

No. 8020

ISRAEL
and
LUXEMBOURG

Convention on extradition. Signed at Luxembourg,
on 26 July 1956

Official texts: Hebrew and French.

Registered by Israel on 29 December 1965.

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Convention d'extradition. Signée à Luxembourg, le
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Textes officiels hébreu et français.

Enregistrée par Israël le 29 décembre 1965.

[TRANSLATION — TRADUCTION]

No. 8020. CONVENTION¹ ON EXTRADITION BETWEEN THE STATE OF ISRAEL AND THE GRAND DUCHY OF LUXEMBOURG. SIGNED AT LUXEMBOURG, ON 26 JULY 1956.

The Government of the State of Israel and the Government of the Grand Duchy of Luxembourg, desiring to regulate legal relations between the two States as regards the extradition and conveyance in transit of offenders as well as judicial assistance in criminal matters, have decided to conclude a Convention for that purpose and have agreed on the following provisions:

Article 1

EXTRADITION OF OFFENDERS

The Contracting Parties undertake to surrender to each other, under the circumstances and subject to the conditions specified in this Convention, persons present in the territory of either Party against whom proceedings have been instituted or who have been convicted by the judicial authorities of the other Party in respect of any of the offences enumerated below.

Article 2

OFFENCES IN RESPECT OF WHICH EXTRADITION MAY BE GRANTED

The following offences shall be extraditable:

1. Murder (including parricide, infanticide and poisoning) and the offence referred to in the law of Israel as « *hariga* »;
2. Any act of malicious wounding or bodily harm resulting in sickness or injury which permanently affects a person's health or resulting in permanent employment disability, loss or deprivation of the free use of a member or an organ, serious mutilation or unintended death;
3. The intentional administration, with the intention of causing bodily injury but without the intention of causing death, of substances capable of causing death or of seriously affecting a person's health;
4. Abortion;

¹ Came into force on 29 April 1965, the thirtieth day after the date of the exchange of instruments of ratification which took place at Luxembourg on 30 March 1965, in accordance with the provisions of article 20.

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 fourteen years ; recruiting, enticing or abducting a person of the female sex for purposes of prostitution with the object of gratifying the passions of another person ; detaining a person of the female sex against her will in a disorderly house or a house of prostitution ; compelling a person of the female sex by means of threats or intimidation to commit acts of prostitution ; maintaining a house of prostitution ;

6. Abduction of minors under the age of fourteen years or, in the case of persons of the female sex, under the age of sixteen years ;

7. Abducting or unlawfully detaining a child under the age of seven years ;

8. Exposing or abandoning a child ;

9. Larceny with or without violence or housebreaking ; extortion ; false pretences ; fraud ;

10. Embezzlement or misappropriation, to the injury of others, of 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 should be returned or put to a specific use ;

11. Receiving money, securities or any other movable property obtained by false pretences or through larceny or embezzlement ;

12. Offences against personal freedom ;

13. (a) Counterfeiting, including the counterfeiting and altering of currency and the uttering or putting into circulation of counterfeit or altered currency ;

(b) Knowingly and without lawful authority making any instrument, tool or device adapted and intended for the counterfeiting of currency ;

14. Forgery ; counterfeiting or alteration or the putting into circulation of anything that has been falsified, counterfeited or altered ;

15. Perjury, false witness, false statements by experts or interpreters, and subornation of a witness, expert or interpreter ;

16. Illegal exaction or embezzlement by a public official ;

17. Bribery of a public official ;

18. Fraudulent bankruptcy where it is punishable by imprisonment for a term exceeding three years ;

19. Any punishable act committed maliciously with the intention of endangering persons on board a railway train ;

20. Arson ;

21. Destruction of buildings where the offence is punishable by imprisonment for a term exceeding three years.

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

Extradition shall also be granted in respect of conspiracy to commit any of the offences referred to in this article.

