

**No. 14229**

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**FRANCE  
and  
MADAGASCAR**

**Convention concerning judicial matters (with annexes).  
Signed at Paris on 4 June 1973**

*Authentic text: French.*

*Registered by France on 22 August 1975.*

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**FRANCE  
et  
MADAGASCAR**

**Convention relative aux affaires judiciaires (avec annexes).  
Signée à Paris le 4 juin 1973**

*Texte authentique : français.*

*Enregistré par la France le 22 août 1975.*

[TRANSLATION — TRADUCTION]

JUDICIAL MATTERS  
CONVENTION<sup>1</sup>

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*Article 1.* The two States shall initiate a regular exchange of information concerning judicial organization, legislation and judicial decisions.

*Article 2.* The two States shall endeavour to harmonize their commercial legislation to the extent consistent with any exigencies arising from their special circumstances.

*Article 3.* Save as otherwise provided herein, judicial documents relating to the implementation of the present Convention and the annexes provided for in article 9 below shall be transmitted direct between the Ministers of Justice of the two States.

*Article 4.* The courts of justice of each State shall have exclusive competence to deal with disputes in which the principal issue is that of establishing whether an individual is a national of that State.

*Article 5.* No security or deposit of any kind shall be imposed on nationals of either State in the territory of the other State by reason of their status as aliens or the absence of domicile or residence in that State.

*Article 6.* *Avocats* members of the bar of either State may be authorized to assist or represent parties before all courts of the other State on the same conditions as *avocats* members of the bar of that State, whether in preliminary investigations or during court hearings.

The request for authorization shall be submitted to the *bâtonnier* of the *ordre des avocats* of the competent court.

However, in criminal matters as far as assistance or representation by an *avocat* of the same nationality as the person assisted or represented is concerned, *avocats* members of the bars of either State may, without authorization, assist or represent parties before the courts of the other State on the same conditions as *avocats* members of the bars of that State.

*Avocats* who decide to assist or represent parties before a court of the other State shall, for the purpose of receiving any notification provided for by law, elect as their domicile the office of an *avocat* of that State.

*Article 7.* Nationals of either State shall be entitled to legal aid in the territory of the other State on the same basis as the nationals of that State, provided they comply with the law of the country in which such aid is requested.

Documents certifying inadequacy of means shall be issued to an applicant by the authorities of the applicant's customary place of residence if he is resident in the territory of one of the two States. If the person concerned is resident in a third coun-

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<sup>1</sup> Came into force on 19 March 1975, the date of entry into force of the General Agreement signed at Paris on 4 June 1973 (see p. 261 of this volume).

try, the documents shall be issued by the diplomatic or consular agent of the country of which he is a national.

Information may be obtained from the authorities of the country of which the applicant is a national.

*Article 8.* Any national of either State who is sentenced to imprisonment or a severer penalty may, at the request of either Government, be surrendered to authorities of the State of which he is a national for the purpose of carrying out his sentence. The costs of his transfer shall be borne by the requesting State.

*Article 9.* The rules to be applied by the two States with respect to reciprocal legal assistance, judicial competence, the recognition and execution of decisions and simplified extradition shall be determined in annexes to the present Convention.

DONE at Paris, on 4 June 1973.

For the Government of the French Republic:

[Signed]

JEAN-FRANÇOIS DENIAU

Secretary of State  
to the Minister for Foreign Affairs

For the Government of the Malagasy Republic:

[Signed]

DIDIER RATSIRAKA

Minister for Foreign Affairs  
Commander (Navy)

## A N N E X I

### CONCERNING RECIPROCAL LEGAL ASSISTANCE

#### PART I. TRANSMISSION AND SERVICE OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS

##### *Section I.* JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL, SOCIAL, COMMERCIAL OR ADMINISTRATIVE MATTERS

*Article 1.* Judicial and extrajudicial documents in civil, social, commercial or administrative matters which are to be served on persons resident in the territory of one of the two States shall be sent directly by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State.

The provisions of this article shall be without prejudice to the right of either State to cause judicial and extrajudicial documents addressed to its own nationals to be served direct by its diplomatic or consular agents.

