

No. 4735

BELGIUM
and
FEDERAL REPUBLIC OF GERMANY

**Convention concerning extradition and judicial assistance
in criminal matters (with Additional Protocol). Signed
at Brussels, on 17 January 1958**

Official texts: French and German.

Registered by Belgium on 30 May 1959.

BELGIQUE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

**Convention d'extradition et d'entraide judiciaire en ma-
tière pénale (avec Protocole additionnel). Signée à
Bruxelles, le 17 janvier 1958**

Textes officiels français et allemand.

Enregistrée par la Belgique le 30 mai 1959.

[TRANSLATION — TRADUCTION]

No. 4735. CONVENTION¹ BETWEEN THE KINGDOM OF BELGIUM AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT BRUSSELS, ON 17 JANUARY 1958

His Majesty the King of the Belgians, on the one hand, and
The President of the Federal Republic of Germany, on the other,
Desiring to regulate by common agreement questions between the Kingdom of Belgium and the Federal Republic of Germany relating to the extradition of offenders and to judicial assistance in criminal matters, have to this end appointed as their plenipotentiaries :

His Majesty the King of the Belgians :

Mr. Victor Larock, Minister of Foreign Affairs;

The President of the Federal Republic of Germany :

Dr. Carl Friedrich Ophüls, Ambassador of the Federal Republic of Germany at Brussels, and

Dr. Ernst Kanter, *Ministerialdirigent* in the Federal Ministry of Justice, who, having exchanged their full powers, found in good and due form, have agreed on the following :

TITLE I

EXTRADITION

Article 1

OBLIGATION TO EXTRADITE

1. The Contracting Parties undertake to deliver up to each other reciprocally, in accordance with the rules and conditions determined below, persons against whom proceedings have been taken for a criminal offence or who are sought for purposes of execution of a sentence or of a security measure by the judicial authorities of one Party and who are present in the territory of the other Party.
2. For the purposes of this Convention, the term " security measure " shall be deemed to mean only a measure involving deprivation of liberty which is ordered taken against a recidivist or persistent offender.

¹ Came into force on 30 May 1959, thirty days after the exchange of the instruments of ratification which took place at Bonn on 30 April 1959, in accordance with article 39. This Convention is not applicable to the Territories of the Belgian Congo and Ruanda-Urundi.

Article 2

EXTRADITABLE OFFENCES

1. Extradition shall take place in respect of the offences enumerated below if the act is punishable under the law of both Parties :

(1) Murder, homicide, poisoning, parricide and infanticide;

(2) Any act of wounding or grievous bodily harm, committed maliciously and with premeditation or causing an apparently incurable illness, permanent employment disability, loss or deprivation of the free use of a member or an organ, serious mutilation or unintended death;

(3) Any offence against personal freedom committed by a private person;

(4) Trespass committed by a private person;

(5) Threatening to commit a criminal offence against the person or property of another;

(6) Offering or proposing to commit a crime or to participate in a crime, or accepting such an offer or proposal;

(7) Counterfeiting, including the counterfeiting and altering of currency, the uttering or putting into circulation of counterfeit or altered currency, and fraud in the choice of samples for verifying the fineness and weight of coinage; receiving or procuring counterfeit or altered currency for the purpose of putting it into circulation; giving currency the appearance of having a higher value or introducing into the country, receiving or procuring such currency for the purpose of putting it into circulation; counterfeiting or falsifying public securities or bank notes; uttering or putting into circulation such counterfeit or falsified securities or notes; receiving or procuring counterfeit or falsified public securities or bank notes for the purpose of putting them into circulation; counterfeiting or falsifying objects intended for the manufacture of currency, public securities or bank notes; receiving or procuring, with intent to defraud, the counterfeit or falsified objects referred to in the preceding paragraph or genuine objects intended for the manufacture of currency, public securities or bank notes;

(8) Counterfeiting or falsifying public or private securities, uttering or putting into circulation such counterfeit or falsified securities, forging documents or telegrams, and employing counterfeit or falsified telegrams or securities with intent to defraud or with malice;

