

No. 4580

**ISRAEL
and
ITALY**

**Convention concerning extradition and judicial assistance
in criminal matters. Signed at Rome, on 24 February
1956**

Official texts: Hebrew, Italian and French.

Registered by Israel on 28 November 1958.

**ISRAËL
et
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**Convention d'extradition et d'assistance judiciaire en matière
pénale. Signée à Rome, le 24 février 1956**

Textes officiels hébreu, italien et français.

Enregistré par Israël le 28 novembre 1958.

[TRANSLATION — TRADUCTION]

No. 4580. CONVENTION¹ BETWEEN ITALY AND THE STATE OF ISRAEL CONCERNING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT ROME, ON 24 FEBRUARY 1956

The GOVERNMENT OF THE ITALIAN REPUBLIC and the GOVERNMENT OF THE STATE OF ISRAEL, desiring to regulate by common agreement questions relating to the extradition of offenders and to judicial assistance in criminal matters, have to this end appointed the undersigned as their duly authorized plenipotentiaries, who have agreed upon the following provisions :

TITLE I

EXTRADITION

Article 1

The Contracting Parties undertake to deliver up to each other reciprocally, in accordance with the rules and conditions determined in the present Convention, persons within the territory of one Party against whom proceedings have been taken or who have been convicted by the judicial authorities of the other Party in respect of any offence enumerated in article 2 and constituting an offence punishable under the law of each of the Contracting Parties.

Article 2

The following offences are extraditable :

- (1) Any offence for which the maximum penalty prescribed by the laws of each of the Contracting Parties exceeds three years' imprisonment. The following are, however, excepted :
- (a) Bigamy ;
 - (b) Acts of violence of any kind or assault and battery in cases where they constitute special offences by reason of the fact that they were committed against police officers in or in connexion with the exercise of their duties ;
 - (c) Offences against laws governing import and export control, foreign exchange, price control, the adulteration of foodstuffs, weights and measures, and against emergency laws dealing with economic speculation.

¹ Came into force on 9 May 1958, the date of the exchange of the instruments of ratification at Rome, in accordance with article 34.

(2) Homicide through want of skill, imprudence, negligence or failure to comply with the regulations.

(3) Abortion.

(4) Indecent assault, procuring, exploitation of prostitution by others, incitement to commit immoral acts and detention in a disorderly house or with a view to committing immoral acts.

(5) Abduction of minors ; desertion or neglect of children under age ; failure to comply with the obligation to provide for the essential needs of children under age.

(6) Threats or acts of violence for purposes of extortion of any kind.

(7) Arbitrary arrest and detention.

(8) Larceny and fraud, including fraud for the purpose of obtaining credit.

(9) Embezzlement or misappropriation, to the injury of others, 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.

(10) Receiving stolen goods.

(11) Placing in circulation counterfeit currency, whether of gold, silver or any other metal.

(12) Forgery of documents of all kinds ; uttering forged documents.

(13) Usurpation of public titles or functions ; abuse in the exercise of public functions.

(14) Perjury, false witness, false statements by experts or interpreters, subornation and other actions intended to interfere with the course of justice ;

(15) Bribery of a public official.

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 not however be granted in the case of a convicted person if the sentence imposed is less than six months' imprisonment.

Article 3

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

Extradition shall however be granted if, at the time of the offence, the person claimed was not a national of the State to which application is made.

Article 4

Extradition shall not be granted in respect of a political offence or of an act connected therewith or if the circumstances of the offence are such as to imply

racial or religious discrimination. The State to which the application is made shall determine the nature of the offence from this point of view.

Article 5

Extradition shall not be granted if the offence for which extradition is requested consists solely in the violation of military obligations.

Article 6

In so far as duties, taxes and customs duties are concerned, extradition shall be granted in accordance with the present Convention, to the extent that it shall have been so decided by an ordinary exchange of letters, for one or several specifically designated offences.