If there is a conflict between the legislation of the two countries, the nationality of the intended recipient shall be determined under the law of the State in which service is to be effected.

*Article 2.* Judicial documents shall be forwarded in duplicate.

The letter of transmission shall be accompanied by a record card summarizing the main contents of the document, which card shall be delivered to the addressee. The information on the card shall relate, *inter alia*, to the particulars of the parties, the type of document, the purpose of the proceedings, where appropriate, the amount in dispute, the date and place for entering, appearance and the time-limits stated in the document.

*Article 3.* The requested authority shall confine itself to having the document served on the recipient who accepts it voluntarily by the most convenient method of delivery, particularly by postal channels.

The requesting authority may, however, ask the requested authority to serve the document or arrange to have it served according to the methods used by the requested State. Such a request shall be complied with to the extent possible.

Proof of service shall consist either of a receipt or acknowledgement of delivery dated and signed by the recipient or of a certificate or report issued by the requested authority confirming that the document has been served and indicating the method and date of service. The document showing proof of service shall be sent direct to the requesting authority together with one of the copies of the document served.

If the intended recipient refuses to accept the document, the requested authority shall return it forthwith to the requesting authority, and shall state the reason why the document could not be served.

*Article 4.* The costs of serving or attempting to serve judicial and extrajudicial documents shall not be reimbursed.

The costs incurred as a result of the employment of a judicial officer shall be defrayed by the authority which requests such employment.

*Article 5.* The preceding provisions shall, in civil, social or commercial matters, be without prejudice to the right of interested parties resident in the territory of one of the two States to arrange to have documents served by competent officials on persons in the territory of the other State.

*Article 6.* If the address of the person on whom the document is to be served is incomplete, the requesting authority shall give such particulars of the person concerned as will enable the requested authority to make inquiries.

*Section II.* JUDICIAL DOCUMENTS, JUDICIAL DECISIONS  
AND APPEARANCE OF WITNESSES IN CRIMINAL MATTERS

*Article 7.* Judicial documents and judicial decisions which are to be notified to persons in the territory of one of the two States shall be sent direct by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State.

*Article 8.* The requested State shall effect the delivery of judicial documents and judicial decisions transmitted to it for that purpose by the requesting State.

Such delivery may be effected by a simple handing over of the document or decision to the intended recipient. At the express instance of the requesting State, the requested State shall effect delivery by a method prescribed, in its legislation for the service of similar documents.

Proof of delivery shall consist either of a receipt dated and signed by the recipient or of a statement issued by the requested authority confirming that delivery has been effected and indicating the method and date thereof. The document showing proof of delivery shall be transmitted forthwith to the requesting State. On the application of the requesting State, the requested State shall indicate whether delivery was effected in accordance with its law. If it was not possible to deliver the document, the requested State shall inform the requesting State forthwith why delivery could not be effected.

A summons to appear in court issued to an accused person must be received by the requested State at least two months before the date set for the appearance of that person.

*Article 9.* No costs shall be reimbursed as a result of carrying out requests for reciprocal assistance under articles 7 and 8 above.

*Article 10.* If, in a criminal case, the personal appearance of a witness is necessary, the requested State in whose territory the witness is resident shall urge him to accept the request which will be made to him. If he does, his travel expenses and subsistence allowance, which shall be calculated from his place of residence, shall be at least equal to those provided for under the scales and regulations in force in the State in which the hearing is to take place; at his request, he shall be advanced all or part of the travel expenses by the consular authorities of the requesting State.

No witness who is summoned in one of the two States and voluntarily appears before the judicial authorities of the other State shall be prosecuted or detained in the latter State by reason of acts committed or a conviction pronounced prior to his departure from the territory of the requested State. This immunity shall cease 30 days after the date on which the testimony has been completed and the witness has been given the opportunity to return.

*Article 11.* Requests for the sending of witnesses being held in custody shall be addressed to the Ministry of Justice of the other State.

Such requests shall be complied with, unless there are special objections, subject to such persons being returned promptly.

The costs incurred as a result of transfers of this type shall be defrayed by the requesting State.