(9) Counterfeiting or falsifying seals, stamps, dies and trademarks; the use of counterfeit or falsified seals, stamps, dies and trademarks; improper use of genuine seals, stamps, dies and trademarks;

(10) Deliberate false witness and deliberate false statements by experts or interpreters, where such offence is committed, in a criminal proceeding, during the trial or, in a civil proceeding, during the trial or before a deputy of the presiding judge;

(11) Perjury in a civil proceeding, where the false oath is a decisive oath which has been either accepted or tendered back;

(12) Subornation of witnesses, experts or interpreters;

(13) Offering inducements to a public official or a judge and the acceptance of such inducements; illegal exaction;

(14) Interfering with the execution of public works by means of unlawful assembly and violence or threats;

(15) Conspiracy for the purpose of committing an offence against persons or property;

(16) Abortion;

(17) Exposing or abandoning a child in a helpless condition;

(18) Concealment of birth or substitution of a child; kidnapping or unlawfully detaining a child under the age of seven years; abduction of a minor by violence, trickery or threats; abduction of a girl under the age of eighteen years;

(19) Rape;

(20) Indecent assault with violence or threats;

(21) Indecent assault without violence or threats committed on, or with the aid of, a minor under the age of fourteen years;

(22) Indecent assault without violence or threats committed by an ascendant on, or with the aid of, a minor who is over fourteen years of age but who has not been married;

(23) Any sex offence committed by inciting, facilitating or encouraging the debauchery, corruption or prostitution of a minor under the age of fourteen years with the object of gratifying the passions of another person; recruiting, enticing or abducting a person for purposes of debauchery or prostitution with the object of gratifying the passions of another person, where such acts are committed habitually, out of self-interest or by means of deception, or where the guilty person or perpetrator of the offence held a position of authority in relation to the person concerned; detaining a person against his will in a disorderly house or a house of prostitution; compelling a person to commit acts of debauchery or prostitution; maintaining a disorderly house or a house of prostitution; procuring or the habitual exploitation of the prostitution or debauchery of another;

(24) Bigamy;

(25) Larceny, extortion;

(26) Embezzlement, breach of trust;

(27) False pretences and fraud;

(28) Arson;

(29) Wilful and unlawful destruction of buildings, streets, railways, steam engines, or telegraph or telephone equipment; wilful and unlawful destruction or defacement of graves, monuments or artistic objects or of documents or other

papers; wilful and unlawful destruction or damage of commodities, goods or other movable property;

(30) Wilful and unlawful destruction or laying waste of crops, plants, trees or grafts;

(31) Wilful and unlawful destruction of agricultural implements belonging to another person; wilful and unlawful destruction or poisoning of livestock or other animals belonging to another person;

(32) Wilfully interfering with railway traffic by placing objects of any kind on the track, by disarranging the rails or rail base, by removing bolts or pins, or by employing any other means in order to halt or derail a train;

(33) Assaulting or forcibly resisting the master of a ship, where such an offence is committed by more than one third of the crew; refusal by a seaman to obey orders issued by the master or a ship's officer for the safety of the ship or the cargo, where such refusal is accompanied by an act of unlawful wounding; wholly or partly destroying a commercial or fishing vessel, its machinery, its rigging, its equipment or its life-saving apparatus;

(34) Fraudulent bankruptcy; any unlawful act committed in a bankruptcy settlement with a view to favouring the bankrupt or a creditor;

(35) Fraudulently affixing to an artistic object or a literary or musical work the name of an artist, author or composer or any distinctive mark employed by him to designate his work;

(36) Traffic in slaves;

(37) Illicit traffic in narcotic drugs;

(38) Receiving objects acquired through the commission of one of the crimes or offences enumerated in this Convention.

2. The above enumeration shall include all forms of participation in and the attempt to commit any of the aforesaid offences, where such participation or attempt is punishable under the law of both States.

Article 3

POLITICAL OFFENCES

1. Extradition shall not be granted if the offence in respect of which it is requested is regarded by the Party applied to as a political offence or an act connected therewith.

