

No. 11171

**BELGIUM
and
ALGERIA**

Convention relating to extradition and judicial assistance in criminal matters (with annex). Signed at Brussels on 12 June 1970

Authentic text: French.

Registered by Belgium on 18 June 1971.

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ALGÉRIE**

Convention relative à l'extradition et à l'entraide judiciaire en matière pénale (avec annexe). Signée à Bruxelles le 12 juin 1970.

Texte authentique: français.

Enregistrée par la Belgique le 18 juin 1971.

[TRANSLATION — TRADUCTION]

CONVENTION¹ RELATING TO EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE KINGDOM OF BELGIUM AND THE DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA

The Government of the Kingdom of Belgium and

The Government of the Democratic and Popular Republic of Algeria,

Being anxious to establish fruitful co-operation in the judicial field,

Desiring to maintain and strengthen the bonds between their two countries, and in particular to regulate by mutual agreement questions relating to extradition and judicial assistance in criminal matters between the Democratic and Popular Republic of Algeria and the Kingdom of Belgium,

Have decided to conclude a Convention and, to that end, have agreed on the following provisions:

TITLE I

EXTRADITION

Article 1

(1) The Contracting Parties undertake to surrender to each other, in accordance with the rules and conditions laid down in the following articles, persons in the territory of either State who are the subject of proceedings or are wanted for the carrying out of a sentence or of a preventive detention order by the judicial authorities of the other State.

(2) For the purposes of this Convention, the term “preventive detention order” shall be deemed to mean only an order for deprivation of liberty made by the judicial authorities in addition to or in lieu of another sentence.

Article 2

(1) The following shall be subject to extradition:

1. Persons against whom proceedings are being taken for an offence punishable under the laws of the Contracting Parties by a penalty involving deprivation of liberty or preventive detention for a maximum term of two years or more;

¹ Came into force on 26 March 1971, i.e. 30 days after the date of the exchange of the instruments of ratification, which took place at Algiers on 24 February 1971, in accordance with article 36 (2).

2. Persons sentenced after trial or in default by the courts of the requesting State, for an offence as referred to in sub-paragraph 1, to imprisonment or preventive detention for a term of not less than four months.

(2) Extradition shall be granted, under the conditions laid down in this Convention, in matters relating to taxes, duties, customs and foreign exchange, when so decided by a simple exchange of letters for each specially designated offence or category of offences.

(3) Unless and until the Contracting Parties shall have agreed otherwise, extradition shall take place only for the offences enumerated in the annex to this Convention.

Article 3

(1) The Contracting Parties shall not extradite their own nationals.

(2) The requested State undertakes, however, in so far as it is competent to judge them, to institute proceedings against any of its own nationals who, in the territory of the other State, have committed offences which are punishable as crimes or correctional offences in both States, when it has received from the requesting State, through the diplomatic channel, a request for proceedings accompanied by the files, documents, exhibits and information in its possession. The requesting State shall be informed of the action taken on its request.

Article 4

Extradition shall not be granted:

- (a) If the offence for which it is requested is regarded by the requested State as a political offence or an offence allied to a political offence. The taking or attempted taking of the life of a head of State or of members of his family shall not be deemed to be such an offence;
- (b) If the offence for which it is requested is regarded by the requested State as consisting solely of non-fulfilment of military obligations;
- (c) If the offence for which it is requested was committed in the territory of the requested State;
- (d) If the offence for which it is requested was committed outside the territory of the requesting State and the legislation of the requested State does not permit the institution of proceedings in respect of offences of the same kind committed outside its territory;
- (e) If a final judgement has been passed in the requested State upon the person claimed in respect of the offence for which extradition is requested;

- (f) If the proceedings or the sentence have become subject to the bar of the statute of limitations under the legislation of either the requested State or the requesting State;
- (g) If amnesty has been declared in the requesting State or if amnesty has been declared in the requested State, provided, in the latter case, that the offence is one in respect of which proceedings may be instituted in that State when it has been committed outside its territory by an alien.

Article 5

Extradition may be refused:

- (a) If the person claimed is the subject of proceedings in the requested State in respect of the offence for which extradition is requested or if the competent authorities of that State have decided either not to institute or to terminate proceedings in respect of that offence;
- (b) If a judgement has been passed by the authorities of a third State upon the person claimed in respect of the offence for which extradition is requested.

Article 6

If the offence for which extradition is requested is punishable by death under the law of the requesting State, the requested State may make extradition contingent upon an undertaking by the requesting State to recommend the head of State to grant commutation of the death-penalty.