## PART II. TRANSMISSION AND EXECUTION OF LETTERS ROGATORY

### *Section I.* LETTERS ROGATORY IN CIVIL, SOCIAL, COMMERCIAL AND ADMINISTRATIVE MATTERS

*Article 12.* Letters rogatory shall be executed by the judicial authorities.

They shall be transmitted in accordance with the provisions of part I, article 1, above.

The provisions of this article shall be without prejudice to the right of either State to cause letters rogatory concerning the hearing of its nationals in civil, social or commercial matters to be executed directly by its diplomatic or consular agents.

If there is a conflict between the legislation of the two States, the nationality of the person in respect of whom the hearing is requested shall be determined by the legislation of the State in which the letter rogatory is to be executed.

*Article 13.* Persons whose testimony is requested shall be requested to appear by ordinary administrative notice. If they refuse to comply with such requests, the requested authority shall apply the measures of compulsion prescribed in the legislation of the State in which they are due to appear.

*Article 14.* On the express application of the requesting authority, the requested authority shall:

1. execute the letter rogatory by means of a special method, if that method does not conflict with the legislation of the State in which execution is to take place;
2. inform the requesting authority in good time of the date and place of execution of the letter rogatory, so that the parties concerned may be present in accordance with the legislation of the requested State.

### *Section II.* LETTERS ROGATORY IN CRIMINAL MATTERS

*Article 15.* Letters rogatory in criminal matters shall be transmitted in accordance with the provisions of article 7.

In urgent cases, they may be forwarded direct by the judicial authorities of the requesting State to the judicial authorities of the requested State. If the requested authority is not competent to execute the letter rogatory, such authority shall automatically transmit it to the competent authority and promptly inform the requesting authority accordingly. Letters rogatory, together with the documents relating to their execution, shall be returned through the channels provided for in article 7.

The requested State shall, by the methods prescribed by its legislation, execute letters rogatory relating to a criminal case which are forwarded to it by the judicial authorities of the requesting State and whose object is, *inter alia*, to perform acts pertaining to the investigation of the case or to communicate evidence, records or documents.

The requested State may merely transmit certified true copies or photocopies of the records or documents requested. However, if the requesting State expressly asks for communication of the originals, its request shall be complied with to the extent possible.

*Article 16.* The requested State shall, at the express wish of the requesting State, inform the latter in good time of the date and the place of execution of the letter rogatory. The authorities and the persons concerned may be present when the letter rogatory is executed if the requested State gives its assent.

*Article 17.* The requested State may delay the forwarding of articles, records, or documents whose communication is requested if they are required for criminal proceedings in progress.

Both the articles and the originals of the records and documents which have been communicated in execution of a letter rogatory shall be returned as soon as possible by the requesting State to the requested State, unless the latter signifies otherwise.

### Section III. COMMON PROVISIONS

*Article 18.* No costs, with the exception of experts' fees, shall be reimbursed as a result of executing letters rogatory.

### PART III. COURT RECORDS

*Article 19.* The two States shall report to each other all convictions entered in the court records pronounced by the courts of one State against nationals of the other State and against persons born in the territory of the other State.

*Article 20.* In proceedings before a court of one of the two States, the *parquet* of that court may obtain direct from the competent authorities of the other State an extract from the court records relating to the person against whom the proceedings are being taken.

Where, other than in the case of proceedings, the judicial or administrative authorities of one of the two States wish to receive an extract from the court records of the other State, they may obtain it direct from the competent authorities, in the instances and within the limits prescribed in the legislation of that State.

### PART IV. REPORTS WITH A VIEW TO PROSECUTION

*Article 21.* Any report made by one of the two States with a view to prosecution before the courts of the other State shall be the subject of communications between the Ministries of justice.

The requested State shall inform the requesting State of the action taken on the report and shall, if appropriate, transmit a copy of the decision reached.

### PART V. CIVIL REGISTER AND AUTHENTICATION

*Article 22.* The two States shall, at the times specified below, transmit to each other a copy or the original of certificates of civil registration and, in particular, certificates of recog-

dition of natural children, certificates of adoption, marriage certificates, death certificates and certificates of legitimation issued in their territory, as well as extracts of judgements and decisions rendered with respect to divorce, separation, filiation, civil registration and deprivation of legal capacity which concern persons born in the territory of the other State.

