

**No. 13236**

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**FRANCE  
and  
TUNISIA**

**Convention concerning reciprocal legal assistance in criminal matters and extradition (with additional protocol).  
Signed at Paris on 28 June 1972**

*Authentic texts: French and Arabic.*

*Registered by France on 24 April 1974.*

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**FRANCE  
et  
TUNISIE**

**Convention relative à l'entraide judiciaire en matière pénale  
et à l'extradition (avec protocole additionnel). Signée à  
Paris le 28 juin 1974**

*Textes authentiques : français et arabe.*

*Enregistrée par la France le 24 avril 1974.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE FRENCH REPUBLIC AND THE  
REPUBLIC OF TUNISIA CONCERNING RECIPROCAL LEGAL  
ASSISTANCE IN CRIMINAL MATTERS AND EXTRADITION

The President of the French Republic and the President of the Republic of Tunisia,

Desiring to maintain and strengthen the existing co-operation in legal matters between their two countries, particularly with respect to reciprocal legal assistance in criminal matters and extradition,

Have decided to conclude this Convention and to that end have appointed as their plenipotentiaries:

The President of the French Republic:

Mr. Maurice Schumann, Minister for Foreign Affairs;

The President of the Republic of Tunisia:

Mr. Mohamed Masmoudi, Minister for Foreign Affairs;

Who, having exchanged their full powers, found in good and due form,

Have agreed on the following provisions:

## PART I

## RECIPROCAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

## Chapter I. PRELIMINARY PROVISIONS

*Article 1.* The High Contracting Parties undertake to provide each other with legal assistance in criminal matters on the conditions laid down in this Convention.

*Article 2.* Legal assistance in criminal matters shall include transmittal or notification of judicial decisions and judicial documents, the execution of letters rogatory, the hearing of witnesses and experts, the exchange of extracts from court records and reports with a view to prosecution.

*Article 3.* The provisions of this Part shall not apply:

- (a) To any offence which the requested State regards as a political offence or an offence connected with a political offence;
- (b) If the requested State considers that execution of the request for legal assistance might impair its sovereignty, security or public policy.

*Article 4.* Legal assistance shall be granted on the conditions laid down in this Part in matters relating to taxes, duties, customs and foreign exchange only when so decided by an exchange of letters for each specifically named offence or category of offences.

<sup>1</sup> Came into force on 1 January 1974, i. e., the first day of the second month following the exchange of instruments of ratification, which took place at Tunis on 30 November 1973, in accordance with article 46.

## Chapter II. TRANSMITTAL AND CONTENT OF REQUESTS FOR LEGAL ASSISTANCE

*Article 5.* 1. Requests for legal assistance shall be transmitted through the diplomatic channel.

2. In urgent cases, however, letters rogatory may be transmitted direct from Ministry of Justice to Ministry of Justice.

3. Documents relating to the execution of requests shall in all cases be transmitted without delay through the diplomatic channel.

*Article 6.* 1. Requests for legal assistance and documents relating to the execution of such requests shall be drawn up in the language of the requesting State.

2. However, judicial documents and decisions to be delivered or notified to persons in the territory of one of the two States may be accompanied by a translation in the language of that State. In the case of a judicial decision the translation shall be certified by a sworn or approved translator, in accordance with the legislation of the requesting State.

*Article 7.* 1. Requests for legal assistance and the documents accompanying them shall bear the signature and seal of or be certified by a competent authority. Such requests or documents shall be exempt from legislation requirements.

2. The form of requests for legal assistance shall be determined by the law of the requesting State.

*Article 8.* 1. Requests for legal assistance shall contain the following particulars:

- The nature of the case;
- The name of the requesting authority;
- The name of the requested authority;
- The designation of the offence;
- The name of the accused or convicted person.

2. The following information shall also be supplied:

(a) In the case of requests for notification:

- The nature of the document or decision;
- The name and address of the intended recipient;
- The status of the intended recipient in the proceedings.

(b) In the case of letters rogatory, all necessary particulars concerning the facts of the case and the task entrusted to the requested authority, including the names and addresses of witnesses and, if appropriate, the questions which are to be put to them.

## Chapter III. EXECUTION OF REQUESTS FOR LEGAL ASSISTANCE

*Article 9.* Requests for legal assistance shall be executed in accordance with the law of the requested State.

*Article 10.* If the requested State is unable to execute the request for legal assistance, it shall immediately so inform the requesting State, stating the reasons for non-execution and returning the documents sent to it.

*Article 11.* The requested State shall waive reimbursement of all costs

incurred in executing requests for legal assistance under the terms of this Convention other than the costs of experts' services.

#### Chapter IV. DELIVERY AND NOTIFICATION OF JUDICIAL DOCUMENTS AND JUDICIAL DECISIONS

*Article 12.* 1. The requested State shall effect the delivery or notification of judicial documents and judicial decisions transmitted to it for that purpose by the requesting State.