Article 7

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

(2) The request shall be supported by:

- (a) The original or a certified copy either of an enforceable sentence or of a warrant of arrest or any other document having the same force and issued in the manner prescribed by the law of the requesting State;
- (b) A statement of the offences for which extradition is requested. The time and place of their commission, their designation in law and references to the relevant legal provisions shall be indicated as accurately as possible;
- (c) A copy of the relevant legal provisions;
- (d) As accurate a description as possible of the person claimed and any other information which will help to establish his identity and nationality.

Article 8

(1) In case of urgency, the competent authorities of the requesting State may request the provisional arrest of the person who is wanted; the competent

authorities of the requested State shall decide the matter in accordance with its law.

(2) A request for provisional arrest shall be transmitted to the competent authorities of the requested State by post or telegraph, or through the International Criminal Police Organization (Interpol), or by any other means affording evidence in writing.

(3) The request for provisional arrest shall state that one of the documents referred to in article 7, paragraph (2) (a), exists and that it is intended to send a request for extradition. It shall state the offence for which extradition is requested, the time and place of its commission and the description of the person claimed, which shall be as accurate as possible.

(4) The requesting authority shall be informed without delay of the action taken on its request.

Article 9

(1) Provisional arrest may be terminated if, within a period of 30 days after the arrest, the requested State has not received the request for extradition and the documents referred to in article 7.

(2) Release shall not prejudice rearrest and extradition if the request for extradition is received subsequently.

Article 10

If the information transmitted by the requesting State is found to be insufficient to allow the requested State to make a decision in pursuance of this Convention, the latter State shall request the necessary supplementary information through the diplomatic channel before rejecting the request. It may fix a time-limit for the receipt of such information.

Article 11

If extradition is requested by more than one State, either for the same offence or for different offences, the requested State shall make its decision on the requests with complete freedom, having regard to all the circumstances and especially the possibility of subsequent extradition between the requesting States, the nationality of the person claimed, the date of receipt of the requests, the relative seriousness of the offences and the place where they were committed.

Article 12

(1) Where extradition is granted, the requested State shall confiscate and hand over any articles acquired as a result of the offence or utilizable as evidence which are found at the time of his arrest in the possession of the person claimed or are discovered subsequently.

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

(3) However, any rights which the requested State or third parties may have acquired in such articles shall be preserved. Where such rights exist, the articles shall be returned to the requested State as soon as possible and free of cost.

(4) The requested State may, if it deems it necessary for the purpose of criminal proceedings, either retain the confiscated articles temporarily or forward them with the proviso that they are to be returned.

Article 13

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

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

(3) If extradition is granted, the place and date of surrender of the person claimed shall be determined by agreement between the requested State and the diplomatic mission of the requesting State.

(4) If the person claimed has not been taken over or surrendered on the agreed date, the requesting State shall cause him to be taken over within a period of one month from that date. Once that period has expired, the person shall be released and can no longer be extradited for the same offence.

(5) If, owing to exceptional circumstances, the person claimed cannot be surrendered or taken over, the State concerned shall so inform the other State before the prescribed period expires. The two States shall agree on another date for surrender and the provisions of paragraph (4) shall apply.

Article 14

(1) If the person claimed is the subject of proceedings or has been sentenced in the requested State for an offence other than the one giving rise to the request for extradition, the latter State shall none the less consider the request and inform the requesting State of its decision with regard to extradition, in the manner prescribed in article 13. Surrender of the person claimed may be deferred until he has fulfilled the requirements of justice in the requested State.

(2) Surrender shall take place on a date to be determined in accordance with the provisions of article 13.

Article 15

(1) A person who has been extradited may not be the subject of proceedings or be sentenced or detained for the purpose of carrying out a sentence or a

preventive detention order, nor may his personal liberty be in any way restricted, for any offence committed prior to his surrender other than the offence which gave rise to extradition, except in the following cases:

(a) When the person extradited, having been free to leave the territory of the State to which he was surrendered, has not done so within 30 days of his final discharge, or has voluntarily returned to that territory after leaving it;

(b) When the State which surrendered him consents.

A request for consent must be submitted, accompanied by the documents referred to in article 7 and by a judicial record setting out any statements by the extradited person on the extension of extradition and indicating what opportunity has been afforded him to submit a memorandum to the authorities of the requested State.

The extension of extradition shall be consented to when the offence for which it is requested is itself an extraditable offence under the terms of this Convention.

(2) The requesting State may, however, take any measures necessary to prevent the operation of the statute of limitations in accordance with its legislation, including proceedings by default, or to enable the person concerned to be expelled from its territory.

(3) When the designation of the offence is altered in the course of the proceedings, the person extradited shall be the subject of further proceedings or be sentenced only in so far as the elements constituting the newly designated offence would permit extradition.

Article 16

Except where the person concerned has remained in or returned to the territory of the requesting State in the circumstances referred to in the preceding article, the consent of the requested State shall be necessary to enable the requesting State to surrender him to a third State.