In all cases, extradition shall take place only if the act in question is punishable under the law of both Contracting Parties.

Article 3

EXTRADITION OF NATIONALS

The Contracting Parties shall not extradite their own nationals.

Extradition may, however, be granted if, at the time of the offence, the person sought was not a national of the State applied to.

Article 4

CASES IN WHICH EXTRADITION MAY BE REFUSED

Extradition shall be refused :

- (a) If the offence was committed outside the territory of the applicant State and the law of the State applied to does not permit prosecution for such offences where they are committed outside its territory ;
- (b) If, at the time when extradition could be granted, prosecution or punishment is barred by lapse of time under the law of either Contracting Party ;
- (c) If the person sought has already been convicted or acquitted of the same offence in the State applied to ;
- (d) If the person sought has already been convicted of the same offence in a third State and has served his sentence there ;
- (e) If the person sought has been pardoned in the applicant State or the alleged offence is covered by an amnesty ;
- (f) In the case of a political offence or an act connected therewith or if the alleged offence is in reality one involving racial or religious discrimination. The State applied to shall be the sole judge of whether an offence is of this nature.

Extradition may be refused :

- (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 are competent to try the case.

Article 5

REQUISITION FOR EXTRADITION

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

The requisition shall be accompanied by the original or an authenticated copy of the conviction and sentence or of the warrant of arrest or other order having the same effect and issued by a judge or competent legal officer or, in the case of a requisition made by Luxembourg, by any judicial authority duly authorized for the purpose.

The nature of the offence for which extradition is requested, the time and place of its commission, its legal description or designation and the relevant legal provisions shall be indicated as accurately as possible.

The requisition shall also be accompanied by a copy of the relevant provisions of criminal law and as accurate a description as possible of the person sought, together with any other information which will help to establish his identity and nationality.

In the case of an accused person, the requisition shall be accompanied in addition by the original or an authenticated copy of the statements of witnesses and experts, taken under oath or otherwise by a judge or competent legal officer or, in the case of a requisition made by Luxembourg, by an officer of the criminal police or any judicial authority duly authorized for the purpose.

In such cases, extradition shall take place only if, in the opinion of the authorities of the State applied to, such evidence exists as would justify committal for trial if the offence had been committed in the territory of that State.

All warrants and all depositions or statements, whether made under oath or otherwise, or copies thereof, and all certificates or judicial documents serving to establish 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 issued or made, provided that such warrants, depositions, statements, copies, certificates or judicial documents are authenticated with the official seal of the Minister of Justice or another Minister.

Article 6

SUPPLEMENTARY INFORMATION

Where doubt exists as to whether the offence for which extradition is sought is covered by this Convention, the applicant State shall be requested to furnish supplementary information or evidence and extradition shall be granted only if the information or evidence furnished is such as to remove any doubt.

If the person sought is being held in custody with a view to his extradition, he may be released if the information or evidence is not furnished within a period of sixty days from the date on which a request therefor was made to the diplomatic mission of the applicant State. This time-limit may, however, be extended on request, the reasons for the request being stated.

Article 7

CONFLICTING REQUISITIONS

If extradition is requested concurrently by more than one State, either for the same offence or for different offences, the State applied to shall be free to take a decision in the matter, having regard to all the circumstances and, in particular, the possibility of subsequent extradition from one applicant State to another, the nationality of the person sought, the respective dates of the requisitions, and the relative seriousness and place of commission of the offences.

The foregoing provisions shall not affect any undertakings previously entered into by either Contracting Party in respect of other States.

Article 8

MEASURES TO ENSURE EXTRADITION

Upon receipt of the requisition for extradition together with the documents referred to in article 5, the State applied to shall, unless extradition appears in advance to be inadmissible, take all necessary measures to detain the person sought and to prevent his escape.

Article 9

PROVISIONAL ARREST

In case of urgency, the authority of the applicant State may request the authority of the State to which application is made to place the person sought under provisional arrest pending transmittal of the documents referred to in article 5 which are required in support of the requisition for extradition.

