

**No. 12518**

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**BELGIUM  
and  
YUGOSLAVIA**

**Convention concerning extradition and judicial assistance in criminal matters (with annex). Signed at Belgrade on 4 June 1971**

*Authentic texts : French and Serbo-Croatian.*

*Registered by Belgium on 18 May 1973.*

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**BELGIQUE  
et  
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**Convention relative à l'extradition et à l'entraide judiciaire en matière pénale (avec annexe). Signée à Belgrade le 4 juin 1971**

*Textes authentiques : français et serbo-croate.*

*Enregistrée par la Belgique le 18 mai 1973.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE KINGDOM OF BELGIUM AND THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA CONCERNING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS

The Government of the Kingdom of Belgium and the Government of the Socialist Federal Republic of Yugoslavia, desiring to regulate by common agreement questions relating to extradition and judicial assistance in criminal matters, have agreed on the following provisions :

## TITLE I. EXTRADITION

*Article 1*

The Contracting Parties undertake to surrender to each other, in accordance with the conditions laid down in this Convention, all persons who are present in the territory of either State and against whom the judicial authorities of the other State are proceeding for an offence or who are wanted by the said authorities for the carrying out of a sentence.

*Article 2*

1. Extradition shall be granted in respect of :

- (a) Acts which, under the law of both States, constitute offences punishable by deprivation of liberty for a maximum period of at least two years or by a more severe penalty;
- (b) Sentences involving deprivation of liberty for a period of at least six months imposed by the courts of the requesting State for the offences mentioned in subparagraph (a) above;
- (c) Sentences for offences punishable under the law of both States by deprivation of liberty for a total period of at least six months, provided that one of the offences committed is punishable under their laws by deprivation of liberty for a maximum period of at least two years or by a more severe penalty.

2. So long as the Contracting Parties do not agree otherwise, extradition shall be granted only in respect of the offences listed 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 try them to institute proceedings against its own nationals who have committed in the territory of the other State offences punishable as such in both States, when the requesting State sends it through the diplomatic channel a request for proceedings accompanied by the files, documents, articles and information in its possession. The requesting State shall be informed of the action taken with regard to its request.

<sup>1</sup> Came into force on 1 November 1972, i.e. the first day of the second month following the date (29 September 1972) of the last of the notifications by which each Contracting Party informed the other of the completion of the procedures required under its Constitution, in accordance with article 37 (1).

#### Article 4

Extradition shall not be granted :

- (a) If the offence was committed in the territory of the requested State;
- (b) If, in the requested State, a decision which has become *res judicata* has already been taken in respect of the same offence against the person claimed;
- (c) If the offence for which extradition is requested was committed outside the territory of the requesting State and the law of the requested State does not authorize prosecution for offences of the same nature committed outside its territory;
- (d) If, according to the law of either State, the person claimed has become immune by reason of lapse of time from prosecution or punishment;
- (e) If an amnesty has been granted in the requesting State;
- (f) If the offence for which extradition is requested is regarded by the requested Party as being solely a violation of military obligations;
- (g) If, according to the law of either State, criminal proceedings are contingent upon the existence of a complaint by a private person.

#### Article 5

1. Extradition shall not be granted if the offence for which it is requested is regarded by the requested Party as a political offence or as an offence connected with a political offence.

2. The taking or attempted taking of a life which is not committed in open combat shall not automatically be deemed a political offence constituting an obstacle to extradition.

3. The provisions of this article shall not affect any obligations which the Contracting Parties have undertaken or may undertake under multilateral international conventions.

#### Article 6

Extradition may be refused :

- (a) If proceedings have been instituted in the requested State in respect of the offence for which extradition is requested at the time when the request for extradition is received;
- (b) If 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 7

1. Extradition shall not be granted for offences in connexion with customs, taxes, duties and exchange.

2. The Contracting Parties may, however, by an exchange of notes, agree to grant extradition, in accordance with the conditions laid down in this Convention, for all or some of the offences mentioned in the preceding paragraph.