2. Such delivery or notification may be effected by a simple handing over of the document or decision to the intended recipient.

3. Proof of delivery shall consist either of a receipt dated and signed by the recipient or of a certificate issued by the competent authority of the requested State stating that delivery has been effected and indicating the manner and date thereof.

*Article 13.* Summonses to appear in court issued at the request of the *parquet* to accused persons who are in the territory of one of the two States shall be transmitted to the authorities of that State for service at least 30 days before the date set for the appearance.

#### Chapter V. APPEARANCE OF WITNESSES OR EXPERTS

*Article 14.* If, in a criminal case, the requesting State considers the personal appearance of witness or expert before its judicial authorities to be necessary, it shall so state in its request to the other State for service of the summonses. The requested State shall invite the witness or expert to comply with the request made to him and shall inform the requesting State of his reply.

*Article 15.* 1. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses and to an allowance, such reimbursement and allowance to be paid by the requesting State. The subsistence expenses and allowance shall be at least equal to those provided for under the scales and regulations in force in the State in which the appearance is required.

2. If a witness or expert so requests, the requested State may, on behalf of the requesting State and after consultations with it, advance him all or part of his travel and subsistence expenses.

*Article 16.* 1. No witness or expert of any nationality who, in response to a summons, appears voluntarily before the judicial authorities of the requesting State shall be prosecuted, detained or subjected to any restriction of his personal liberty in the said State by reason of acts committed or a conviction pronounced prior to his entering the territory of the requesting State.

2. This immunity shall cease if the witness or expert, having had the opportunity to leave the territory of the requesting State during a period of 30 clear days after the date on which his presence ceased to be required by the judicial authorities, nevertheless remained in that territory or, having left it, returned to it.

*Article 17.* 1. A request for the appearance of witnesses being held in custody shall be complied with subject to the said witnesses remaining in custody and being returned promptly.

2. The request may be denied, however, if:

(a) The person in custody withholds his consent;

- (b) His presence is required on account of criminal proceedings in progress in the territory of the requested State;
- (c) His transfer is likely to prolong his detention;
- (d) There are other compelling reasons why he should not be sent to the territory of the requesting State.

#### Chapter VI. REPORTS OF CONVICTIONS AND COURT RECORDS

*Article 18.* 1. The High Contracting Parties shall report to each other all convictions pronounced by the judicial authorities of one of them against nationals of the other which are required to be entered in the court records in their own territories.

2. The said reports shall be transmitted at six-monthly intervals through the diplomatic channel.

*Article 19.* The High Contracting Parties shall, at the request of their judicial authorities, transmit to each other extracts from the court records, in accordance with the legislation and regulations of the requested State.

#### Chapter VII. REPORTS WITH A VIEW TO PROSECUTION

*Article 20.* 1. Either High Contracting Party may report to the other Party with a view to prosecution any offences committed in its territory by nationals of the other State who have returned to the territory of that State.

2. To that end, records, information and articles relating to the offence shall be transmitted without charge.

3. The requested State shall inform the requesting State of the action taken on its request.

#### Chapter VIII. EXCHANGE OF INFORMATION IN CRIMINAL MATTERS

*Article 21.* The High Contracting Parties shall transmit to each other, on request, all information on the legislation in force in their territories or on judicial precedents on matters covered by this Convention and any other useful legal information.

#### PART II

#### EXTRADITION

*Article 22.* The High 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 have been sentenced by the judicial authorities of the other State.

*Article 23.* 1. The High Contracting Parties shall not extradite their own nationals. Nationality status shall be determined as of the date of commission of the offence for which extradition is requested.

2. If the person whose extradition is requested is a national of the requested State, that State, at the request of the requesting State, shall refer the matter to its competent authorities so that, if appropriate, legal proceedings may be instituted

against that person. To that end, recourse shall be had to the procedure laid down in article 20, paragraphs 2 and 3, of this Convention.

*Article 24.* Extradition shall be granted:

- (a) In respect of an act or acts which, under the legislation of both High Contracting Parties, constitute crimes or offences punishable by at least one year's deprivation of liberty or by a heavier penalty;
- (b) In respect of sentences to at least three months' deprivation of liberty imposed by the courts of the requesting State for the offences referred to in the preceding sub-paragraph.

*Article 25.* If the request for extradition refers to several separate acts each of which is punishable under the legislation of the High Contracting Parties by deprivation of liberty but not all of which fulfil the requirement relating to the length of the penalty, the requested State may likewise grant extradition in respect of such acts.

*Article 26.* 1. Extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested State as a political offence or as an offence connected with a political offence.

2. For the purposes of this part, an attempt on the life of the head of State of either country or of a member of his family shall not be regarded as a political offence.

