

No. 14542

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**FEDERAL REPUBLIC OF GERMANY  
and  
YUGOSLAVIA**

**Extradition Treaty. Signed at Belgrade on 26 November  
1970**

*Authentic texts: German and Serbo-Croatian.*

*Registered by the Federal Republic of Germany on 16 January 1976.*

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE  
et  
YOUGOSLAVIE**

**Accord d'extradition. Signé à Belgrade le 26 novembre 1970**

*Textes authentiques : allemand et serbo-croate.*

*Enregistré par la République fédérale d'Allemagne le 16 janvier 1976.*

[TRANSLATION — TRADUCTION]

EXTRADITION TREATY<sup>1</sup> BETWEEN THE FEDERAL REPUBLIC OF  
GERMANY AND THE SOCIALIST FEDERAL REPUBLIC OF  
YUGOSLAVIA

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The Federal Republic of Germany and the Socialist Federal Republic of Yugoslavia,

Desiring to develop further and strengthen the relations existing between the two States and, in particular, to regulate and thereby facilitate intercourse between the two States in respect of extradition,

Have agreed as follows:

*Article 1. OBLIGATION TO EXTRADITE*

(1) The Contracting Parties undertake to surrender to each other, upon request and subject to the provisions and conditions hereinafter laid down, persons against whom the judicial authorities of the requesting State are proceeding for an offence or who are wanted by the said authorities for the carrying out of a sentence or a preventive and correctional detention order which has become final.

(2) In the case of persons who at the time of the offence had not attained the age of 18 years and at the time of submission of the request have not attained the age of 21 years and who have their habitual abode in the territory of the requested State, the judicial authorities shall consider whether extradition would jeopardize their development or rehabilitation and should therefore not be carried out. In such a case, the competent judicial authorities of the two States shall communicate directly with a view to agreeing on the requisite measures. If the judicial authorities of the two States fail to reach agreement, the requested State may not refuse extradition on this ground.

*Article 2. EXTRADITABLE OFFENCES*

(1) Extradition shall be granted only in respect of offences punishable under the laws of both the requesting State and the requested State by deprivation of liberty for a maximum period of at least one year or by a more severe penalty.

(2) Where a final sentence of deprivation of liberty has been pronounced in the territory of the requesting State for an offence referred to in paragraph 1, extradition shall be granted only if the sentence imposed or the part of the term remaining to be served amounts to at least four months. Where extradition is requested for the carrying out of a preventive and correctional detention order entailing deprivation of liberty, it shall be granted if the term of detention still to be served could, under the law of the requesting country, amount to at least four months. Extradition shall also be granted where, in the case of several sentences of preventive and correctional detention orders, the sum of the terms to be served amounts to at least four months.

(3) Where extradition is granted in accordance with paragraph 1 or paragraph 2, it shall also be granted, at the same time or subsequently, for offences which are not

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<sup>1</sup> Came into force on 14 November 1975, i.e., 30 days after the date of the exchange of the instruments of ratification, which took place at Bonn on 15 October 1975, in accordance with article 40 (1) and (2).

extraditable in accordance with those paragraphs, provided that such offences are punishable under the laws of both States.

### *Article 3. POLITICAL OFFENCES*

(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) The following shall not be deemed to be a political offence or an offence connected with a political offence for the purposes of paragraph 1:

- (a) the wilful taking of life, including attempt or complicity, unless the act was committed in open combat;
- (b) an offence for which the Contracting Parties are obliged under international conventions to institute proceedings.

In such cases, there shall be an obligation to extradite in accordance with article 1, paragraph 1.

### *Article 4. MILITARY OFFENCES*

Extradition shall not be granted if the offence in respect of which extradition is requested consists solely of a violation of military obligations.

### *Article 5. FISCAL OFFENCES*

Extradition shall be granted, in accordance with the provisions of this Treaty, for offences in connexion with taxes, customs, exchange and other fiscal matters, in so far as it has been so agreed by an exchange of notes with respect to individual, specifically defined offences.

### *Article 6. NON-EXTRADITION ON CONSTITUTIONAL GROUNDS*

(1) The requested State shall not extradite persons whose extradition it does not consider permissible under its Constitution.

(2) The requested State shall refuse to confer nationality on a person whose extradition is requested by the other State, unless that person has a legal claim to naturalization.

### *Article 7. "NON BIS IN IDEM"*

(1) Extradition shall not be granted if final judgement has already been passed in the requested State upon the person claimed in respect of the offence for which extradition is requested.