#### Article 8

1. If the offence for which extradition is requested is punishable by death under the law of the requesting Party, and if in respect of such offence the death penalty is

not provided for by the law of the requested Party or is not normally carried out, extradition may be refused unless the requesting Party gives such assurance as the requested Party considers sufficient that the death penalty will not be carried out.

2. If a decision has been rendered against the person by default, extradition shall not be granted unless that person is entitled to new criminal proceedings as provided for in the law of the requesting State.

#### Article 9

1. In matters relating to extradition the Contracting Parties shall communicate with each other through the diplomatic channel, unless otherwise provided in this Convention.

2. The documents accompanying the note sent through the diplomatic channel shall be drawn up in one of the languages of the requesting Party and the documents relating to the implementation of the request shall be drawn up in one of the languages of the requested State.

3. For the implementation of this Convention, the following shall be considered as languages of the Contracting Parties : for Belgium : French, Dutch and German ; for Yugoslavia : Serbo-Croatian or Croato-Serbian, Macedonian and Slovene.

#### Article 10

1. The request for the extradition of a person against whom proceedings have been instituted shall be accompanied by the original or an authenticated copy of a warrant of arrest or other order having the same effect issued in accordance with the procedure laid down in the law of the requesting State. This document must indicate or be accompanied by another document issued by the judicial authorities indicating the circumstances in which the offence was committed, the time and place of its commission, its legal description and a reference to the relevant legal provisions, and, where the offence has entailed material damage, all possible details concerning its nature and scope.

2. The request for the extradition of a sentenced person shall be accompanied by the original or an authenticated copy of the sentence which has become *res judicata*.

3. In both cases, the request shall be accompanied by the text of the enactments relevant to the offence and, if possible, a description and photograph of the person concerned, together with any other information which will help to establish his identity and nationality.

#### Article 11

1. In case of urgency, the judicial authorities of the requesting State may, for purposes of extradition, request the provisional arrest of the person sought.

2. The request for provisional arrest shall state the offence committed, the duration of the penalty incurred or pronounced, and when and where the offence was committed and shall, so far as possible, give a description of the person sought.

3. It shall be sent to the judicial authorities of the requested State, either direct by post or telegraph or through the International Criminal Police Organization (Interpol), or by any other appropriate means.

4. If the request seems justified, the judicial authorities of the requested State shall act upon it in accordance with the law of that State.

5. The requesting Party shall be informed without delay of the action taken with regard to its request for provisional arrest. Provisional arrest may be terminated if, within a period of 18 days after arrest, the requested Party has not received the request for extradition and the documents mentioned in article 10. If necessary, that request and those documents may be sent direct in Belgium to the Ministry of Justice and in Yugoslavia to the Federal Council of Justice, a copy of the request being transmitted through the diplomatic channel.

6. Release shall not prejudice rearrest if the request arrives after the expiry of the time-limits set in the preceding paragraph.

#### *Article 12*

For the implementation of title I of this Convention, the requested Party may request the requesting Party to provide supplementary information and documents within a specific time-limit.

#### *Article 13*

After receiving the request for extradition or the request for provisional arrest and provided that the conditions laid down in title I of this Convention are fulfilled, the requested Party shall take all appropriate steps with a view to seeking the person claimed and, if appropriate, arresting him.

#### *Article 14*

1. The requested Party shall inform the requesting Party of its decision with regard to the request for extradition within a reasonable period of time.

2. If the requested Party rejects the request for extradition wholly or in part, it shall give the reasons for its decision.

3. If extradition is granted, the requested Party shall inform the requesting Party of the place and date of surrender of the person claimed and of the length of time for which that person was detained.

4. The Contracting Parties may, following a request submitted in due time by either Party and when justified by circumstances, agree on a new date and, possibly, a new place for the surrender of the person claimed.