*Article 27.* Extradition shall not be granted if the offence in respect of which it is requested consists solely of a breach of military obligations.

*Article 28.* Extradition shall be granted on the conditions laid down in this part in matters relating to taxes, duties, customs and foreign exchange only when so decided by an exchange of letters for each specifically named offence or category of offences.

*Article 29.* 1. Extradition shall be refused:

- (a) If the offences in respect of which it is requested have been committed in the requested State;
- (b) If final judgement on the offences has been rendered in the requested State;
- (c) If the prosecution or the penalty is barred by statutory limitation under the legislation of the requesting State or of the requested State at the time of the latter's receipt of the request;
- (d) If the offences were committed outside the territory of the requesting State by a person not a national of that State and the legislation of the requested State does not permit prosecutions for such offences when they are committed outside its territory by an alien;
- (e) If an amnesty has been declared in the requesting State or if an amnesty has been declared in the requested State, provided, in the latter case, that the offence is one for which a prosecution may be instituted in that State when it has been committed outside the territory of that State by an alien.

2. Extradition may be refused if the offences are the subject of proceedings in the requested State or have been the subject of a judgement in a third State.

*Article 30.* 1. The request for extradition shall be in writing and shall be transmitted through the diplomatic channel.

2. The following documents shall be submitted in support of the request:

- (a) The original or a certified copy of a sentence, a warrant of arrest or any other document having the same force issued in the manner prescribed by the legislation of the requesting State;
- (b) A description of the acts in respect of which extradition is requested, stating the time and place of their commission and their designation and mentioning the legal provisions applicable thereto, together with a copy of those provisions;
- (c) As accurate a description as possible of the person sought and any other information which will help to establish his identity and nationality.

*Article 31.* 1. In an emergency, the judicial authorities of the requesting State may, for the purpose of extradition, request the provisional arrest of the person sought.

2. A request for provisional arrest shall state that one of the documents mentioned in article 30, paragraph 2 (a), exists. It shall state the offence committed, the duration of the penalty incurred or imposed, 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 transmitted to the judicial authorities of the requested State either directly by post or telegraph or by any other means constituting a written record.

4. If the request seems to be in order, the judicial authorities of the requested State shall act on it in accordance with the legislation of that State. The requesting authority shall be informed without delay of the action taken.

*Article 32.* 1. Provisional arrest may be terminated if, within a period of 20 days after the arrest, the requested State has not received any of the documents mentioned in article 30, paragraph 2 (a).

2. Provisional arrest shall in no event be continued beyond 40 days after the arrest.

3. Provisional release may be effected at any time, subject to the requesting State taking such steps as it deems necessary to prevent the person sought from absconding.

4. Release shall not prevent re-arrest and extradition if a request for extradition is received subsequently.

*Article 33.* When supplementary information is essential to the requested State in order to ensure that the conditions laid down in this Part are fulfilled, that State, if it believes that the omission can be rectified, shall so advise the requesting State through the diplomatic channel before it refuses the request. A time-limit may be set by the requested State for the receipt of such information.

*Article 34.* If extradition is requested concurrently by more than one State, either for the same offence or for different offences, the requested State shall make its decision independently, having regard to all the circumstances and especially the possibility of subsequent extradition as between the requesting States, the respective dates of the requests, and the relative seriousness and the place of commission of the offences.

*Article 35.* 1. At the instance of the requesting State, the requested State shall seize and hand over, in the manner prescribed in its legislation, any articles:

- (a) Which may serve as evidence;
- (b) Which are associated with the offence and were found before or after the surrender of the person sought or extradited;

(c) Which were acquired in exchange for articles associated with the offence.

2. The articles may be handed over even if extradition cannot be carried out because of the escape or death of the person sought.

3. The requested State may keep the articles temporarily or hand them over on condition that they are returned if it considers that course necessary for the purposes of criminal proceedings.

4. However, any rights which the requested State or third parties may have acquired in the said articles shall be preserved. When such rights exist, the articles shall be returned without charge to the requested State as soon as possible after completion of the proceedings in the territory of the requesting State.

*Article 36.* 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 the request is agreed to, the requested State shall, in the most appropriate manner, determine the date and place of surrender of the person to be extradited and shall inform the requesting State accordingly in good time.

4. Except as provided for in paragraph 5 of this article, if the person sought has not been taken over on the date set, he may be released after 15 days have elapsed since that date and shall in any case be released after 30 days. The requested State may refuse to extradite him for the same offence.

5. If exceptional circumstances prevent the person who is to be extradited from being surrendered or taken over, the State concerned shall so inform the other State before the period expires. The two States shall agree on another date and, if necessary, another place for surrender. The provisions of the preceding paragraph shall apply in such circumstances.