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

The request shall specify that it will be followed by a requisition for extradition and that there exists a warrant of arrest or a conviction and sentence, as the case may be; it shall, in addition, indicate the nature of the offence for which extradition is sought and the time and place of its commission and shall give as accurate a description as possible of the person sought.

Provisional arrest shall be effected in the manner and in accordance with the rules laid down by the law of the State applied to. The authority which effects such arrest shall so inform the authority of the applicant State without delay.

A person placed under provisional arrest pursuant to this article shall be released if, within a period of thirty days after his arrest, the requisition for extradition together with the documents referred to in article 5 has not been received by the State applied to and, where the person concerned is being held in custody in Luxembourg, if notification of one of the documents referred to in the second paragraph of article 5 is not received within the same period of time. Such notification shall be made as soon as possible.

Article 10

POSTPONEMENT OF EXTRADITION

If proceedings have been instituted against the person sought or he has been convicted in the State applied to for an offence other than that for which extradition is sought, or if he is being detained in that State for other reasons, his surrender may be postponed until the conclusion of the proceedings, until he has served his sentence or has been pardoned or amnestied, or until such time as he is no longer detained for other reasons.

The decision concerning the requisition for extradition may, nevertheless, be taken immediately.

Article 11

EXTRADITION

The State applied to shall inform the applicant State in writing, through the diplomatic channel, of its decision with regard to extradition. Reasons shall be given for any complete or partial rejection.

If extradition is granted, the person sought shall be conducted, by the authorities of the State applied to, to a place determined by agreement between the Contracting Parties.

If, within fifty days from the time when the applicant State is informed that extradition has been granted, it has not been possible to surrender the person sought to that State or to a State through which he is to be conveyed in transit, the person concerned may be released. This time-limit may be extended if the applicant State so requests not later than ten days before the expiry of the time-limit and if special reasons exist for granting such an extension.

Where the person concerned has been released pursuant to the preceding paragraph, the State applied to may refuse to rearrest him with a view to extraditing him for the same offence.

The person sought shall not be surrendered until the decision taken in the State applied to is no longer subject to appeal under the law of that State.

Article 12

EFFECTS OF EXTRADITION

A person who has been extradited may not be detained, prosecuted or punished in the State to which he was extradited, nor may he be extradited to another State, for any offence which is not provided for by this Convention and was committed prior to his extradition.

Similarly, the person concerned may not be detained, prosecuted or punished in the State to which he was extradited for an offence committed prior to his extradition which is provided for by this Convention but is not the offence for which he was extradited, unless the State which surrendered him gives its written consent upon production of the documents referred to in article 5.

Similarly, he may not be extradited to a third State for any offence committed prior to his extradition which is provided for by this Convention, unless the State which surrendered him gives its written consent upon production of the documents referred to in article 5.

The provisions of the preceding paragraphs shall not apply where the person who has been extradited, being at liberty to leave the territory of the State to which he was surrendered, does not do so within sixty days of his final discharge or subsequently returns to that territory.

Article 13

HANDING OVER OF EVIDENCE

If extradition is granted, all articles found in the possession of the person sought at the time of his arrest, or discovered subsequently, which were acquired as a result of the offence or may serve as evidence shall, in so far as the law of the State applied to permits, be seized and handed over to the applicant State.

Such articles may be handed over even if extradition cannot take place by reason of the escape or death of the person sought.

Nevertheless, any rights which third parties may have acquired in the said articles shall be reserved, and the articles shall, if necessary, be returned without charge to the State applied to at the conclusion of the proceedings.

The State applied to may provisionally retain the articles seized if it considers that they are needed for the purposes of criminal proceedings. It may also, in handing them over, request that they should be returned for such purposes, undertaking in that case to hand them over again as soon as possible.