The two States shall also transmit to each other extracts of judgements and decisions rendered with respect to divorce and separation which concern persons who were married in the territory of the other State.

Copies and extracts of such documents, certificates, judgements and decisions issued or rendered during the preceding quarter shall be transmitted during the current quarter.

Appropriate particulars from such copies and extracts shall be entered in the margin of the birth or marriage certificates of the persons concerned at the request of the recipient State.

In the event of marriage between a French national and a Malagasy national, the competent civil registrars of the State of residence shall send a copy of the marriage certificate to the competent consul of the other State.

*Article 23.* The competent French and Malagasy authorities shall issue free of charge copies of extracts from the civil register made out in the respective territories of the two States when requested to do so for a duly specified administrative reason or for their indigent nationals.

They shall also issue free of charge copies of extracts from the civil register made out in the respective territories of the two States where such extracts relate to nationals of a third State or to stateless persons and copies of them are requested for a duly specified administrative reason.

Extracts from the civil register made out or transcribed at diplomatic missions and consular posts shall be deemed to be equivalent to extracts from the civil register made out in the respective territories of the two States.

The fact that copies of extracts from the civil register have been issued shall in no way prejudice the question of the nationality of the person concerned in so far as the two States are concerned.

*Article 24.* Requests made by the French authorities and by the Malagasy authorities respectively shall be transmitted to the local Malagasy authorities and to the French authorities by the competent diplomatic missions or consular posts.

Requests shall state briefly the grounds on which they are made.

*Article 25.* Extracts from the civil register, as referred to in articles 23 and 24 above, shall mean:

- birth certificates;
- declarations of still births;
- certificates of recognition of natural children made out by civil registrars or public officials;
- certificates of adoption;
- certificates of legitimation;
- marriage certificates;
- death certificates;
- transcripts of judgements or decisions relating to divorce and separation;
- transcripts of court orders, judgements or decisions in matters relating to the civil register.

*Article 26.* The following documents, made out by the authorities in either State, shall be accepted, without the necessity of authentication, in the respective territories of the French Republic and the Malagasy Republic:

- copies of extracts from the civil register, as enumerated in article 25 above;
- copies of decisions, orders, judgements and other judicial documents of the French and Malagasy courts;
- affidavits, written statements or other judicial documents registered or filed in the said courts;
- notarized documents;
- certified documents;
- certificates of entitlement for annuitants.

The foregoing documents shall bear the signature and the official seal of the authority competent to issue them and, in the case of copies, shall be certified as true copies of the original by the said authority. In all cases, they shall be made out in such a way as to establish their authenticity.

#### PART VI. COMMON PROVISIONS

*Article 27.* Reciprocal legal assistance in civil, social, commercial, criminal and administrative matters may be withheld if the requested State considers that compliance with the request is likely to endanger its sovereignty, its security or its public policy (*ordre public*).

Reciprocal legal assistance in criminal matters shall be withheld if the request relates to offences which the requested State regards as constituting a breach of military obligations.

DONE at Paris, on 4 June 1973.

For the Government of the French Republic:

[Signed]

JEAN-FRANÇOIS DENIAU

Secretary of State  
to the Minister for Foreign Affairs

For the Government of the Malagasy Republic:

[Signed]

DIDIER RATSIRAKA

Minister for Foreign Affairs  
Commander (Navy)

#### A N N E X II

##### CONCERNING JUDICIAL COMPETENCE, AND RECOGNITION AND EXECUTION OF DECISIONS

*Article 1.* In the case of disputes relating to obligations arising from a contract or quasi-contract or a delict or quasi-delict, the rules by which the legislation of either State declares its own courts competent solely by virtue of the nationality of the plaintiff and without any other grounds for competence shall not apply to nationals of the other State in the following cases:

1. where the defendant is domiciled or customarily resident in the State of which he is a national;
  2. where the obligation must be performed in the State of which the defendant is a national.
- This provision shall be automatically applied by the courts of both States.