(2) Extradition shall likewise not be granted if final judgement has already been passed in a third State upon the person claimed in respect of the offence for which extradition is requested and he has served the sentence or the term of the preventive and correctional detention order or has, according to the law of that State, become immune by reason of lapse of time from the carrying out of the sentence or detention order.

### *Article 8. LAPSE OF TIME*

(1) Extradition shall not be granted if, at the time of receipt of the request by the requested State, the person claimed has, according to the law of the requesting State, become immune by reason of lapse of time from prosecution or punishment.

(2) Extradition shall likewise not be granted if the requested State would itself have been entitled to institute proceedings in respect of the offence for which

extradition is requested but, at the time of receipt of the request, the person claimed has, according to its law, become immune by reason of lapse of time from such proceedings.

*Article 9. PLACE OF COMMISSION*

Extradition may be refused if the offence in respect of which extradition is requested is regarded by the law of the requested State as having been committed in its territory or in a place treated as its territory.

*Article 10. JURISDICTION OF THE REQUESTED STATE*

(1) Extradition may be refused:

- (a) if the person claimed is already being proceeded against by the requested State in respect of the same offence for which extradition is requested;
- (b) if the competent authorities of the requested State have decided either not to institute or to terminate proceedings in respect of the same offence for which extradition is requested.

(2) The provisions of paragraph 1 shall not apply:

- (a) if the offence for which extradition is requested was committed in the territory of the requesting State solely to the detriment of that State or one of its nationals;
- (b) if the person claimed is being extradited for another offence and the requested State considers that, in the interest of ascertaining the truth or for the purposes of the award or carrying out of the penalty, it is expedient that he should be tried in the requesting State for all offences;
- (c) if the person claimed has been acquitted in the requested State solely for lack of jurisdiction or if, solely for that reason, proceedings either have not been instituted against him or have been terminated.

(3) If the requested State has, for lack of sufficient evidence, either refrained from instituting or terminated proceedings, extradition may be granted if the requesting State is in possession of new evidence incriminating the person claimed.

*Article 11. AMNESTY*

An amnesty proclaimed in the requested State shall not preclude extradition unless that State would itself have been entitled to institute proceedings in respect of the offence for which extradition is requested.

*Article 12. APPLICATION OR AUTHORIZATION  
FOR THE INSTITUTION OF PROCEEDINGS*

The obligation to extradite shall not be affected by the absence of any application or authorization by the injured party for the institution of proceedings which is required only under the law of the requested State.

*Article 13. CAPITAL PUNISHMENT*

If the offence for which extradition is requested is punishable by death under the law of the requesting State, and if in respect of such offence the death-penalty is not provided for by the law of the requested State, extradition shall be granted only on condition that the death-penalty is not imposed or carried out.

*Article 14. SPECIAL COURTS*

(1) A person who has been extradited shall not be brought before a special court in the territory of the requesting State.

(2) Extradition shall not be granted for the carrying out of a sentence imposed or a preventive and correctional detention order made by a special court.

*Article 15. MEANS OF COMMUNICATION*

Without prejudice to the diplomatic channel, and unless otherwise provided in this Treaty, communication in writing shall take place between the Federal Minister of Justice of the Federal Republic of Germany and the Federal Council for Justice of the Socialist Federal Republic of Yugoslavia.

*Article 16. THE REQUEST AND SUPPORTING DOCUMENTS*

(1) The request shall be in writing.

(2) The request shall be supported by:

- (a) the original or an authenticated copy of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of the requesting State, or of the conviction and sentence or detention order immediately enforceable;
- (b) unless contained in the supporting documents referred to in subparagraph (a), a statement of the offence for which extradition is requested, the time and place of its commission, its legal description, a reference to the relevant legal provisions and the nature and, so far as possible, the extent of the damage done by the offence shall be set out as accurately as possible;
- (c) a copy of the relevant enactments and as accurate a description as possible of the person claimed, together with any other information which will help to establish his identity and nationality.

(3) In the cases referred to in article 2, paragraph 3:

- (a) in lieu of a warrant of arrest or order having the same effect, it shall be sufficient to provide a document signed by a judge or State counsel justifying the suspicion that the person whose extradition is requested committed the offence;
- (b) an enforceable decision by an administrative authority imposing a fine shall be assimilated to a conviction and sentence immediately enforceable.