Article 17

(1) Extradition involving transit through the territory of one of the Contracting Parties of a person surrendered to the other Party shall be granted upon request through the diplomatic channel and under the conditions prescribed for extradition.

(2) If air transport is used, the following provisions shall apply:

1. When no landing is scheduled, the requesting State shall notify the State over whose territory the flight is to be made and shall certify that one of the

documents referred to in article 7, paragraph (2) (a), exists. In the event of an unscheduled landing, such notification shall have the force of a request for provisional arrest as referred to in article 8 and the requesting State shall submit a request for transit;

2. When a landing is scheduled, the requesting State shall submit a request for transit.

TITLE II

JUDICIAL ASSISTANCE

Article 18

The Contracting Parties undertake to render to each other, in accordance with the provisions of this Convention, the widest possible judicial assistance in all criminal cases.

Article 19

The judicial assistance provided for in this title shall not apply to:

- (a) Special military offences;
- (b) The reciprocal enforcement of decisions in criminal matters.

Article 20

(1) Judicial assistance may be refused:

- (a) If the request relates to offences regarded by the requested State either as political offences or as offences allied to political offences;
 - (b) If the requested State considers that compliance with the request would be prejudicial to its sovereignty, security or public policy or to other of its vital interests.
- (2) Reasons shall be given for any refusal of judicial assistance.

Article 21

(1) The Contracting Parties shall cause to be executed, in the form prescribed by the legislation of the requested State, letters rogatory relating to criminal cases 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 requested authority may transmit certified copies or photostats of such records or documents. However, if the requesting State expressly requests the transmittal of the originals, such request shall be granted, save in exceptional cases.

Article 22

Letters rogatory which request the carrying out of a search or seizure shall be executed only if the offence in question is one for which extradition may be granted under the terms of this Convention. The handing over of articles may be made subject to their being returned as soon as they are no longer required for the purpose of the proceedings.

Article 23

The requesting authority shall, at its express request, be notified by the requested State of the date and place of execution of the letters rogatory, in order that the interested authorities or parties may be present at such execution if the requested State gives its consent.

Article 24

Letters rogatory shall indicate the nature of the charge and the purpose of the request and shall contain a brief statement of the facts. If the requesting authority wishes the witnesses or experts to testify under oath, it shall expressly so indicate.

Article 25

(1) An authority which is requested to serve a writ shall, unless the requesting authority requests some other form of service, effect service by simple delivery of the writ to the person named in it.

(2) Proof of service shall consist of a receipt dated and signed by the person named or a certificate by the requested authority stating that service has been effected and indicating the form and date of service. One or the other of these documents shall be transmitted directly and without delay to the requesting authority.

(3) If the person named refuses to accept the writ or if service cannot be effected for some other reason, the requested authority shall return the writ to the requesting authority without delay, indicating the reason why service could not be effected.

(4) Where a summons directing a person to appear as a witness or expert provides for the use of measures of compulsion in the event of failure to appear, the requested authority shall have the responsibility of informing the person named in the summons that the provision in question does not apply in his case.

Article 26

(1) If, in a criminal case, the personal attendance of a witness or expert who is in the territory of one of the Parties is necessary, the competent authority

of that Party shall, at the express request of the authorities of the other Party, call upon him to comply with the summons addressed to him. The requesting authority shall be notified of the reply made by the 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 27

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 offences or convictions prior to his arrival, unless, although he has had the opportunity to do so, he fails to leave the territory of the requesting Party within 30 days after ceasing to serve as a witness or expert.

Article 28

(1) Where information from the register of convictions is requested in a criminal matter, such information shall be provided as if it had been requested by a judicial authority of the requested State.

(2) Where such information is requested by a civil court or an administrative authority, reasons shall be given for the request. Such requests shall be complied with to the extent permitted by the domestic laws or regulations of the requested State.

Article 29

Each of the Contracting Parties shall notify the other Party, at least once a year, of decisions rendered with respect to nationals of the latter Party which have been entered in the register of convictions. If expressly requested, a copy of the decision shall be transmitted.

Article 30

Requests for judicial assistance relating to the service of writs, summonses to witnesses or experts, the obtaining of extracts from the register of convictions or the transmittal of routine information shall contain the following particulars:

- (a) The name of the requesting authority;
- (b) The purpose of the request;

- (c) The offence in respect of which the request is made;
- (d) The identity and, where possible, the nationality of the person concerned;
- (e) Where appropriate, the name and address of the person on whom a writ is to be served.

Article 31

Documents relating to judicial assistance as referred to in this title shall be transmitted directly between the Ministries of Justice.

TITLE III

REQUESTS FOR PROSECUTION

Article 32

Official requests by one of the Contracting Parties for the institution of proceedings before the courts of the other Party shall be transmitted through the diplomatic channel.

