicate at Brussels, 26 March 1956.

For the Government
of Belgium :
P.-H. SPAAK

For the Government
of the State of Israel :
Joseph ARIEL

EXCHANGE OF LETTERS

I

Brussels, 26 March 1956

Your Excellency,

With reference to the Extradition Convention between our two countries signed today¹, I have the honour to propose to you the following :

- (a) All documents to be transmitted, delivered or produced in pursuance of the said Convention shall be drawn up in the French language, or accompanied by a translation in that language.

¹ See p. 13 of this volume.

- (b) The titles of the various articles of the Convention are included therein by way of indication and do not constitute elements of interpretation.
- (c) It is hereby noted that in accordance with Israel legislation at present in force, the authorities of the State of Israel are not permitted to grant extradition for an offence punishable with death unless that penalty is applicable to the corresponding offence under Israel law, or the authorities of the State making a requisition for the extradition of a person present in Israel undertake not to pass sentence of death, or if such sentence is passed to commute it.

If you agree to the foregoing, may I suggest that the present letter, together with your affirmative reply, constitute an agreement between our two Governments?

I have the honour to be, etc.

P.-H. SPAAK

His Excellency Mr. J. Ariel
Envoy Extraordinary and Minister Plenipotentiary of Israel
Brussels

II

LEGATION OF ISRAEL

Brussels, 26 March 1956

Your Excellency,

I have the honour to acknowledge receipt of your letter of today's date, drafted in the following terms :

[See letter I]

I have the honour to inform you that my Government agrees to the foregoing.

I have the honour, etc.

Joseph ARIEL

His Excellency Mr. P.-H. Spaak
Minister of Foreign Affairs
Brussels