

No. 15732

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**FEDERAL REPUBLIC OF GERMANY  
and  
SWITZERLAND**

**Agreement to supplement the European Convention on  
Extradition of 13 December 1957 and to facilitate its  
application. Signed at Bonn on 13 November 1969**

*Authentic text: German.*

*Registered by the Federal Republic of Germany on 16 June 1977.*

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE  
et  
SUISSE**

**Accord visant à compléter la Convention européenne  
d'extradition du 13 décembre 1957 et à faciliter son  
application. Signé à Bonn le 13 novembre 1969**

*Texte authentique : allemand.*

*Enregistré par la République fédérale d'Allemagne le 16 juin 1977.*

[TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE FEDERAL REPUBLIC OF GERMANY  
AND THE SWISS CONFEDERATION TO SUPPLEMENT THE  
EUROPEAN CONVENTION ON EXTRADITION OF 13 DECEMBER  
1957<sup>2</sup> AND TO FACILITATE ITS APPLICATION

The President of the Federal Republic of Germany and the Swiss Federal Council,

Desiring to facilitate the application of the European Convention on Extradition<sup>2</sup> with respect to the relations between the Federal Republic of Germany and the Swiss Confederation and to supplement the regulation of extradition provided for in that Convention,

Have resolved to conclude an Agreement and have for that purpose appointed as their plenipotentiaries:

The President of the Federal Republic of Germany: Mr. Georg Ferdinand Duckwitz, State Secretary, Ministry of Foreign Affairs, and Dr. Hermann Maassen, State Secretary, Federal Ministry of Justice;

The Swiss Federal Council: His Excellency the Swiss Ambassador, Dr. Hans Lacher.

The plenipotentiaries, having exchanged their full powers, found in good and due form, have agreed on the following provisions:

*Article I*

(*Ad* article 1 of the European Convention on Extradition, hereinafter referred to as “the Convention”)

(1) If, under the law of one or both States, decisions revoking conditional discharge or ordering the further carrying out of a sentence or detention and correctional measure (detention order) are taken by an administrative authority, such decisions shall, for the purposes of article 1 of the Convention, be assimilated to revocation or ordering of execution by a competent authority.

(2) In the case of minors who at the time of the offence have not yet completed their eighteenth year and are normally resident in the territory of the requested State, the judicial authorities shall verify whether extradition would jeopardize the development or social rehabilitation of the minor and should therefore be excluded. In the event of such exclusion, the competent authorities of the two States shall agree on the necessary measures.

*Article II*

(*Ad* article 2 of the Convention)

(1) Extradition shall also be granted where the term of sentence or detention and reform measure (detention order) is still to be carried out or, if there is more than one sentence or detention and reform measure still to be carried out, the sum of the terms thereof amounts to at least three months.

<sup>1</sup> Came into force on 1 January 1977, the date when the European Convention of 13 December 1957 came into force between the two Parties, in accordance with article XIV (2). (The exchange of the instruments of ratification took place at Berne on 22 March 1976.)

<sup>2</sup> United Nations, *Treaty Series*, vol. 359, p. 273.

(2) For the purposes of article 2, paragraph 2, of the Convention, extradition shall also be granted in respect of offences for which it would otherwise not be admissible under the law of one or both States, in particular where the offences are punishable only by a fine or amercement. For the purposes of this paragraph, extradition shall be admissible only as a supplement to extradition under article 2, paragraph 1, of the Convention and may be granted concurrently with it or subsequently. Articles 3 to 5 of the Convention shall not be affected.

(3) A final decision of a judicial or administrative authority delivered without a trial shall be assimilated to a sentence.

### Article III

(Ad article 7, paragraph 1, and article 8 of the Convention)

(1) The requested State may, under this Agreement, grant extradition in respect of offences which are also within its jurisdiction if the offender is being extradited for other punishable offences and simultaneous adjudication by a judicial authority of the requesting State seems expedient. This shall also apply in the case of supplementary requests for consent to further prosecution.

(2) Under the provisions of paragraph 1, the requested State may, pursuant to this Agreement, also consent to re-extradition for punishable offences which are also within its jurisdiction. If one of the two States has requested from a third State the extradition of one of its own nationals for an offence which is also within the jurisdiction of the other State, the latter may, instead of requesting extradition from the third State, request the State of nationality to undertake the prosecution.

### Article IV

(Ad article 10 of the Convention)

(1) The prevention of any legal effects of lapse of time shall be governed solely by the law of the requesting State.

(2) If extradition is requested on the grounds of a final judgement *in absentia*, the question of lapse of time shall be governed by the law on lapse of time affecting execution of judgement.

(3) An amnesty proclaimed in the requested State shall not preclude extradition if the offence is not within the jurisdiction of that State.

(4) The obligation to extradite shall not be affected by the absence of any application for sentence or authorization which is required solely under the law of the requested State.