Article 7

Extradition shall not be granted :

- (1) If the offence for which it is requested was, under the laws of the State to which application is made, committed within the territory of that State ;
- (2) If the person claimed has already been sentenced or acquitted on the same charge in the State to which application is made ;
- (3) If penal prosecution or punishment is barred by lapse of time, according to the laws of the applicant State or of the State to which application is made ;
- (4) If the person claimed has been pardoned in the applicant State or is covered by an amnesty.

Extradition may be refused :

- (1) If proceedings have been instituted in respect of the offence in the State to which application is made ;
- (2) If the offence was committed in the territory of a third State and the courts of the State to which application is made are competent to try it ;
- (3) If the person claimed has already been sentenced on the same charge in a third State.

Article 8

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

The requisition shall be accompanied by the original, or a certified copy, of the final sentence of condemnation or of the warrant of arrest or other document having the same validity, issued by a judge or competent legal officer.

The details of the offence for which extradition is claimed, the time and place of its commission, its legal classification and the applicable legal provisions shall be set forth as precisely as possible.

The requisition shall also be accompanied by a copy of the law relating to the offence and to the penalty applicable and, as far as possible, by a description of the person claimed and any particulars which may serve to establish his identity and nationality.

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

In such case, extradition shall take place only if, in the opinion of the authorities of the State to which application is made there is such proof as would justify committal for trial if the offence had been committed in the territory of that State.

All warrants, depositions or declarations, whether made on oath or otherwise, or copies thereof, and all judicial documents in proof of the conviction of the person in question, shall be accepted as valid evidence in the examination of the requisition for extradition, if they are signed or certified by a judge, competent legal officer or official of the State where they were made and are authenticated with the official seal of the Minister of Justice or other Minister.

Article 9

The State to which the requisition for extradition is addressed shall take the necessary steps in accordance with its laws to carry out the extradition of the person claimed.

Article 10

In case of urgency, the applicant State may request the State to which application is made provisionally to arrest the person claimed pending the transmission of the necessary documents in support of the requisition for extradition mentioned in article 8.

The request for provisional arrest shall be transmitted by telegram or by letter to the police authorities of the State to which application is made.

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

Provisional arrest shall be effected in the manner and in accordance with the rules laid down in the laws of the State to which application is made. The decision concerning arrest, and, where applicable, the date of the arrest shall be communicated without delay to the police authorities of the applicant State.

Article 11

Provisional arrest may be suspended at any time and shall be automatically terminated if within a time-limit of sixty days reckoned from the date of the arrest the State to which application is made has not received the requisition for extradition together with the documents referred to in article 8.

The release of the person concerned shall not be a bar to his arrest and extradition if the requisition for extradition is subsequently received.

Article 12

If additional information or proof is considered essential to establish that the conditions laid down by the present Convention are satisfied, the State to which application is made shall, if it considers that the omission is capable of being rectified, so inform the applicant State through the diplomatic channel before refusing the requisition.

If the person claimed is detained with a view to his extradition, he may be released if such additional information or proof is not received within a period of sixty days from the date on which such information or proof was requested. This time-limit may, however, be extended on request, the reasons for the request being stated.

Article 13

If requisitions for extradition are made concurrently by several States in respect of the same or of different acts, the State to which application is made shall decide freely thereon, taking into consideration all the circumstances of the case, and, in particular, the possibility of subsequent extradition as between the applicant States, the dates of each requisition and the relative gravity and place of commission of the offences.

Article 14

If extradition is granted, every article found in the possession of the person claimed at the time of his arrest, or discovered subsequently, which was obtained as a result of the offence, or may serve as material evidence, shall be seized and delivered up to the State making the requisition.

Such delivery shall take place even if the extradition cannot take effect by reason of the escape or death of the person claimed.

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

The State to which application is made may provisionally retain the articles seized, if it considers them necessary for the purposes of criminal proceedings. It may also, in delivering them up, request that they shall be returned for such purposes and undertake in such case to deliver them up again as soon as may be.