*Article 37.* 1. If the person sought is the subject of proceedings or has been sentenced in the requested State for an offence other than that giving rise to the request for extradition, the latter State shall none the less take a decision on the request and inform the requesting State of its decision regarding extradition, in the manner prescribed in article 36, paragraphs 1 and 2. If the request is agreed to, however, the surrender of the person sought shall be deferred until requirements of justice have been satisfied in the requested State. Surrender shall then take place on a date to be determined in accordance with article 36, paragraph 3, and paragraphs 4 and 5 of the said article shall apply.

2. The provisions of this article shall not prevent the person sought from being handed over temporarily in order to appear before the judicial authorities of the requesting State, on the express condition that he shall be kept in custody and returned once those authorities have rendered their judgement.

*Article 38.* A person who has been extradited may not be the subject of proceedings or an after-trial judgement or be detained for the purpose of carrying out a sentence or subjected to any restriction of his personal liberty in respect of an offence committed prior to his surrender other than that which has given rise to the extradition, except in the following cases:

(a) When the State which has surrendered him consents. In such cases, a request for consent shall be submitted, accompanied by the documents referred to in article 30, paragraph 2 (a), and by a legal record reproducing any statements by the extradited person on the extension of the extradition and mentioning the opportunity



given to him to submit a memorandum in his own defence to the authorities of the requested State;

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

*Article 39.* When the designation of the offence is altered in the course of the proceedings, the person extradited may be tried or judged only in so far as the factors constituting the newly designated offence would provide grounds for extradition.

*Article 40.* Except in the case provided for in article 38, subparagraph (b), the consent of the requested State shall be required for the handing over by the requesting State to a third State of the person surrendered to it. To that end, the requesting State shall transmit to the requested State a request accompanied by copies of the documents produced by the third State.

*Article 41.* 1. Extradition involving transit through the territory of one of the High Contracting Parties of a person surrendered to the other Party shall be granted on an application transmitted through the diplomatic channel. The documents required to establish that the offence is one giving grounds for extradition shall be furnished in support of the application. The conditions laid down in article 23 relating to the length of sentences shall be disregarded.

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

- (a) When no intermediate 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 mentioned in article 30, paragraph 2 (a), exists. In the case of an unscheduled landing, such notification shall produce the same effects as the request for provisional arrest referred to in article 31 and the requesting State shall submit a normal application for transit;
- (b) When an intermediate landing is scheduled, the requesting State shall submit an application to the requested State of transit in accordance with the provisions of paragraph 1 of this article.

3. When the requested State of transit also requests extradition, transit may be interrupted until such time as the person sought has satisfied the requirements of justice in that State.

*Article 42.* 1. All the costs incurred because of the extradition procedure in the territory of the requested State shall be borne by that State.

2. Costs incurred as a result of the transit through the territory of the requested State of transit shall be borne by the requesting State.

*Article 43.* Requests for extradition and the documents to be produced in pursuance of this Part shall be drawn up in the language of the requested State. That State may, if it sees fit, attach translations in the language of the requested State.

### PART III

### FINAL PROVISIONS

*Article 44.* 1. Frenchmen in Tunisia and Tunisians in France may, if they see fit, be represented before the ordinary courts by an *avocat* of their own nationality.

2. The *avocat* retained shall be approved by the presiding judge of the court concerned and shall be assisted by an *avocat* member of the bar of the host country.

*Article 45.* This Convention shall apply throughout the territory of the French Republic and throughout the territory of the Republic of Tunisia.

*Article 46.* This Convention shall be ratified. It shall enter into force on the first day of the second month following the exchange of the instruments of ratification, which shall take place at Tunis as soon as practicable.

*Article 47.* 1. This Convention shall be concluded for an indefinite period.

2. It may be denounced at any time by either of the High Contracting Parties, such denunciation to take effect six months from the date on which the notice of denunciation is received by the other State.

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

DONE at Paris, on 28 June 1972 in two copies in the French and Arabic languages, both texts being equally authentic.

For the President of the French Republic:

[Signed]

MAURICE SCHUMANN

For the President of the Republic of Tunisia:

[Signed]

MOHAMED MASMOUDI

#### ADDITIONAL PROTOCOL

At the time of the signature of the Convention between the French Republic and the Republic of Tunisia concerning reciprocal legal assistance in criminal matters and extradition, the undersigned Plenipotentiaries, in exercise of their full powers, found in good and due form, also agreed on the following provision, which is to be considered an integral part of the said Convention.

Experts from the High Contracting Parties may agree to meet, alternately in France and in Tunisia, in order to consider the problems which may arise from the application of the said Convention and to make such suggestions as they deem necessary to their respective Governments for amending or supplementing its provisions.

DONE at Paris, on 28 June 1972.

For the President of the French Republic:

[Signed]

MAURICE SCHUMANN

For the President of the Republic of Tunisia:

[Signed]

MOHAMED MASMOUDI