5. If the requesting Party does not take over the person in the place and on the date mentioned in paragraphs 3 or 4 of this article, he shall be released after the expiry of eight days; upon receipt of a request with a statement of reasons from the requesting Party, the period may be extended to 15 days. The person released may no longer be claimed for the same offences.

6. If necessary, communications relating to the implementation of paragraphs 4 and 5 of this article may be effected through the channels mentioned in article 11, paragraph 3, of this Convention.

7. The provisions of this article shall also be applicable in the case of transfer by air.

#### *Article 15*

1. If extradition is requested concurrently by more than one State, either for the same offence or for different offences, the requested Party shall make its decision freely, having regard to all the circumstances and especially the nationality of the

person claimed, the place of commission and the seriousness of the offence and the respective dates of the requests.

2. In the case mentioned in the preceding paragraph, the requested Party may, in granting extradition, authorize the requesting Party to surrender the extradited person to the third State which requested him concurrently.

#### Article 16

If the person claimed is being proceeded against or has been convicted in the requested State for an offence other than that for which extradition is requested, the requested Party shall make a decision on that request and inform the other Party of the outcome. If the request is accepted, surrender may be postponed until the criminal proceedings have been completed or the sentence served.

#### Article 17

1. The Contracting Party to whom the person claimed has been surrendered shall inform the other Contracting Party of the outcome of the criminal proceedings instituted against that person.

2. If the person is convicted, an authenticated copy of the judgement which has become *res judicata* shall be transmitted.

#### Article 18

A person who has been extradited shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence, nor shall he be for any other reason restricted in his personal freedom or surrendered to a third State for an offence committed prior to surrender other than that for which extradition was requested, except in the following cases :

- (a) When the requested State consents;
- (b) When the extradited person does not leave the territory of the requesting State within 30 days of his final discharge; that period does not include the time during which the person surrendered was unable to leave the territory of that State for reasons beyond his control;
- (c) When the person of his own free will returned to the territory of the State to which he was surrendered after having left it.

#### Article 19

1. When the consent of the requested Party is requested for the purpose of proceedings, or the carrying out of a sentence for an offence committed prior to surrender other than that for which extradition was requested, the requesting Party shall conform with the provisions of articles 9 and 10 of this Convention.

2. When the consent of the requested Party is requested with a view to the surrender of the extradited person to a third State, the requesting Party may either invite the third State to communicate it any documents setting out the consent of the requested Party, or address to the requested Party the request for extradition submitted by the third State, accompanied by all the relevant documents.

#### Article 20

When the description of the offence charged is altered in the course of proceedings, the extradited person shall only be proceeded against or sentenced in so far as the

offence under its new description is shown by its constituent elements to be an offence which would allow extradition.

#### *Article 21*

1. When extradition is granted, property which was used in the commission of the offence or was acquired as a result of the offence or in exchange for property so acquired shall be handed over to the requesting Party.

2. The property mentioned in the preceding paragraph shall, however, be handed over even if extradition cannot be carried out owing to the death or escape of the person claimed or for any other reason.

3. The rights which third parties have acquired in the said property shall be preserved. At the end of the proceedings, the property shall be returned to the person to whom it belongs. If the identity of that person cannot be established, the property shall be returned to the requested Party.

4. The requested Party may temporarily retain the property mentioned in paragraph 1 of this article if it deems it necessary for the purpose of criminal proceedings. It may request that the property handed over be returned to it if it undertakes to return the property as soon as the proceedings instituted in its territory permit.

5. The requested Party shall not be obliged to return the property mentioned in the preceding paragraph when its authorities have ordered that it be confiscated or destroyed.

#### *Article 22*

1. Each Contracting Party, shall, at the request of the other Party, grant transit through its territory for a person surrendered to the latter Party by a third State. The request shall be accompanied by supporting documents proving that the offence in question is extraditable under this Convention. However, no account shall be taken of the provisions of article 2 concerning the duration of the sentence.