*Article 2.* In civil, social and commercial matters, decisions in adversary and non-adversary proceedings rendered by all the courts in the territory of the French Republic and in



the territory of the Malagasy Republic shall automatically be recognized in the territory of the other State provided they satisfy the following conditions:

- (a) the decision was rendered by a court which is internationally competent under article 11 of the present annex; when appraising such competence the requested authority shall be bound by the statements of fact on which the court has based its competence except in the case of a decision by default;
- (b) under the law of the State in which it was rendered the decision is no longer subject to ordinary appeal or appeal to the Court of Cassation;
- (c) the parties have been duly summoned, represented or declared in default;
- (d) the decision contains nothing contrary to the public policy of the State in which it is invoked;
- (e) no dispute between the same parties based on the same facts and having the same object:
  - is awaiting a decision by a court of the requested State, or
  - has given rise to a decision rendered in the requested State, or
  - has given rise to a decision rendered in another State and satisfying the requirements for its recognition in the requested State.

Recognition or execution cannot be refused on the sole ground that the court of origin has enforced a law other than the one which would have been enforced under the rules of private international law of the requested State, save with regard to personal status or legal capacity. In the latter cases, recognition or execution cannot be refused if enforcement of the law designated by these rules would have achieved the same result.

*Article 3.* None of the decisions recognized in accordance with the preceding article and enforceable in the State of origin may be enforced by the authorities of the other State or be the subject of a formal procedure initiated by those authorities, such as the making of entries or corrections in the civil registers, until it has been declared enforceable in the latter State.

However, foreign judgements relating to personal status may be entered in the civil registers without proceedings for a grant of execution, provided there is no conflict with the law of the State in which the registers are kept.

*Article 4.* Execution shall, irrespective of the value in dispute, be granted by the president of the *tribunal de grande instance* or *tribunal de première instance* at the place where the decision is to be executed.

The president shall consider the case and make his ruling in the manner prescribed for summary proceedings (*référé*s).

*Article 5.* A party who has been awarded legal assistance in the State of origin shall receive such assistance without further examination, within the limits prescribed by the legislation of the requested State, with respect both to documents and proceedings relating to the recognition and enforceability of the decision and to documents and proceedings relating to the execution of the decision.

*Article 6.* The president shall confine himself to establishing whether the decision for which a grant of execution is requested satisfies the conditions laid down in article 2.

He shall automatically proceed with such an examination and report the outcome in his ruling.

He shall, where necessary, order the requisite measures to ensure that the decision for which execution is requested is publicized in the same way as if it has been rendered in the State in which it is declared enforceable.

Execution may be granted for only part of the decision invoked.

*Article 7.* The ruling granting execution shall be binding on all parties concerned and throughout the territory to which the present annex applies.

The ruling granting execution shall, as from the date on which the grant of execution is obtained, make it possible for the decision which has been rendered enforceable to have, in so far as enforcement measures are concerned, the same effect as if it had been rendered by the court which has granted execution on the date on which execution was granted.

*Article 8.* The party to the proceedings which invokes the authority of a judicial decision or requests execution thereof shall produce:

- (a) a duly certified copy of the decision;
- (b) the original of the certificate of service of the decision or of any other equivalent document;
- (c) a certificate of the competent clerk of the court establishing that there is no objection to or appeal against the decision;
- (d) where applicable, a copy of the summons served on the defaulting party, certified as a true copy by the clerk of the court which rendered the decision.

*Article 9.* Arbitral awards rendered in either State shall be recognized and enforced in the other State in accordance with the provisions of the New York Convention of 10 June 1958<sup>1</sup> on the Recognition and Enforcement of Foreign Arbitral Awards.

*Article 10.* Legal instruments, including notarized documents and authenticated documents, which are enforceable in either State shall be declared enforceable in the other State by the competent authority in accordance with the law of the State in which execution is to take place.

The said authority shall merely ascertain whether the instruments meet the requirements for authenticity in the State in which they have been received and whether enforcement of their provisions is contrary to the public policy of the State where execution is requested or to the principles of public law applicable in that State.