Article 15

The State to which application is made shall inform the other State through the diplomatic channel of its decision concerning the requisition for extradition.

In case of total or partial rejection, the reasons therefor shall be stated.

If extradition is granted, the State making the requisition shall be notified of the date after which the person claimed can be surrendered and the place of surrender. Failing agreement on the place of surrender, the State to which application is made shall arrange for the person extradited to be conducted to a place to be designated by the diplomatic mission of the State making the requisition.

The State making the requisition shall arrange for the person extradited to be received within fifty days from the date appointed in accordance with the provisions of the preceding paragraph. Where special circumstances so require, this time-limit may be extended. On the expiry of this time-limit, the person claimed may be set at liberty. It shall be for the State to which application is made to determine whether the circumstances justify extension of the time-limit.

Release shall not be a bar to the presentation and consideration of a further requisition for extradition for the same offence.

Article 16

If proceedings have been taken against the person claimed or he has been convicted in the State to which application is made for an offence other than that in respect of which extradition is claimed, that State shall nevertheless consider the requisition as speedily as possible : but the extradition of the person charged may be deferred until such time as the requirements of justice in that State shall have been met.

The conditions under which a person may be sent provisionally to the applicant State in order to appear before the judicial authorities there and to be returned as soon as those authorities have reached a decision shall be determined by an exchange of letters.

Article 17

The person surrendered shall not be prosecuted, punished or arrested, nor shall his personal liberty be in any way restricted, for an offence committed before extradition other than that for which he has been extradited, except in the following cases :

(1) Where the extradited person, being at liberty to do so, has not within sixty days following his final release left the territory of the State to which he was surrendered, or returns there after having left it ;

(2) Where the State by which he was surrendered agrees to such a course.

Where the legal classification of the offence has been altered in the course of the proceedings, the person extradited shall not be prosecuted unless the offence under its new legal classification would be extraditable under the terms of the present Convention.

Article 18

Except in cases where the person extradited has remained in the territory of the applicant State or has returned there in the circumstances set out in the preceding paragraph, the consent of the State to which application was made shall be necessary before the State to which he was extradited may deliver up to a third State a person so surrendered.

Article 19

Requests for consent under articles 17 and 18 shall be accompanied by the documents enumerated in article 8 and by a judicial record containing the statements made by the person extradited. If this record is in the same form as the judicial documents referred to in the last paragraph of article 8, it shall have the same effect as those documents.

Article 20

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

Article 21

The extradition in transit through the territory of one of the Contracting Parties of a person extradited by the other Party shall be granted on an application made through the diplomatic channel and accompanied by the documents specified in article 8, provided that the offence in question is one which is extraditable under the terms of the present Convention and unless such transit is likely to occasion a breach of the peace.

The provisions of article 3 shall also be applicable to a requisition for extradition in transit.

In cases where conveyance is to be by air, the following provisions shall apply :

(1) Where the aircraft is not expected to land, the applicant State shall notify the State over the territory of which the flight is to take place and shall certify to the existence of a warrant of arrest or a sentence of condemnation. In the event of a landing taking place unexpectedly, such notification shall have the same effect as a request for provisional arrest under article 10 and the applicant State shall request permission for transit in accordance with the conditions set out in the first paragraph of the present article ;

(2) Where it is expected that the aircraft will land, the applicant State shall apply for permission for transit.

If the State from which permission for transit is requested also makes a requisition for the extradition for the person claimed, transit may be delayed until he has satisfied the requirements of justice in that State.

The cost of the transit shall be refunded by the applicant State.

TITLE II

JUDICIAL ASSISTANCE IN CRIMINAL MATTERS

Article 22

The Contracting Parties mutually undertake to arrange for the service of documents and of notifications of sentences on persons residing in their respective territories and to execute letters rogatory in criminal matters.

Fulfilment of this undertaking shall be in accordance with the law of the Contracting Party in the territory of which it takes place.