2. The same shall apply where the Party applied to has serious reason to believe that a requisition for extradition in respect of an offence under ordinary law was submitted for the purpose of prosecuting or punishing a person because of his race, religion, nationality or political opinions.

3. For the purposes of this Convention, an attempt on the life of a Head of State or a member of his family shall not be deemed to be a political offence.

4. The application of this article shall be without prejudice to any obligations which the Parties have assumed or may hereafter assume under other international conventions of a multilateral character.

Article 4

NON-EXTRADITION OF NATIONALS

1. The Contracting Parties shall not extradite their own nationals. An Additional Protocol¹ shall determine which persons are to be regarded as German nationals for the purposes of this Convention. The date of reference in determining the nationality of the person concerned shall be the date of surrender.
2. Nevertheless, if the applicant Party so requests, the facts in the case shall be reported to the competent judicial authorities, which shall decide whether grounds for prosecution exist. For this purpose, the records, documents and articles relating to the offence shall be transmitted free of charge through the diplomatic channel.

The applicant Party shall be notified of the action taken on its request.

Article 5

PLACE OF COMMISSION OF THE OFFENCE

1. The Party applied to may refuse to extradite a person claimed in respect of an offence which, under its law, was committed wholly or partly in its territory or in a place treated as its territory.
2. Where the offence in respect of which extradition is sought was committed outside the territory of the applicant Party, extradition may be refused only if the law of the Party applied to does not authorize proceedings in respect of an offence of the same nature committed outside its territory.

Article 6

PROCEEDINGS PENDING IN RESPECT OF THE SAME OFFENCES

The Party applied to may refuse to extradite the person claimed if proceedings have been instituted against him by the said Party for the offence or offences in respect of which extradition is sought.

Article 7

DOUBLE JEOPARDY AND AMNESTY

1. Extradition shall not be granted if the person claimed has been tried and sentenced by the competent authorities of the Party applied to for the offence or offences in respect of which extradition is sought, and such sentence has become

¹See p. 225 of this volume.

final. Extradition may be refused if the competent authorities of the Party applied to have decided not to institute proceedings, or to drop proceedings already instituted, in respect of the said offence or offences.

2. Extradition may not be refused on the basis of an amnesty proclaimed in the State applied to unless, in the absence of the said amnesty, that State would also have grounds for instituting proceedings in respect of the offence in question.

Article 8

LIMITATION

Extradition shall not be granted if prosecution or punishment is barred by lapse of time under the law of the applicant Party or the Party applied to.

Article 9

DEATH PENALTY

If the offence in respect of which extradition is sought is punishable with death under the law of the applicant Party and the death penalty is not prescribed in respect of that offence by the law of the Party applied to or is not generally imposed by the latter, extradition may be refused if the applicant Party does not give the Party applied to satisfactory assurance that sentence of death will not be executed.

Article 10

REQUISITION AND SUPPORTING DOCUMENTS

1. The requisition shall be made in writing and submitted through the diplomatic channel.

2. It shall be accompanied by the following supporting documents :

(a) The original, or a certified copy, of a final sentence of condemnation or of a warrant of arrest or other document having the same validity issued in the form prescribed by the law of the applicant Party;

(b) Particulars of the offences in respect of which extradition is sought; the time and place of their commission, their legal definition and the applicable legal provisions shall be set forth as precisely as possible;

(c) A copy of the applicable legal provisions, together with as accurate a description as possible of the person claimed and any other particulars that may serve to establish his identity and nationality.

Article 11

ADDITIONAL INFORMATION

If the information transmitted by the applicant Party is not sufficient to enable the Party to which application is made to take a decision pursuant to this

Convention, the latter Party shall request the necessary additional information; it may fix a time-limit for the receipt of such information.

Article 12

LIMITS TO THE PROSECUTION OF EXTRADITED PERSONS

1. An extradited person shall not be prosecuted, tried, or arrested for the purpose of execution of a sentence or security measure, nor shall his personal liberty be restricted in any other way, for an offence committed before extradition other than that for which he was extradited, except in the following cases :

(a) Where the Party which extradited him gives its consent. A request shall be submitted for that purpose, accompanied by the documents specified in article 10 and by a judicial record containing the statements made by the person extradited. Consent shall be given if the offence in respect of which it is requested is itself an extraditable offence under the terms of this Convention;

(b) Where the extradited person, although having the opportunity to do so, fails to leave the territory of the Party to which he was extradited within fifteen days after his final release, or returns to the said territory after having left it.