TITLE IV

COMMON PROVISIONS

Article 33

Documents to be transmitted or produced in pursuance of this Convention shall be drawn up in the language of the requesting authority. If they are not drawn up in the French language, they shall be accompanied by a translation into French.

Article 34

(1) Costs arising out of extradition within the territory of the requested State shall be borne by that State.

(2) Costs arising out of transit through the territory of the State requested to permit transit shall be borne by the requesting State.

(3) The Contracting Parties shall waive reimbursement of the costs arising out of assistance rendered in accordance with the provisions of this Convention, except for the costs of expert opinions; the latter costs shall be reimbursed on production of vouchers.

TITLE V

FINAL PROVISIONS

Article 35

Disputes relating to the interpretation or application of this Convention shall be settled through the diplomatic channel.

Article 36

(1) This Convention shall be ratified; the instruments of ratification shall be exchanged as soon as possible at Algiers.

(2) It shall enter into force 30 days after the exchange of the instruments of ratification.

(3) It shall cease to have effect one year after denunciation by either of the Contracting Parties.

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

DONE at Brussels, on 12 June 1970, in duplicate, in the French language.

For the Kingdom
of Belgium:
PIERRE HARMEL

For the Republic
of Algeria:
BOUALEM BESSAÏH

ANNEX

TO THE CONVENTION RELATING TO EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE KINGDOM OF BELGIUM AND THE DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA

In accordance with article 2, paragraph (3), of the Convention, extradition shall take place for the offences enumerated below if the act is punishable under the law of both Contracting Parties and the conditions laid down in article 2, paragraph (1), are fulfilled:

- (1) Murder, homicide, poisoning, parricide, infanticide;
- (2) Any act of wounding or grievous bodily harm, committed maliciously and with premeditation or causing an incurable illness, permanent disability for employment, loss of the full use of a member or an organ, serious mutilation or unintended death;
- (3) Any offence against freedom of person or inviolability of the home committed by a private person;
- (4) Threatening to commit an offence against person or property punishable by a criminal penalty;
- (5) Counterfeiting currency, including the forging, falsifying or altering of currency, and the uttering or putting into circulation of forged, falsified or altered currency;
- (6) Counterfeiting or falsifying government stock, bank-notes or public or private securities, and uttering or putting into circulation such counterfeit or falsified stock, notes or securities;

- (7) Forging documents or telegrams and employing the forged document or telegram;
- (8) Counterfeiting or falsifying seals, stamps, dies or trade marks; the use of counterfeit or falsified seals, stamps, dies or trade marks; improper use of genuine seals, stamps, dies or trade marks; maliciously or 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;
- (9) False witness and false statements by experts or interpreters;
- (10) Perjury;
- (11) Subornation of witnesses, experts or interpreters;
- (12) Bribery of a public official;
- (13) Illegal exaction and embezzlement committed by a public official;
- (14) Conspiracy;
- (15) Abortion;
- (16) Exposing or abandoning a child;
- (17) Concealment of birth or substitution of a child;
- (18) Kidnapping or unlawfully detaining a child or a minor;
- (19) Rape;
- (20) Indecent assault with violence or threats;
- (21) Indecent assault without violence or threats committed on the person, or with the aid of the person, of a minor of either sex under the age of 15 years;
- (22) Any sex offence committed by inciting, facilitating or encouraging the debauchery, corruption or prostitution of a minor of either sex with the object of gratifying the passions of another person; recruiting, enticing or abducting a person of either sex for purposes of debauchery or prostitution with the object of gratifying the passions of another person; 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;
- (23) Larceny, extortion;
- (24) Breach of trust;
- (25) False pretences;
- (26) Fraudulent acts committed in bankruptcy;
- (27) Arson;
- (28) Wilful and unlawful destruction of buildings, thoroughfares, railways, steam-engines or telegraph or telephone equipment;
- (29) Wilful and unlawful destruction or damaging 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 others; wilful and unlawful destruction or poisoning of animals belonging to others;
- (32) Obstruction of rail, road, river or maritime traffic by any act causing damage to lines of communication, to bridges, tunnels and the like or to equipment, or by any other act calculated to render dangerous the operation or use of conveyances or to cause accidents when they are used or operated;
- (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 on the part of 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;
Total or partial destruction of a commercial or fishing vessel, its machinery, tackle, equipment or life-saving apparatus;
- (34) Illicit traffic in narcotic drugs;
- (35) Receiving objects acquired through the commission of one of the offences covered by this Convention.

Acts constituting an attempt to commit, or complicity in, an offence shall be subject to the rules governing offences which may give rise to a request for extradition, provided that such acts are punishable under the law of both the requesting State and the requested State.