Article 14

TRANSIT

Transit through the territory of either Contracting Party of a person not having the nationality of that Party who has been extradited to the other Party by a third Power shall be granted upon submission through the diplomatic channel of a written request accompanied by the documents referred to in article 5, provided that the offence giving rise to transit is one in respect of which direct extradition could be granted under this Convention.

Transit shall be effected by the representatives of the Party through whose territory the person concerned is conveyed and under such conditions and by such means as that Party determines.

The Party in question shall bear the costs of transit.

Article 15

JUDICIAL ASSISTANCE IN CRIMINAL MATTERS

The Contracting Parties shall provide each other with judicial assistance in criminal matters. They shall, *inter alia*, arrange for the service of documents in criminal proceedings on persons present in their territory, shall perform acts required in connexion with proceedings, such as the interrogation of witnesses, the taking of expert testimony and the execution of searches and seizures, and shall transmit to each other writs of execution and evidence.

However, where an application for judicial assistance calls for a house search or for seizure of the *corpus delicti* or of evidence, its execution may be made subject to the condition that the offence in question is one of those enumerated in article 2 of this Convention and such execution shall be subject to the reservation contained in the third paragraph of article 13.

The execution of applications for judicial assistance shall be subject to compliance with the laws of the Party in whose territory the assistance is provided.

Except in the cases provided for in article 4 (f), judicial assistance may be granted even if there is no obligation to extradite under the provisions of this Convention.

All communications concerning judicial assistance shall be transmitted through the diplomatic channel.

Article 16

SUMMONING AND APPEARANCE OF WITNESSES AND EXPERTS

If, in a criminal case pending before the courts of either Contracting Party other than a case of the kind provided for in article 4 (f), the personal appearance of a witness or an expert present in the territory of the other

Party is deemed to be necessary or desirable, the authorities of the latter Party shall transmit to such person the summons addressed to him for that purpose.

No witness or expert of whatsoever nationality present in the territory of either Contracting Party who, upon being summoned by the other Party, voluntarily appears before the courts of the latter Party may be detained, prosecuted or punished for an offence committed previously or on the ground of complicity in the offence which is the subject of the proceedings in which he is appearing as a witness or expert.

Such persons shall, however, forfeit this advantage if, being at liberty to do so, they do not leave the territory of the applicant State within fifteen days of the time when their presence before the judicial authorities in that territory ceases to be necessary.

The costs occasioned by the personal appearance of the witness or expert shall be borne by the applicant State, which shall indicate in the summons the sum to be allocated to the witness or expert to cover his travelling expenses and subsistence. The State applied to may advance to him, at his request, all or part of his expenses, which shall then be reimbursed by the applicant State.

Article 17

COSTS OF JUDICIAL ASSISTANCE IN CRIMINAL MATTERS

Costs occasioned by a requisition for extradition or by any other applications for judicial assistance in criminal matters shall be borne by the Party in whose territory they are incurred.

An exception shall be made in the case of fees for expert opinions of any kind, which shall be reimbursed by the applicant State.

Article 18

LANGUAGE TO BE USED

Documents transmitted, served or produced in pursuance of this Convention shall be drawn up in the French language or accompanied by a translation in that language.

Article 19

INTERPRETATION

The titles of the articles comprising the Convention are included for purposes of information and are not subject to interpretation.

Article 20

FINAL PROVISIONS

This Convention, which has been drawn up in the Hebrew and French languages, both texts being authentic, shall be ratified.

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

This Convention shall enter into force on the thirtieth day after the exchange of the instruments of ratification.

It shall remain in force until the expiry of a period of six months from the day on which either Contracting Party indicates its desire to terminate the Convention.

IN WITNESS WHEREOF the respective Plenipotentiaries, being duly authorized for the purpose, have signed this Convention and have thereto affixed their seals.

DONE in duplicate at Luxembourg on 26 July 1956.

ARIEL

[SEAL] BECH