

**No. 5408**

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**ISRAEL  
and  
SWITZERLAND**

**Extradition Convention. Signed at Berne, on 31 December  
1958**

*Official texts: Hebrew and French.*

*Registered by Israel on 28 October 1960.*

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**ISRAËL  
et  
SUISSE**

**Convention d'extradition. Signée à Berne, le 31 décembre  
1958**

*Textes officiels hébreu et français.*

*Enregistrée par Israël le 28 octobre 1960.*

[TRANSLATION — TRADUCTION]

No. 5408. EXTRADITION CONVENTION<sup>1</sup> BETWEEN THE  
STATE OF ISRAEL AND THE SWISS CONFEDERATION.  
SIGNED AT BERNE, ON 31 DECEMBER 1958

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The Government of the State of Israel and the Swiss Federal Council,

Desiring to regulate by common agreement questions relating to the extradition of offenders, have to this end appointed as their plenipotentiaries :

The Government of the State of Israel :

His Excellency Mr. Joseph I. Linton, Ambassador Extraordinary and Plenipotentiary of Israel to the Swiss Confederation,

The Swiss Federal Council :

Mr. Oscar Schürch, Head of the Division of Police, Federal Department of Justice and Police,

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

*Article 1*

The Contracting States undertake to surrender to each other, subject to the rules and conditions laid down in this Convention, persons within the territory of one State against whom proceedings have been taken or who have been convicted by the authorities of the other State for any offence, including the attempt to commit any offence and participation as an accessory before or after the fact in any offence, which is punishable under the law of both States and extraditable under the law of the State from which extradition is requested.

*Article 2*

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

*Article 3*

Extradition shall not be granted if the offence in respect of which it is requested:

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<sup>1</sup> Came into force on 15 December 1959, the date of the exchange of the instruments of ratification at Berne, in accordance with article 18.

1. Is regarded by the requested State as a political offence, or if the requested State has substantial grounds for believing that the request or the criminal proceedings are motivated by political, racial or religious considerations ;
2. Consists solely in the violation of military obligations ;
3. Consists in the violation of fiscal legislation.

#### *Article 4*

(1) Extradition may be refused :

1. If the offence in respect of which it is requested was committed in the requested State ;
2. If it is requested with a view to the execution of a penalty of not more than three months ;
3. If criminal proceedings in respect of the offence have been instituted in the requested State ;
4. If the offence was committed in the territory of a third State, provided that the authorities of the requested State are competent to try it.

(2) Extradition shall be refused :

1. If the person claimed has already been convicted or acquitted of the same offence in the requested State ;
2. If the person claimed has already been convicted of the same offence in a third State and has undergone his punishment or secured remission thereof ;
3. If criminal prosecution or punishment is barred by lapse of time under the law of either the requesting or the requested State ;
4. If it is found that the person claimed is entitled in the requesting State to the benefits of a measure of amnesty or of a remission of penalty.

#### *Article 5*

(1) Where a Contracting State which avails itself of the right to refuse the extradition of a person whose extradition is permissible under this Convention, receives from the other State through the diplomatic channel a request for prosecution accompanied by the relevant files, documents, exhibits and information in that State's possession, it shall proceed against such person if it is competent to try him.

(2) The requesting State shall be informed of the result of its request and shall receive a full copy of any decision by a judicial authority.

#### *Article 6*

(1) The request for extradition shall be transmitted through the diplomatic channel.

(2) It shall be accompanied by the following documents :

1. The judgement of conviction or the warrant of arrest, or other order having the same effect and issued by a court or any other authority which the Ministry of Justice of the requesting State certifies to be a competent authority for the purpose ;
2. A statement of the offence for which extradition is requested indicating the time, the place and pertinent facts of its commission, and its legal description ;
3. The text of the applicable criminal law provisions in the requesting State ;
4. Particulars or documents necessary to establish the identity and nationality of the person claimed ; and
5. In the case of a person against whom proceedings are pending, the statements of witnesses or declarations of experts made on oath or otherwise to a judge or to any other authority which the Ministry of Justice of the requesting State certifies to be a competent authority for the purpose.