*Article 17. SUPPLEMENTARY INFORMATION*

If the information communicated by the requesting State is found to be insufficient to allow the requested State to make a decision in pursuance of this Treaty, the latter State shall request the necessary supplementary information; it may fix a time-limit for the receipt thereof and, upon application by the requesting State indicating valid grounds, may extend the time-limit for a reasonable period.

*Article 18. PROVISIONAL ARREST WITH A VIEW TO EXTRADITION*

(1) In case of urgency the judicial authorities of the requesting State may request the provisional arrest of the person sought. The competent authorities of the requested State shall decide the matter in accordance with its law.

(2) The request for provisional arrest shall state that one of the documents mentioned in article 16, paragraph 2 (a), exists and that it is intended to send a request for extradition; it shall also state for what offence extradition will be requested, what penalty is prescribed for the offence or is to be carried out and when and where such offence was committed, and shall so far as possible give a description of the person sought.

(3) Without prejudice to the diplomatic channel, a request for provisional arrest shall be sent to the competent authorities of the requested State either direct by post or telegraph or through the International Criminal Police Organization (INTERPOL). The requesting authority shall be informed without delay of the result of its request.

(4) Provisional arrest may be terminated if, within a period of 30 days after arrest, the requested State has not received the request for extradition and the documents mentioned in article 16; it shall not, in any event, exceed 45 days from the date of such arrest. The possibility of provisional release at any time is not excluded, but the requested State shall take any measures which it considers necessary to prevent the escape of the person sought.

(5) Release shall not prejudice re-arrest and extradition if a request for extradition is received subsequently.

#### *Article 19. ARREST WITHOUT A REQUEST FROM A CONTRACTING PARTY*

(1) If a person is arrested by a competent authority of one Contracting Party on strong suspicion of having committed an offence which may render him liable to extradition to the other Contracting Party, the authority in question shall notify the latter Contracting Party direct, by the speediest means, indicating the date of arrest and the place of detention.

(2) The Contracting Party in whose behalf the arrest was made shall inform the other Contracting Party without delay whether or not it will submit a formal request for extradition. If no reply is forthcoming within a period of 15 days or a negative reply is received, the arrest solely in behalf of the other Contracting Party shall be terminated without delay. A request for extradition must be submitted within the period specified in article 18, paragraph 4.

#### *Article 20. PREPARATIONS FOR EXTRADITION*

Upon receipt of a request for extradition, the requested State shall, unless extradition appears from the outset to be impermissible, take all necessary measures for the conduct of extradition proceedings. If necessary, the person claimed shall be detained, particularly if there is reason to suspect that he will evade the extradition proceedings or extradition.

#### *Article 21. EXTRADITION REQUESTS FROM MORE THAN ONE STATE*

(1) If extradition is requested by more than one State, either for the same offence or for different offences, the requested State shall make its decision having regard to all the circumstances and especially the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality of the person claimed and the possibility of subsequent extradition to another State.

(2) If one Contracting State and a third State submit requests for extradition concurrently to the other Contracting State and precedence is accorded to one of the requests, the requested State shall, when signifying its decision with regard to the request for extradition, inform the requesting State whether it consents, should the occasion arise, to the re-extradition of the person claimed from the State to which he is extradited to the other requesting State.

#### *Article 22. THE DECISION*

(1) The requested State shall inform the requesting State as soon as possible of its decision with regard to the request for extradition.

(2) Reasons shall be given for any complete or partial rejection of the request for extradition.

*Article 23. SURRENDER OF THE PERSON CLAIMED*

(1) If extradition is granted, the requesting State shall be informed of the place and time of surrender and of the length of time for which the person claimed was detained with a view to surrender.

(2) Subject to the provisions of paragraph 3, if after the expiry of 15 days from the appointed date of surrender the person claimed has not been taken over, he may be released. He shall in any case be released after the expiry of 30 days; the requested State may then refuse to extradite him for the same offence.

(3) If exceptional circumstances prevent a State from surrendering or taking over the person claimed, it shall notify the other State before the expiry of the time-limit. The two States shall agree upon a new date for surrender.

*Article 24. POSTPONED OR CONDITIONAL SURRENDER*

(1) The requested State may, after granting extradition, postpone the surrender of the person claimed if he is being proceeded against or has been convicted in that State in respect of an offence other than that for which extradition is requested until the proceedings are completed or until he has served his sentence or the term of the preventive and correctional detention order.

