

No. 9346

**ISRAEL
and
AUSTRIA**

**Convention concerning judicial assistance in criminal matters
(with Final Protocol). Signed at Jerusalem, on 6 June
1966**

Official texts: Hebrew, German and French.

Registered by Israel on 16 December 1968.

**ISRAËL
et
AUTRICHE**

**Convention d'entraide judiciaire en matière pénale (avec
Protocole final). Signée à Jérusalem, le 6 juin 1966**

Textes officiels hébreu, allemand et français.

Enregistré par Israël le 16 décembre 1968.

[TRANSLATION—TRADUCTION]

No. 9346. CONVENTION¹ BETWEEN THE STATE OF ISRAEL AND THE REPUBLIC OF AUSTRIA CONCERNING JUDICIAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT JERUSALEM, ON 6 JUNE 1966

The State of Israel and the Republic of Austria, desiring to regulate their mutual relations in the matter of judicial assistance in criminal matters, have agreed as follows :

Article 1

(1) The Contracting States mutually undertake to afford each other on request, in accordance with the provisions of this Convention, judicial assistance in all criminal proceedings falling within the jurisdiction of the judicial authorities of the requesting State.

(2) This Convention shall not apply to the enforcement of sentences.

Article 2

Judicial assistance shall not be granted :

(a) If the request concerns an offence which is not, by its nature, punishable by the courts under the law of the requested State or which that State considers a political offence, an offence connected with a political offence, or a purely military offence;

(b) If the requested State considers that execution of the request is likely to prejudice the sovereignty, security, *ordre public* or constitutional order of that State.

Article 3

In the case of offences relating to fiscal matters, customs matters, monopolies or exchange control, judicial assistance shall be granted to the extent that it shall have been authorized under a special agreement.

Article 4

(1) Requests for judicial assistance or the documents attached thereto shall indicate as follows :

¹ Came into force on 25 September 1968, thirty days after the exchange of the instruments of ratification which took place at Vienna on 26 August 1968, in accordance with the provisions of Article 15.

- (a) The authority making the request,
 - (b) The object of and the reason for the request,
 - (c) A summary of the facts, including the time and place at which the offence was committed, the legal classification of the offence and the legal provisions which are applicable thereto,
 - (d) Where possible, the nationality of the person concerned and his place of domicile or residence,
 - (e) If applicable, the name and address of the person to be served and the nature of the documents to be served.
- (2) If the request is for search or seizure of property, it shall be accompanied by an original or a certified true copy of the relevant court decision and of the documents constituting evidence to justify the action requested.

Article 5

- (1) Documents to be transmitted, delivered or produced in pursuance of this Convention shall be transmitted through the diplomatic channel.
- (2) Such documents shall bear the signature and the official seal of a judge or public officer of the State from which the documents emanate.
- (3) Documents which are not drawn up in the French or English language shall be accompanied by a translation in one of those languages.

Article 6

Requests for legal assistance shall be executed in accordance with the laws and regulations of the requested State. An express request by the requesting authority that a particular procedure should be followed shall be complied with, provided that such a procedure is not incompatible with the laws and regulations of the requested State.

Article 7

Proof of service of writs and records of judicial decisions shall be given by means of a receipt dated and signed by the person served or by means of a certificate issued by the requested authority indicating that service has been effected and stating the form and date of such service.

Article 8

If the requested authority has no jurisdiction in the matter, it shall, *ex officio*, transmit the request for judicial assistance to the competent authority.

Article 9

The requested State shall inform the requesting State as soon as possible of any refusal of, impediment to or delay in judicial assistance and shall indicate the ground or the reason therefore.

Article 10

(1) If a witness, an expert or a person accused by the judicial authorities of the requesting State who is in the requested State and whose testimony or examination is required before the judicial authorities of the latter State fails to answer a summons to appear, the requested authority shall make use of the measures provided under the laws of its country, including measures of compulsion, in order to ensure his appearance.