(3) In the case referred to in paragraph (2), sub-paragraph 5, above, the Contracting States reserve the right not to grant extradition unless the existing evidence would be sufficient to justify committal for trial if the offence had been committed in the territory of the requested State.

(4) The originals or authenticated or other copies of the accompanying documents mentioned in paragraph (2), sub-paragraphs 1, 3, 4 and 5, above shall be accepted as valid evidence in the procedure for examining the request 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 and bear the official seal of the Ministry of Justice.

#### *Article 7*

(1) In case of urgency and at the request of a judicial authority or of the police of the requesting State, the requested State shall take the necessary measures for the provisional arrest of the person claimed until such time as the documents mentioned in article 6, paragraph (2), can be transmitted.

(2) The request for provisional arrest shall be transmitted by telegram, letter, or any other means affording evidence in writing, to the police authority in the case of Israel, and to the Federal Division of Police in the case of Switzerland.

(3) Such request shall mention :

1. The existence of a warrant of arrest or a judgement of conviction, its date and the authority by whom it was issued ;
2. The legal description of the offence concerned and the time, place and pertinent facts of its commission ;
3. That it will be followed by a formal request for extradition ;

4. If necessary, a description of the person claimed and any other particulars likely to be helpful in establishing his identity and nationality.

(4) Provisional arrest shall be effected in the manner and in accordance with the procedure prescribed by law in the requested State.

(5) The requested State shall immediately communicate to the Ministry of Justice of the requesting State the decision taken and, in case of refusal, the reasons therefor.

#### *Article 8*

(1) Provisional arrest may be suspended at any time ; it may be terminated if, within a period of forty-five days from the day of arrest, the requested State has not received the request for extradition accompanied by the documents described in article 6 above.

(2) Release shall not prejudice arrest and extradition, if a request for extradition is received subsequently.

#### *Article 9*

If the requested State needs additional information or evidence in order to ascertain that the conditions required by this Convention are satisfied, it shall so inform the requesting State before refusing the request and may fix a time-limit for rectification. Such time-limit shall not exceed forty-five days if the person claimed is being held for extradition.

#### *Article 10*

If extradition is requested concurrently by more than one State, either for the same offence or for different offences, the requested State shall be free to make its decision having regard to all the circumstances, in particular the relative seriousness and the place of commission of the offences, the respective dates of the requests, the nationality of the person claimed and the possibility of subsequent extradition to another State.

#### *Article 11*

(1) If extradition is granted, all articles or valuables which were acquired as a result of the offence and may be useful as evidence, and which were found in the possession of the person claimed at the time of his arrest, or discovered subsequently, shall be seized and made available to the requesting State.

(2) Such articles or valuables may be handed over even if extradition cannot be carried out owing to the escape or death of the person claimed.

(3) Nevertheless, any rights which third parties may have acquired in the said articles or valuables shall be preserved and, where necessary, the articles or valuables shall be returned without charge to the requested State at the end of the proceedings.

(4) The requested State may temporarily retain the articles or valuables seized if it considers them necessary for the purpose of criminal proceedings. It may also hand them over on the understanding that they will be returned if required for that purpose subject to their being handed over once more as soon as possible.

#### *Article 12*

(1) The requested State shall inform the requesting State through the diplomatic channel of its decision with regard to the extradition.

(2) Reasons shall be given for any complete or partial rejection.

(3) If extradition is granted, the requesting State shall be informed of the place of surrender and the date on which the period mentioned in paragraph (4) below begins to run. If there is no agreement on the matter, the requested State shall arrange for the person extradited to be brought to the place designated by the diplomatic mission of the requesting State.

(4) The requesting State shall arrange for the person extradited to be taken over within a period of forty-five days from the date determined in accordance with the provisions of paragraph (3) above. Upon the expiry of this period, the person claimed may be released and the requested State may refuse to rearrest him for the same offence. It shall be for the requested State to evaluate the circumstances.