2. The applicant Party may, however, take such measures as are required for the interruption of the period of limitation in accordance with its legislative provisions, including the institution of a proceeding *in absentia*, or for the expulsion of the person concerned from its territory.

3. Where the legal definition of the offence has been altered in the course of the proceedings, the extradited person shall not be prosecuted or tried except in so far as the facts constituting the newly defined offence are grounds for extradition.

Article 13

RE-EXTRADITION TO A THIRD STATE

Except in the case specified in article 12, paragraph 1 (b), the applicant Party shall not, without the consent of the Party applied to, deliver up to a third State a person surrendered to it who is claimed by the latter State in respect of offences committed before his surrender. The Party applied to may require production of the documents specified in article 10, paragraph 2.

Article 14

PROVISIONAL ARREST

1. In case of urgency, the competent authorities of the applicant Party may request the provisional arrest of the person claimed; the competent authorities of the Party applied to shall decide on such request in accordance with the law of that Party.

2. The request for provisional arrest shall give notice of the existence of one of the documents specified in article 10, paragraph 2 (*a*), and of the intention to submit a requisition for extradition; it shall state the offence in respect of which extradition is to be sought and the time and place of its commission and, so far as possible, give a description of the person claimed.
3. The request for provisional arrest shall be communicated to the competent authorities of the Party applied to through the diplomatic channel, direct by postal or telegraphic means, through the International Criminal Police Organization or by any other written means. The applicant authority shall be notified promptly of the action taken on its request.
4. Provisional arrest may be terminated if, within eighteen days after the arrest, the Party applied to has not received the requisition for extradition and the documents referred to in article 10; it may in no case continue for more than forty days after the arrest. Provisional release shall be permitted at any time, however, provided that the Party applied to takes all measures which it deems necessary to prevent the flight of the person claimed.
5. The release of the person concerned shall not be a bar to his rearrest and extradition if the requisition for extradition is subsequently received.

Article 15

CONCURRENT REQUISITIONS

If requisitions for extradition are made concurrently by several States in respect of the same or of different acts, the Party applied to shall decide thereon, taking into consideration all the circumstances of the case, and, in particular, the gravity and place of commission of the offences, the dates of each requisition, the nationality of the person claimed and the possibility of subsequent extradition to another State.

Article 16

SURRENDER OF THE PERSON EXTRADITED

1. The Party applied to shall inform the applicant Party, by the means prescribed in article 10, paragraph 1, of its decision concerning the requisition for extradition.
2. In case of total or partial rejection, the reasons therefor shall be stated.
3. If extradition is granted, the applicant Party shall be notified of the place and date of surrender and of the duration of the period for which the person claimed was detained pending extradition.
4. If the person claimed is not accepted on the appointed date, he may, except in the case referred to in paragraph 5 hereunder, be released upon the expiry of

fifteen days from that date and shall in any case be released upon the expiry of thirty days; the Party applied to may then refuse to extradite the said person for the same offence.

5. If, owing to circumstances beyond its control, one of the Parties is prevented from surrendering or accepting the person claimed, it shall notify the other Party accordingly; the two Parties shall agree on a new date of surrender, and the provisions of paragraph 4 of this article shall apply.

Article 17

POSTPONEMENT OF SURRENDER

The Party applied to may, after deciding on the requisition for extradition, postpone the surrender of the person claimed so that he may be prosecuted by the said Party or, if he has already been convicted, so that he may serve, in its territory, a sentence imposed on him in respect of an offence other than that for which extradition is sought.

Article 18

DELIVERY OF ARTICLES

1. Where extradition is granted, the Party applied to shall seize and deliver to the other Party, in so far as its legislation permits :

(a) All articles which may serve as material evidence, and

(b) All articles found in the possession of the person claimed at the time of his arrest, or discovered subsequently, which were acquired as a result of the offence.