(2) A witness or expert who is in the requested State and who has failed to answer a summons, service of which has been requested, to appear before the judicial authorities in the requesting State shall not for that reason be subjected to any punishment or measure of compulsion, even if the summons contains a notice of penalty.

(3) The summons referred to in paragraph (2) of this article shall mention the approximate amount of allowances, including subsistence, to be paid and travelling expenses to be refunded to the witness or expert by the requesting State.

Such allowances shall be calculated as from the place of residence of the witness or expert and shall be at least equal to those provided for in the scales and rules 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 his place of residence; the amount of the advance shall be endorsed on the summons and shall be refunded by the requesting State.

Article 11

(1) A witness or expert, whatever his nationality, who in answer to a summons received in one of the Contracting States appears before the judicial authorities of the other Contracting State shall not be prosecuted or detained or subjected to any other restriction of his personal liberty in the latter State in respect of acts or convictions, or for any other reasons, prior to his departure from the territory of the requested State.

(2) A person, whatever his nationality, who in answer to a summons received in one of the Contracting States appears before the judicial authorities of the other Contracting State to answer for acts forming the subject of proceedings against him shall not be prosecuted or detained or subjected to any other restric-

tion of his personal liberty in the latter State for offences, not specified in the summons, prior to his departure from the territory of the State where the summons was served, or for any other reasons which arose prior to his departure therefrom.

(3) The immunity provided for in paragraphs (1) and (2) of this article shall cease when the witness or expert or prosecuted person, having had for a period of thirty days from the date when his presence is no longer required by the judicial authorities an opportunity of leaving, has nevertheless remained in the territory of his own volition or, having left it, has returned.

Article 12

The requested State shall communicate information relating to previous convictions, requested from it by the judicial authorities of the requesting State and needed in a criminal matter, to the same extent that such information may be made available to its own judicial authorities in like case.

Article 13

Each Contracting State shall inform the other Contracting State of all criminal convictions in respect of nationals of the latter State.

Article 14

Subject to the provisions of article 10, paragraph (3), execution of requests for judicial assistance shall not entail refunding of expenses except those incurred by the attendance of experts in the territory of the requested State.

Article 15

(1) This Convention shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Vienna.

(2) The Convention shall enter into force thirty days after the exchange of the instruments of ratification. It shall apply also to offences committed before its entry into force.

(3) Either Contracting State may denounce this Convention by giving notice to the other Contracting State. The denunciation shall take effect one year after the date of receipt of the notice by the other Contracting State.

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

DONE at Jerusalem, on 18 Sivan 5726, corresponding to 6 June 1966, in three originals, in the Hebrew, German and French languages, the three texts

being equally authentic. However, if there is any discrepancy between the Hebrew and German texts of the Convention, the French text shall prevail.

For the State
of Israel :

Abban EBAN
Minister
for Foreign Affairs

For the Republic
of Austria :

Dr. Walther PEINSIPP
Ambassador Extraordinary
and Plenipotentiary

FINAL PROTOCOL

On signing the Convention between the State of Israel and the Republic of Austria concerning Judicial Assistance in Criminal Matters, concluded today, the undersigned plenipotentiaries have agreed on the following provisions, which shall form an integral part of the Convention :

When complying with a request from the Austrian authorities for the examination of a person who is in Israel concerning an offence with which he is charged or in which he is suspected of having participated or been an accomplice, the judicial authorities of Israel, desiring to conform to the provisions of Austria law, shall give due consideration to an express request by the Austrian authorities not to examine the said person on oath but to take an unsworn statement, provided that he is willing to make such a statement.

DONE at Jerusalem, on 18 Sivan 5726, corresponding to 6 June 1966.

For the State
of Israel

Abba EBAN
Minister
for Foreign Affairs

For the Republic
of Austria :

Dr. Walther PEINSIPP
Ambassador Extraordinary
and Plenipotentiary