#### *Article 13*

(1) If proceedings have been instituted against the person claimed, or he has been convicted in the requested State, for an offence other than that for which extradition is requested, the requested State shall nevertheless consider the request, but may postpone surrender until such time as the person claimed has satisfied the demands of justice in the requested State.

(2) Surrender may also be postponed if it is likely to place the health of the person claimed in serious jeopardy.

(3) At the special request of the requesting State, the reasons for which shall be stated, a person against whom proceedings are pending may be extradited to the requesting State on the express condition that he will be returned to the requested State at a time and in a manner to be determined by mutual agreement in each particular case.

#### *Article 14*

(1) A person who has been extradited may under no circumstances be tried by an extraordinary court or by a court having special powers.

(2) A person who has been extradited shall not be proceeded against, sentenced, detained or handed over to another State for an offence committed prior to his surrender other than that for which he was extradited, except in the following cases :

1. If, having been at liberty to leave the territory of the State to which he has been surrendered, he has not done so within sixty days of his final discharge, or has returned to that territory after leaving it ;
2. If the State which surrendered him consents. A request for consent shall be submitted, accompanied by the documents described in article 6 above and a legal record of any statement made by the extradited person. Such record shall have the same standing as the legal documents mentioned in article 6, paragraph (4) above, if authenticated in the manner there described.
  - (3) If the description of the offence charged is altered in the course of proceedings, an extradited person shall only be proceeded against or sentenced in so far as the offence under its new description is extraditable.
  - (4) The State which has requested extradition or the consent referred to in this article shall inform the requested State, at its request, of the final outcome of the proceedings and shall communicate to it a true copy of the decision.

#### *Article 15*

- (1) Transit, by air or by land, of a person extradited to one Contracting State, shall be granted through the territory of the other on submission of a request through the diplomatic channel, provided that the offence concerned is extraditable and that the request is supported by the documents mentioned in article 6 above.
- (2) In the case of an unscheduled landing, in the territory of one Contracting State, of an aircraft transporting a person extradited to the other, the presentation of a warrant of arrest to the police authorities of the State in which the landing takes place shall have the effect of the request for provisional arrest provided for in article 7 above, and the other State shall submit a request for transit in accordance with the provisions of paragraph (1) of this article.
- (3) During transit the prisoner may be escorted by a foreign police officer, who, however, shall not have the right to exercise his functions on the territory of the State requested to allow transit, and only the police of the latter State shall be competent to guard the prisoner so long as he is in its territory or to exercise any measure of compulsion against him.
- (4) If the State requested to allow transit also requests extradition, it may suspend transit until such time as the person claimed has satisfied the demands of justice in that State.
- (5) The Contracting States shall not institute any proceedings or carry out any sentence for an offence committed prior to transit against a person extradited by either of them to a third State, without the consent of the State which granted extradition.
- (6) The cost of transit shall be refunded by the requesting State.

*Article 16*

The requested State shall bear expenses incurred by reason of a request for extradition up to the time of the surrender of the extradited person, either to officials of the requesting State at the port of embarkation by sea or air, or to authorities of the transit State at the frontier.

*Article 17*

The documents to be transmitted, delivered or produced in pursuance of this Convention shall be drawn up in the French language or accompanied by a translation in that language.

*Article 18*

(1) This Convention shall be subject to ratification and shall enter into force on the date of the exchange of the instruments of ratification.

(2) It shall be applicable to offences committed before its entry into force.

(3) It shall remain in force until six months have elapsed from the day on which either Contracting State shall notify the other of its denunciation.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this Convention and have thereto affixed their seals.

DONE at Berne on 31 December 1958, corresponding to 20 Tevet 5719, in duplicate in the French and Hebrew languages, both texts being equally authentic.

For the Government  
of the State of Israel :

(Signed) Joseph I. LINTON

For the Swiss  
Federal Council :

(Signed) Oscar SCHÜRCH