(2) If surrender is postponed, the requested State may comply with a request from the requesting State for the temporary surrender to the latter State of the person claimed in order that certain judicial proceedings, particularly the trial, may be carried out. The requesting State shall return the person claimed, irrespective of his nationality, immediately after the completion of such proceedings or upon request by the requested State.

(3) The requesting State shall hold the person claimed in detention for the duration of his presence in its territory. The length of time for which the person claimed is detained between his departure from the territory of the requested State and his return to that territory shall be deducted from any sentence subsequently imposed or remaining to be served in the requested State, unless otherwise agreed for special reasons in individual cases.

*Article 25. RULE OF SPECIALITY*

(1) A person who has been extradited shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or a preventive and correctional detention order for any offence committed prior to his surrender other than that for which he was extradited, nor shall he be for any other reason restricted in his personal freedom except in the following cases:

- (a) when the State which surrendered him consents. A request for consent shall be submitted, accompanied by the documents mentioned in article 16 and a legal record of any statement made by the extradited person in respect of the offence concerned. Consent shall be given when the offence for which it is requested is itself subject to extradition in accordance with the provisions of this Treaty;
- (b) when that person, having had an opportunity to leave the territory of the State to which he has been surrendered, has not done so within 45 days of his final discharge, or has returned to that territory after leaving it.

(2) Notwithstanding any domestic provisions of the requesting State to the contrary, the person extradited shall be allowed to leave the territory of that State

within the period specified in paragraph 1 (b) unless he has committed a further offence subsequent to his surrender. In such a case, the requesting State shall notify the requested State of the institution of further proceedings.

(3) If the person extradited has not yet performed his statutorily required general military service and is called up for such military service immediately after the completion of the proceedings in respect of the offence for which he was extradited or after serving the sentence imposed on him for that offence, the period mentioned in paragraph 1 (b) and paragraph 2 shall begin to run only upon the completion of such military service.

*Article 26. ALTERATION OF THE LEGAL DESCRIPTION  
OF THE OFFENCE*

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

- (a) where the constituent elements of the offence remain the same, it is under its new description an offence which would allow extradition;
- (b) where the constituent elements of the offence are altered, the legal description of those elements shows an offence which, as regards the nature or extent of the penalty which may be imposed, is equally or less serious, and such offence would have been extraditable in itself or, in accordance with article 2, paragraph 3, in addition to an extraditable offence. If the legal description of those elements shows an offence which is more serious as regards the nature or extent of the penalty which may be imposed, then any sentence in respect of such offence shall require consent in accordance with article 25, paragraph 1 (a).

*Article 27. RE-EXTRADITION TO A THIRD STATE*

(1) Except as provided for in article 25, paragraph 1 (b), the requesting State shall not, without the consent of the requested State, re-extradite to a third State a person surrendered to the requesting State and sought by the said third State in respect of an offence committed before his surrender.

(2) Any request for consent to re-extradition to a third State shall be accompanied by authenticated copies of the documents mentioned in article 16, paragraph 2, submitted by the third State in support of its request for extradition.

*Article 28. NOTIFICATION OF THE OUTCOME OF THE PROCEEDINGS*

The requesting State shall notify the requested State, upon request, of the result of the proceedings against the extradited person and communicate to it a copy of the final judgement or decision.

*Article 29. HANDING OVER OF PROPERTY*

(1) When extradition is granted, the requested State shall, even in the absence of a special request, seize and hand over to the requesting State, if possible at the same time as the person claimed, all property which may be required as evidence or which has been acquired as a result of an offence or in exchange for property so acquired and, at the time of the arrest, is found in the possession of the person claimed or is discovered subsequently.

(2) The property mentioned in paragraph 1 shall be handed over even if extradition cannot be carried out owing to the death or escape of the person claimed.



(3) When the said property is liable to seizure or confiscation in the territory of the requested State, the latter may, in connexion with pending criminal proceedings, temporarily retain it or hand it over on condition that it is returned.

(4) Any rights which the requested State or third parties may have acquired in the said property shall be preserved. Where these rights exist, the property shall be returned without charge to the requested State as soon as possible after the completion of the proceedings, unless that State waives the return thereof.

(5) In the case referred to in paragraph 1, the requested State shall, when giving notification of the seizure of property, indicate whether the person claimed agrees that it shall be returned directly to the injured party. The requesting State shall inform the requested State as soon as possible whether the handing over of the property is waived on the express condition that it is delivered, on presentation of a release issued by a specified prosecuting authority, to the owner or other party having rights in the property or to an authorized representative of such owner or party.