2. Delivery of the articles referred to in paragraph 1 above shall take place even if extradition has been granted but cannot be carried out by reason of the death or escape of the person claimed.

3. If the said articles are liable to seizure or confiscation in the territory of the Party applied to, the latter may, for the purposes of pending criminal proceedings, retain them temporarily or deliver them subject to their being returned.

4. Any rights to the said articles which have been acquired by the Party applied to or by third parties shall, however, be reserved. Where such rights exist, the articles shall, after the conclusion of the proceedings, be returned as soon as possible and free of charge to the Party applied to, unless the latter waives its rights.

Article 19

TRANSIT

1. The right of transit through the territory of one of the Contracting Parties shall be granted on an application being transmitted in the manner specified in article 10, paragraph 1, and under the same conditions as those prescribed for

extradition, except that, as regards the documents to be produced, only those specified in article 10, paragraph 2 (a) and (b), shall be required.

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

(a) Where the aircraft is not expected to land, the applicant Party shall notify the Party over whose territory the flight is to take place, shall certify the existence of one of the documents specified in article 10, paragraph 2 (a), and shall give assurance that, on the basis of the facts and materials in its possession, the right of transit cannot be refused under the provisions of this Convention, in particular, of articles 4 and 9. In the event of a landing taking place unexpectedly, the notification of conveyance by air shall have the same effect as a request for provisional arrest under article 14 and the applicant Party shall make a regular application for the right of transit;

(b) Where it is expected that the aircraft will land, the provisions of paragraph 1 shall apply.

Article 20

LANGUAGES

The documents to be produced shall be drawn up in the language of the applicant Party.

Article 21

COSTS

1. The expenses occasioned by extradition in the territory of the Party applied to shall be defrayed by that Party.
2. The expenses occasioned by transit through the territory of the Party from which the right of transit is sought shall be defrayed by the applicant Party.

TITLE II

JUDICIAL ASSISTANCE

Article 22

OBLIGATION TO PROVIDE JUDICIAL ASSISTANCE

1. The Contracting Parties undertake to provide each other, in accordance with the provisions of this Convention, with the widest possible judicial assistance in all criminal matters.
2. Such assistance shall not include the reciprocal enforcement of decisions in criminal matters.
3. This Convention shall not apply in respect of purely military offences.

Article 23

REFUSAL OF JUDICIAL ASSISTANCE

1. Judicial assistance may be refused :

(a) If the request relates to offences which are regarded by the Party applied to as political offences or offences connected therewith;

(b) If compliance with the request would be prejudicial to the general interests of the Party applied to, in particular, to its sovereignty or security, or would be at variance with its legislative provisions.

2. In case of refusal to provide judicial assistance, the reasons therefor shall be stated.

Article 24

EXECUTION OF LETTERS ROGATORY

1. The Contracting Parties shall cause to be executed, in the form prescribed by the law of the Party applied to, letters rogatory relating to criminal matters which are addressed to the authorities of one Party by the authorities of the other Party and whose object is the holding of judicial inquiries or the transmittal of evidence, records or documents.

2. The authority applied to may transmit certified copies or photostats of such records or documents. However, if the applicant Party expressly requests the transmittal of the originals, such request shall be granted, save in exceptional cases.

Article 25

SEARCHES AND SEIZURES

1. Letters rogatory which request the carrying out of a search or seizure shall be executed only if the offence in question is one in respect of which extradition may take place under the provisions of this Convention. Moreover, the delivery of articles may be made subject to their being returned as soon as they are no longer required for the criminal proceeding.

2. A letter rogatory from a Belgian judge requesting a search or seizure shall be deemed equivalent to a judicial order.

Article 26

NOTIFICATION OF EXECUTION

If it expressly so requests, the applicant authority shall be notified by the authority applied to of the date and place of execution of the letters rogatory, so that the interested authorities or parties may be present at such execution if the Party applied to gives its consent.