Article 23

The letter or covering memorandum accompanying the documents and the notification of sentence must contain the following information :

The name of the issuing authority ;

The character of the document in question ;

The name and address of the person on whom the documents are to be served ;

The legal classification of the offence.

Article 24

The authority to which application is made shall arrange for service of the document on the person named in it. Proof of service shall consist either of a receipt dated and signed by the person named or of a certificate by the authority to which application is made, as to the fact that service has been effected and as to how it was effected. One or the other of these documents shall immediately be sent to the applicant authority.

If it has not been possible to effect service, the authority to which application has been made shall return the document to the applicant authority, giving the reasons which prevent service from being effected. If the person named refuses to accept service of the document, the authority to which application is made shall as far as possible explain the circumstances in which such refusal took place and the reasons which prompted it.

Article 25

Letters rogatory shall be executed by the judicial authorities. If the authority to which application is made is not competent, it shall automatically transmit the letters rogatory to the authority which is competent.

Article 26

The authority to which application is made may refuse to execute letters rogatory or to effect service of a document or of a notification of sentence if it considers that it is not competent to do so under the laws of the State to which it belongs or if the execution of such letters or the effecting of such service appear prejudicial to sovereignty, security or public policy.

Article 27

Persons who are required as witnesses shall be sent a notification to appear ; if they refuse to comply with such notification, the authority to which application is made shall make use of the powers of compulsion provided under the laws of the State to which it belongs.

Article 28

If the applicant authority expressly so requests, the authority to which application is made shall inform it in good time of the date and place of execution of the letters rogatory, so that the interested parties may be able to exercise the rights conferred on them by the laws of the State where the execution takes place.

Article 29

Apart from experts' fees, no refund of expenses shall be made in connexion with the service of documents and notifications of sentence or with the execution of letters rogatory.

Article 30

If, in a criminal case, the personal attendance of a witness or an expert is necessary, a request to that effect shall be made ; the competent authority of the State in which the witness or the expert resides shall request him to comply with

the summons addressed to him. In such case, the amount paid for travelling expenses and subsistence allowances, to be calculated from the place where the witness or expert resides, shall be at least equal to that provided under the scales and regulations in force in the State in which the witness or expert is to appear. At the request of the witness or expert, all or part of the travelling expenses may be advanced by the authorities of the place of residence and the advance shall be refunded subsequently by the State making the requisition.

No witness or expert of whatever nationality who, upon being summoned by the authorities of one of the Contracting Parties voluntarily appears before the judicial authorities of the other Party may be prosecuted or detained for offences or convictions which took place before his departure from the territory of the Party to which the application was addressed. Such immunity shall cease to have effect if the witnesses or experts concerned, being at liberty to do so, do not leave the territory of the applicant State within thirty days of their presence being no longer necessary before the judicial authorities.

Article 31

The documents required in order to carry out the provisions of the present Title shall be transmitted through the diplomatic channel.

TITLE III

FINAL PROVISIONS

Article 32

All documents to be transmitted, delivered or produced in pursuance of the present Convention shall be accompanied by a translation in the French language.

Article 33

By an exchange of letters between the two Governments, the present Convention may be extended to Somaliland under Italian administration.

Article 34

The present Convention shall be subject to ratification and shall enter into force on the date of the exchange of the instruments of ratification which shall take place as soon as possible at Rome.

The Convention shall be applicable to offences committed before the date of its entry into force.

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

Article 35

The present Convention has been drawn up in three originals, in the Italian, Hebrew and French languages, the three texts being equally authentic. If, however, there is any dispute between the two Governments as to its interpretation or application, the French text shall be decisive.

IN WITNESS WHEREOF the respective plenipotentiaries have signed the present Convention.

DONE at Rome, 24 February 1956.

For the Italian Republic :

(Signed) G. MARTINO

For the State of Israel :

(Signed) Eliahu SASSON