#### *Article 30. RENEWED REQUEST FOR EXTRADITION*

If a person who has been extradited evades prosecution or the carrying out of a sentence in the requesting State and returns to the territory of the requested State, it shall be sufficient to refer in the new request for extradition to the supporting documents already forwarded in accordance with article 16, paragraph 2.

#### *Article 31. TRANSIT*

(1) Transit through the territory of one of the Contracting Parties shall be granted, having regard to the provisions applicable to extradition, on submission of a request. The conditions specified in article 2, paragraphs 1 and 2, need not, however, be fulfilled.

(2) The State requested to grant transit shall hold the person claimed in detention for the duration of his transit.

(3) During transit, the State requested to grant transit shall not, without the consent of the extraditing State, order in respect of offences committed prior to transit the prosecution of, or the execution of a judgement against, a person who is to be surrendered by the other State to a third State.

#### *Article 32. CONVEYANCE BY AIR TRANSPORT*

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

(a) When it is not intended to land, the requesting State shall notify the Contracting State over whose territory the flight is to be made and shall certify that one of the documents mentioned in article 16, paragraph 2 (a), exists. The requesting State shall also indicate that, according to the facts known to it and the documents available, the person concerned neither possesses nor claims the nationality of the Contracting State over whose territory the flight is to be made and that the offence for which he is being extradited is not a political or military offence within the meaning of articles 3 and 4. In the case of an unscheduled landing, such notification shall have the effect of a request for provisional arrest as provided for in article 18; in such a case, the requesting State shall submit a formal request for transit.

(b) If it is intended to land, the requesting State shall submit a request in accordance with article 31.

(2) During transit by air, the person claimed may be escorted by foreign officers. In the case of a landing in the territory of the requested State, the authorities

of that State shall take the necessary measures. The foreign officers shall be entitled to maintain measures of constraint pending the arrival of officers of the requested State.

*Article 33. PROCEDURE*

Except where this Treaty otherwise provides, the procedure with regard to extradition and provisional arrest shall be governed solely by the law of the requested State.

*Article 34. LANGUAGE TO BE USED*

The authorities of the two Contracting Parties shall draw up their requests and all other papers in their official language. They shall be accompanied by an authenticated translation in an official language of the other Contracting Party. For the purposes of this Treaty, official languages are, in the case of the Federal Republic of Germany, German, and, in the case of the Socialist Federal Republic of Yugoslavia, Serbo-Croatian or Croato-Serbian, Slovene and Macedonian.

*Article 35. LEGALIZATION*

Documents and papers communicated pursuant to this Treaty shall not require legalization.

*Article 36. EXPENSES*

(1) Expenses incurred in the territory of the requested State by reason of extradition or temporary surrender shall be borne by that State. If extradition is carried out by aircraft, the costs of the flight shall be borne by the requesting State.

(2) Expenses incurred by reason of transit through the territory of the requested State shall be borne by the requesting State.

*Article 37. DEFINITION*

For the purposes of this Treaty, the expression "preventive and correctional detention order" means any order involving deprivation of liberty which has been made by a criminal court.

*Article 38. SCOPE OF APPLICATION*

This Treaty shall also apply to *Land Berlin* provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Socialist Federal Republic of Yugoslavia within three months from the date of entry into force of this Treaty.

*Article 39. ARBITRAL TRIBUNAL*

(1) In order to resolve any difficulties arising in the interpretation or application of this Treaty, the Contracting Parties may, by direct agreement, arrange meetings between representatives of their Governments.

(2) If no agreement is reached on the interpretation of the Treaty, each of the Contracting Parties shall appoint an arbitrator.

(3) If the two arbitrators fail to reach an agreement, they shall choose a third arbitrator, who, if the votes are equally divided, shall have a casting-vote.

(4) If no agreement is reached on the choice of the third arbitrator, he may be appointed by the President of the International Court of Justice.

*Article 40.* RATIFICATION; ENTRY INTO FORCE; DENUNCIATION

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

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

(3) Upon the entry into force of this Treaty, all agreements on the same subject concluded between the Contracting Parties shall cease to have effect.

(4) The Treaty shall remain in force until the expiry of one year from the date on which it is denounced by one of the Contracting Parties.

DONE at Belgrade on 26 November 1970 in two original copies, each in the German and Serbo-Croatian languages, both texts being equally authentic.

For the Federal Republic of Germany:

WALTER SCHEEL

For the Socialist Federal Republic of Yugoslavia:

M. TEPAVAC

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