Article 27

SERVICE OF DOCUMENTS

1. An authority which has been requested to serve a document shall, unless the applicant authority requests some other form of service, effect service by simple delivery of the document in question to the person named in it.
2. Proof of service shall consist of a receipt dated and signed by the person named or of a statement by the authority applied to that service has been effected, with particulars of the form and date thereof. One or the other of these documents shall immediately be sent to the applicant authority.
3. If the person named refuses to accept service or if service cannot be effected for some other reason, the authority applied to shall return the document forthwith to the applicant authority, indicating the reason which prevented service from being effected.
4. Where a summons directing a person to appear as a witness or an expert provides for the use of measures of compulsion in the event of failure to appear, the authority applied to shall have the responsibility of informing the said person that the provision in question does not apply in his case.

Article 28

SUMMONING OF WITNESSES AND EXPERTS

1. If, in a criminal case, the personal attendance of a witness or an expert present in the territory of one of the Parties is necessary, the competent authority of that Party shall, if the authorities of the other Party expressly so request, call upon him to comply with the summons addressed to him. The applicant authority shall be notified of the reply made by such witness or expert.
2. The witness or expert shall be granted travelling expenses and subsistence allowances, calculated from his place of residence, in accordance with the scales and regulations in force in the country in which he is to be interrogated. At his request, all or part of the travelling expenses may be advanced by the judicial authority of his place of residence; such advance shall be refunded subsequently by the Government concerned.

Article 29

IMMUNITY OF WITNESSES AND EXPERTS

No witness or expert of whatever nationality who, being resident in the territory of one of the Parties, appears before the authorities of the other Party in compliance with a summons addressed to him shall be prosecuted, nor shall his personal liberty be in any way restricted, for an offence committed before his arrival, unless, although he has had the opportunity to do so, he fails to leave the

territory of the applicant Party within eight days after ceasing to serve as witness or expert.

Article 30

TRANSMITTAL OF EXTRACTS FROM THE REGISTER OF CONVICTIONS

1. Where information from the register of convictions is requested in a criminal matter, such information shall be provided to the same extent as if it had been requested by a judicial authority of the Party applied to.
2. Requests from a civil court or an administrative authority shall be accompanied by a statement of the reasons for which they are made. They shall be granted to the extent permitted by the domestic legislative provisions or administrative regulations of the Party applied to.

Article 31

FORM OF APPLICATIONS FOR JUDICIAL ASSISTANCE

1. The letters rogatory referred to in articles 24 and 25 shall indicate the nature of the charge and the purpose of the application and shall contain a brief statement of the facts in the case. If the applicant authority wishes the witnesses or experts to testify under oath, it shall expressly so indicate.
2. Other applications for judicial assistance, particularly requests for the service of documents, for extracts from the register of convictions or for the provision of ordinary information, shall contain the following particulars :
 - (a) The name of the applicant authority;
 - (b) The purpose of the application;
 - (c) The offence in respect of which the application is made;
 - (d) The identity and, where possible, nationality of the accused or convicted person;
 - (e) Where appropriate, the name and address of the person to be served with the document.

Article 32

CHANNEL OF COMMUNICATION

1. The letters rogatory referred to in articles 24 and 25 shall be transmitted direct between the Belgian Minister of Justice and the Ministers of Justice of the *Länder* of the Federal Republic of Germany.
2. In case of urgency, such letters rogatory may be transmitted direct to the judicial authorities of the Party applied to by the judicial authorities of the applicant Party. The letters rogatory thus transmitted and the documents relating to their execution shall be returned through the channel specified in the preceding paragraph.

3. The requests for extracts from the register of convictions referred to in article 30, paragraph 1, may be transmitted direct, by the judicial authority concerned, to the Minister of Justice in Belgium or to the competent public prosecutor's office (*Staatsanwaltschaft*) in the Federal Republic of Germany. The requests referred to in article 30, paragraph 2, shall be transmitted direct between the Belgian Minister of Justice and the Ministers of Justice of the *Länder* or the Federal Minister of Justice of the Federal Republic of Germany.