2. The requested Party shall authorize transit by means of transport and according to the arrangements which suit it best.

3. The requested Party shall not be obliged to authorize the transit of its nationals or of persons against whom proceedings have been instituted or who must serve a sentence in its territory.

#### *Article 23*

1. Expenses incurred by reason of extradition shall be borne by the State in whose territory they were occasioned.

2. Expenses incurred by reason of transit shall be borne by the requesting Party.

### TITLE II. JUDICIAL ASSISTANCE

#### *Article 24*

The Contracting Parties undertake to afford each other the widest possible measure of judicial assistance in respect of crimes and offences in accordance with the conditions laid down in this Convention, especially with regard to the execution of

letters rogatory, the service of judicial documents and the exchange of extracts from judicial records.

#### Article 25

The provisions of title II of this Convention shall not apply :

- (a) To offences which the requested Party considers political offences, offences connected with a political offence, military offences or fiscal offences;
- (b) When the requested Party considers that execution of the request for judicial assistance is likely to prejudice its sovereignty, security or *ordre public*.

#### Article 26

1. Communications concerning judicial assistance shall be transmitted direct between the Belgian Ministry of Justice and the Secretariats of Justice of the Socialist Republics of Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia.

2. In their letters of transmittal, these authorities shall briefly set out the purpose of the request, using the French language. The same provisions shall apply to correspondence concerning the action taken with regard to the request.

#### Article 27

1. The Contracting Parties shall cause to be executed, in the manner prescribed by the law of the requested State, any letters rogatory relating to a criminal matter addressed to the authorities of one Party by the authorities of the other Party whose purpose is the service of units or the transmittal of evidence, records or documents.

2. The letters rogatory shall indicate the nature of the charge as well as the purpose of the request and shall contain a brief statement of the facts in the case.

3. 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.

4. The handing over of property may be made subject to its being returned as soon as it is no longer required for the criminal proceedings.

5. Letters rogatory shall be drawn up in one of the languages of the requesting Party and the documents relating to their execution shall be drawn up in one of the languages of the requested Party.

6. If it expressly so requests, the requesting authority shall be notified of the date and place of execution of the letters rogatory, so that the interested judicial authorities and the representatives of the interested parties may be present at such execution if the requested State gives its consent.

#### Article 28

1. An authority which has been requested to serve a judicial document shall, unless the requesting 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 requested authority that service has been effected, with particulars of the form and date thereof, or that the person named refused to accept service.



3. If service cannot be effected, the requested authority shall return the document forthwith to the requesting 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 requested authority shall have the responsibility of informing the said person that the provision in question does not apply in his case.

5. Judicial documents shall be accompanied by a translation into one of the languages of the requested Party unless they are destined for nationals of the requesting Party.

#### *Article 29*

1. If, in a criminal matter, the requesting Party considers the personal appearance of a witness or expert before its judicial authorities especially necessary, it shall so mention in its request for service of the summons and the requested Party shall recommend to the witness or expert that he appear. The requested Party shall inform the requesting Party of the reply of the witness or expert.

2. The witness or expert shall be entitled to reimbursement of his travelling and subsistence expenses, and to equitable compensation, which shall be paid by the requesting Party. If the witness or expert so requests, the requesting Party shall make him an advance for his travelling and subsistence expenses.

#### *Article 30*

A witness or expert, whatever his 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 not be prosecuted or subjected to any other restriction of his personal liberty in respect of acts or convictions anterior 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 witness or expert.

#### *Article 31*

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

#### *Article 32*

1. Where information from the judicial records 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. If these requests are made by a civil court or an administrative authority they shall be accompanied by a statement of the reasons for which they are made. They shall be granted to the extent permitted by the internal legislative provisions or administrative regulations of the requested State.

*Article 33*

Requests for mutual assistance in judicial matters relating to the service of judicial documents, summonses addressed to witnesses or experts, extracts from the judicial records or the provision of ordinary 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 to be served.