*Article 11.* The following shall be considered competent, within the meaning of article 2 (a) above, to deal with litigation:

- in matters of personal status and in personal and movable property matters: the courts of the State in which the defendant is domiciled or customarily resident;
- in matters of contracts: the court which the two parties have duly agreed to recognize, expressly and separately, for each contract; in the absence of such recognition, the courts of the State in which the contract was concluded and, in commercial and social matters, of the State in which the contract is to be performed;
- in matters of delicts or quasi-delicts: the courts of the State in which the tort occurred;
- in matters of alimony: the courts of the State in which the plaintiff has his domicile or is normally resident;
- in matters of succession: the courts of the State in which the succession is contested;
- in matters of immovable property: the courts of the State in which the immovable property is situated.

<sup>1</sup> United Nations, *Treaty Series*, vol. 330, p. 3.

DONE at Paris, on 4 June 1973.

For the Government of the French Republic:

[Signed]

JEAN-FRANÇOIS DENIAU

Secretary of State  
to the Minister for Foreign Affairs

For the Government of the Malagasy Republic:

[Signed]

DIDIER RATSIRAKA

Minister for Foreign Affairs  
Commander (Navy)

### A N N E X III

#### CONCERNING SIMPLIFIED EXTRADITION

*Article 1.* The two States undertake to surrender to each other, in accordance with the rules and conditions laid down in the present annex, 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 2.* The two States 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.

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. The requesting State shall be informed of the action taken on its request.

*Article 3.* The following shall be subject to extradition:

1. persons against whom proceedings are being taken for crimes or offences punishable under the legislation of both States by at least one year's deprivation of liberty;
2. persons who, for crimes or offences punishable under the legislation of the requested State, are sentenced *audiatur et altera pars* or in default by the courts of the requesting State to at least two months' deprivation of liberty.

*Article 4.* Extradition may be refused 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.

*Article 5.* Extradition shall be granted on the conditions laid down in the present annex in matters relating to taxes, duties, customs and foreign exchange only when so decided by a simple exchange of letters for each specifically named offence or category of offences.

*Article 6.* Extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested State as consisting solely of a breach of military obligations.

*Article 7.* Extradition shall be refused:

- (a) if final judgement on the offences has been rendered in the requested State;
- (b) 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;
- (c) if the offences were committed wholly or in part inside the territory of the requested State;
- (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.

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 8.* The request for extradition shall be addressed direct to the Minister of Justice of the requested State by the Minister of Justice of the requesting State.

It shall be accompanied by the original or a certified copy of an enforceable 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.

The acts in respect of which extradition is requested, the time, place and circumstances of their commission, their designation and references to the legal provisions applicable thereto shall be stated as accurately as possible. A copy of such provisions and, so far as possible, a description of the person sought and any information which will help to establish his identity and nationality shall also be enclosed.

*Article 9.* In urgent cases, if the competent authorities of the requesting State so request, a provisional arrest shall be made pending receipt of the request for extradition and the documents referred to in the second and third paragraphs of article 8.

A request for provisional arrest shall be transmitted to the competent authorities of the requested State either direct by post or telegraph or by any other means constituting a written record.

It shall indicate that one of the documents specified in the second paragraph of article 8 exists and that it is intended to send a request for extradition. It shall state the offence in respect of which extradition is requested and when and where the offence was committed and shall give a description of the person sought. The requesting authority shall be informed without delay of the action taken on its request.

*Article 10.* Provisional arrest may be terminated if, within a period of 20 days after the arrest, the requested authority has not received any of the documents mentioned in the second paragraph of article 8.

Release shall not preclude recourse to the extradition procedure laid down in this annex if a request for extradition is received subsequently.

However, the provisions of the preceding paragraph shall not deter the courts of the requested State from ordering provisional release at any time, subject to their taking such steps as they may deem necessary in order to prevent the person sought from absconding.

*Article 11.* Within 24 hours of receipt of the documents produced in support of the request for extradition, the officer of the competent *Ministère public* shall notify the person concerned of the provision under which he has been arrested.

*Article 12.* Within a maximum of eight days from such notification, the person concerned shall appear before the court. There shall be an examination of which a record shall be made. The hearing shall be public. The *Ministère public* and the person concerned shall be heard. The latter may be assisted by counsel and by an interpreter. He may be conditionally released at any time during the proceedings.