4. Other applications for judicial assistance may be transmitted direct between the judicial authorities concerned. Similarly, requests for ordinary information may be transmitted direct between the judicial authorities or the criminal police authorities.

5. Where doubt exists as to which authority is competent, applications may be transmitted, in Belgium, to the Minister of Justice and, in the Federal Republic of Germany, to the Ministers of Justice of the *Länder* or to the Federal Minister of Justice.

Article 33

EXCHANGE OF INFORMATION ON CONVICTIONS

1. Each of the Contracting Parties shall notify the other Party every six months of decisions which have been rendered with respect to nationals of the latter Party and have been entered in the register of convictions; this shall also apply where the person concerned is a national of both countries. If expressly requested, a copy of the decision shall be transmitted.

2. The information in question shall be exchanged between the Belgian Minister of Justice and the German Federal Minister of Justice.

Article 34

REQUESTS FOR PROSECUTION

Official requests by one Contracting Party for the institution of proceedings before the courts of the other Party shall be directed, in Belgium, to the Minister of Justice and, in the Federal Republic of Germany, to the Federal Minister of Justice.

Article 35

LANGUAGES

The applications provided for under this title of the Convention shall be drawn up in the language of the applicant authority.

Article 36

COSTS

The Contracting Parties shall waive refund of the costs of assistance granted under the provisions of this title, except for costs of expert opinions; the latter shall be refunded upon the production of vouchers.

TITLE III

FINAL PROVISIONS

Article 37

TERRITORIAL APPLICATION

1. This Convention shall apply to (West) Berlin unless the Government of the Federal Republic of Germany notifies the Belgian Government to the contrary within three months of the Convention's entry into force.
2. This Convention shall not apply to the Belgian Congo or to the territory of Ruanda-Urundi.
3. Its application may, by simple exchange of notes between the Contracting Parties, be extended to the Belgian Congo and to the territory of Ruanda-Urundi.

Article 38

SETTLEMENT OF DISPUTES

Disputes arising from the application of this Convention shall be settled through the diplomatic channel.

Article 39

ENTRY INTO FORCE

1. This Convention shall be deemed to abrogate the conventions and agreements at present in force between Belgium and the Federal Republic of Germany concerning extradition and judicial assistance in criminal matters.
2. It shall be subject to ratification; the instruments of ratification shall be exchanged as soon as possible at Bonn.
3. This Convention shall enter into force thirty days after the exchange of the instruments of ratification.
4. It shall cease to have effect ten months after notice of its termination has been given by one of the Parties.

IN FAITH WHEREOF the plenipotentiaries of the two Parties have signed this Convention and have thereto affixed their seals.

DONE at Brussels on 17 January 1958 in duplicate, in the French and German languages, both texts being equally authentic.

For the Kingdom
of Belgium :
V. LAROCK

For the Federal Republic
of Germany :
C. F. OPHÜLS
Dr. KANTER

ADDITIONAL PROTOCOL

On proceeding to sign the Convention between the Kingdom of Belgium and the Federal Republic of Germany concerning extradition and judicial assistance in criminal matters,¹ the undersigned plenipotentiaries have agreed as follows :

1. (*article 4 of the Convention*)

German nationals shall, for the purposes of the said Convention, be deemed to include all persons who possess German nationality or who are accorded the status of German national under German law (article 116, paragraph 1, of the Basic Law of the Federal Republic of Germany of 23 May 1949—*Bundesgesetzblatt*, 1949, page 1).

2. The provisions of title II of the Convention shall also apply where the judicial assistance requested relates to :

- (a) A person involved in a criminal proceeding who is liable for damages under civil law;
- (b) A criminal proceeding in a tax case (customs and duties, direct or indirect taxes, and currency control);
- (c) Offences punishable only by a fine (*Ordnungswidrigkeiten*) which are the subject of judicial proceedings.

DONE at Brussels on 17 January 1958 in duplicate, in the French and German languages, both texts being equally authentic.

For the Kingdom
of Belgium :
V. LAROCK

For the Federal Republic
of Germany :
C. F. OPHÜLS
Dr. KANTER

¹ See p. 210 of this volume.