*Article 34*

1. Each Contracting Party may lay information with the other Party, with a view to proceedings, concerning crimes or offences committed in its territory by nationals of the other State who have returned to the territory of the latter State.

2. To that end, files, information and property relating to the offence shall be transmitted free of charge.

3. The requested Party shall inform the requesting Party of the action taken with regard to its request.

*Article 35*

The requested Party shall waive refund of the cost of judicial assistance granted in application of title II of this Convention, except for the expenses and fees of experts.

*Article 36*

1. Where the authority which receives a request for judicial assistance has no jurisdiction to comply therewith, it shall transmit the request to the competent authority.

2. If the requested authority cannot execute the request for judicial assistance, it shall immediately so inform the requesting authority, stating the reasons why the request could not be executed.

## TITLE III. FINAL PROVISIONS

*Article 37*

1. Each Contracting Party shall notify the other of the completion of the procedures required under its Constitution for the entry into force of this Convention. The Convention shall take effect on the first day of the second month following the date of the last of the notifications.

2. With the entry into force of this Convention the Convention on Extradition concluded between Belgium and Serbia on 23 December 1895 and 4 January 1896 shall be abrogated.

*Article 38*

1. This Convention is concluded for an unlimited period of time.

2. Each Contracting Party may denounce it at any time and the denunciation shall take effect six months after the date of receipt of its notification by the other Contracting Party.

DONE at Belgrade on 4 June 1971 in duplicate, in the French and Serbo-Croatian languages, both texts being equally authentic.

For the Government  
of the Kingdom of Belgium :

[Signed]

CHARLES H. MULLER

For the Government  
of the Socialist Federal Republic  
of Yugoslavia :

[Signed]

ILIJA TOPALOSKI

### ANNEX

TO THE CONVENTION BETWEEN THE KINGDOM OF BELGIUM AND THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA CONCERNING EXTRADITION AND JUDICIAL ASSISTANCE IN CRIMINAL MATTERS

In accordance with article 2, paragraph 2, of the Convention, extradition shall take place in respect of the offences listed below if the act is punishable under the law of both Contracting Parties and is extraditable under that law and if the conditions laid down in article 2, paragraph 1, are fulfilled :

1. Homicide, infanticide;
2. Physical injury or impairment of health;
3. Offences against personal freedom or trespass;
4. Counterfeiting of currency, counterfeiting and falsifying public securities, bank notes, public or private securities, seals, stamps, dies and trademarks and altering them and putting them into circulation;
5. Falsifying public or private documents and using such documents;
6. False witness and false statements by experts or interpreters;
7. Bribery, illegal exaction and embezzlement committed by public officials or persons treated as such;
8. Conspiracy;
9. Abortion;
10. Bigamy;
11. Concealment of birth or substitution of a child; exposing or abandoning a child;
12. Abduction or unlawful detention of minors;
13. Rape;
14. Indecent assault;
15. Sex offences, procuring, involvement in the exercise of prostitution, pimping;
16. Larceny committed with or without violence including the fraudulent removal of a motor vehicle with a view to using it; extortion, false pretences;
17. Breach of trust;
18. Fraudulent acts committed in bankruptcy;
19. Destruction of property: machinery, installations, movable property, monuments; destruction or laying waste of crops, plants, trees or grafts; arson, including blowing up buildings, dams or other civil engineering structures and vehicles;
20. Attacks on thoroughfares or any other action liable to cause danger with regard to traffic or the use of means of transport or to provoke accidents in connexion with their use or circulation.

21. Infringement of copyright;
22. Illegal traffic in narcotic drugs;
23. Receiving objects obtained through the commission of one of the offences enumerated in this annex.

Acts constituting attempts to commit or participation in extraditable offences shall be subject to the same rules as such offences, provided that such acts are punishable under the law of the requesting State and the law of the requested State.

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