*Article 13.* If, during his hearing, the person concerned waives the benefit of the provisions of the present annex and expressly consents to be surrendered to the authorities of the requesting State, the court shall duly record his statement to that effect.

The officer of the competent *parquet* shall then take such steps as are required to ensure that the person concerned is surrendered to the authorities of the requesting State as soon as possible.

*Article 14.* Otherwise, the court shall render an opinion on the request for extradition, stating its grounds. This opinion shall be unfavourable if the court considers that the legal conditions have not been fulfilled or if there is an obvious error.

The file shall be transmitted to the Ministry of Justice within eight days from the expiration of the time-limit specified in article 12.

*Article 15.* After taking note of the court's opinion, the Minister of Justice shall decide whether or not to surrender the person concerned to the authorities of the requesting State. Should he decide to do so, he shall issue an order authorizing extradition.

*Article 16.* When supplementary information is essential to the authorities of the requested State in order to ensure that the conditions laid down in the present annex are fulfilled, those authorities, if they believe that the omission can be rectified, shall advise the authorities of the requesting State before they reject the request. A time-limit may be set by the authorities of the requested State for the receipt of such information.

*Article 17.* 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 seriousness and the place of commission of the offences.

*Article 18.* When there are grounds for extradition, any articles which may serve as evidence or are associated with the offence and were found in the possession of the person sought at the time of his arrest or were discovered subsequently shall, at the instance of the authorities of the requesting State, be confiscated and handed over to those authorities.

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

However, any rights which 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 requesting State.

The authorities of the requested State may keep the confiscated articles temporarily, if they consider that course necessary for the purposes of criminal proceedings.

When transmitting the articles, they may reserve the right to request their return for the same reason, while undertaking to send them back as soon as possible.

*Article 19.* The requested State shall inform the requesting State of its decision with regard to extradition.

Reasons shall be given for any complete or partial rejection.

If the request is agreed to, the requesting State shall be informed of the date and place of surrender.

Except as provided for in the last paragraph of this article, the requesting State shall have its agents accept the person to be extradited within a period of one month from the date determined in accordance with the third paragraph of this article. Once that period has expired, the person in question shall be released and cannot be claimed again for the same offence.

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

*Article 20.* If the person sought is the subject for 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. If the request is agreed to, however, the surrender of the person concerned shall be deferred until requirements of justice have been satisfied in the requested State.

Surrender shall take place in accordance with the provisions of article 19.

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

*Article 21.* 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 in respect of any offence committed prior to his surrender other than that which has given rise to the extradition, except in the following cases:

1. 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 this final release or has returned to that territory after leaving it;
2. when the State which has surrendered him consents.

A request for consent shall be submitted, accompanied by the documents specified in the second paragraph of article 8 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.

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

*Article 22.* Except in cases where the person concerned has remained in or has returned to the territory of the requesting State under the conditions laid down in the preceding article, the consent of the requesting State shall be required for the handing over by the requesting State to a third State of the person surrendered to it.

*Article 23.* Extradition involving transit through the territory of one of the States of a person surrendered to the other State shall be granted on an application submitted by the requesting State. 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 3 relating to the length of sentences shall be disregarded.

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

1. When a stop-over is scheduled, the requesting State shall submit an application for the transit of the person concerned to the State in whose territory the stop-over is to take place.

When the requested State of transit has also requested extradition of the person concerned, transit may be interrupted until such time as he has fulfilled the requirements of justice in that State.

2. When no stop-over 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 listed in the second paragraph of article 8 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 9, and the requesting State shall submit an application for transit on the conditions laid down in paragraph 1 of this article.

*Article 24.* Costs incurred as a result of the extradition in the territory of the requested State shall be borne by that State.

Nevertheless, the cost of transfer by air transport at the instance of the requesting State shall be borne by that State.

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

DONE at Paris, on 4 June 1973.

For the Government of the French Republic:

[Signed]

JEAN-FRANÇOIS DENIAU

Secretary of State  
to the Minister for Foreign Affairs

For the Government of the Malagasy Republic:

[Signed]

DIDIER RATSIRAKA

Minister for Foreign Affairs  
Commander (Navy)

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