### Article V

(Ad article 12 of the Convention)

(1) Without prejudice to the diplomatic channel, correspondence shall be conducted

(a) in matters relating to extradition, between the Federal Minister of Justice or the Ministries of Justice of the *Länder* (*Land* judicial authorities) of the Federal Republic of Germany, on the one hand, and the Police Division of the Swiss Department of Justice and Police, on the other hand;

(b) in matters relating to transit, between the Federal Minister of Justice of the Federal Republic of Germany, on the one hand, and the Police Division of the Swiss Department of Justice and Police, on the other hand.

(2) In the cases referred to in article II, paragraph 2, of this Agreement, the request may, for the purposes of article 12, paragraph 2 (a) of the Convention, be accompanied by the original or an authenticated copy of a judicial document offering cogent suspicion of guilt in lieu of a warrant of arrest or other order having the same effect. The same shall apply in cases where the person claimed has already been extradited and a request for consent to further prosecution is submitted to the State which extradited him.

#### *Article VI*

(Ad article 14 of the Convention)

(1) Conditional discharge without an order restricting the freedom of movement of the extradited person shall be assimilated to final discharge.

(2) The requested State shall waive compliance with the restrictions laid down in article 14 of the Convention if the extradited person gives his consent to unrestricted criminal prosecution or execution of sentence by an irrevocable statement made before a judicial authority after being informed of its legal effects.

(3) After extradition this statement can be made only before a judge. A certified transcript or copy of this statement shall be transmitted to the requested State.

(4) The carrying out of detention and correctional measures (detention orders) which were imposed also as a consequence of non-extraditable offences shall not be subject to the restrictions of article 14 of the Convention if these measures would have been ordered solely on account of the offences for which extradition is admissible.

#### *Article VII*

(Ad article 17 of the Convention)

If one of the two States and a third State ask the other State concurrently for extradition and preference is given to one of these requests, the requested State shall, when notifying the requesting States of the decision concerning the request for extradition, indicate to what extent it consents to a possible re-extradition to the other requesting State of the extradited person from the State to which he is extradited.

#### *Article VIII*

(Ad article 19 of the Convention)

(1) A request for temporary surrender of the person claimed with a view to the performance of specific procedural acts, in particular the trial, shall be complied with, provided that the criminal procedure of the requested State is not thereby impeded. The person surrendered shall be returned, immediately after the performance of these procedural acts or upon the application of the requested State, regardless of his nationality.

(2) The requesting State shall hold the person surrendered in custody throughout his stay in its territory. The time spent in custody between the departure from the territory of the requested State and the return of the surrendered person to that territory shall be counted in respect of the sentence to be imposed or executed in the requested State, unless it is agreed otherwise in a particular case on special grounds.

(3) Each State shall defray the expenses incurred in the application of this article to its territory.

### Article IX

(Ad article 20 of the Convention)

(1) In the cases referred to in article 20, paragraphs 1 and 2, of the Convention, the requested State shall, when reporting the seizure of property, also indicate whether the person to be extradited agrees to the direct return of the property to the injured party. The requesting State shall inform the requested State as soon as possible whether it waives the handing over of the property on the express condition that it is delivered to the owner or otherwise entitled person or their authorized representative upon production of a certificate of release issued by the designated criminal prosecution authority.

(2) The property referred to in article 20, paragraph 1, of the Convention, or any proceeds from the sale thereof shall be handed over even in the absence of a special request, if possible at the same time as the person to be extradited.

(3) The requested State may, however, refrain from handing over property which is not required by the requesting State where a person not involved in the offence establishes rights in the property and his claims have been neither satisfied nor secured.

(4) The requesting State shall be entitled to refrain from returning property to the requested State as provided for in article 20, paragraph 4, of the Convention where no rights in this property are established in the latter State.

(5) When handing over property and waiving the return thereof, the requested State shall not assert any customs lien or other liability *in rem* under customs or taxation law, unless the property-owner injured by the offence is himself liable for the duty or tax in question.

### Article X

(Ad article 21 of the Convention)

(1) The State requested to grant transit shall hold the person handed over to it in custody throughout transit.

(2) During transit, neither State shall, without the consent of the extraditing State, institute criminal proceedings or the execution of a sentence for offences committed before transit against a person to be extradited from the other State to a third State.

(3) Where a person is to be transported by air over the territory of one of the two States without an intermediate landing, the requesting State shall also report that, according to the known facts and available documents, the extradited person neither possesses nor claims the nationality of the State over whose territory the flight is to be made.

(4) During transit by air, the extradited person may be escorted by foreign officials. If an intermediate landing is made in the territory of the requested State, the necessary action shall be taken solely by the authorities of that State.

### Article XI

(Ad article 23 of the Convention)

Requests for extradition and other documents shall be drawn up in the language of the requesting State. No translations shall be required.

*Article XII*

(Ad article 31 of the Convention)

Should either of the Contracting Parties denounce the Convention, it shall remain in force as between them initially for a period of two years. That period shall begin on the date on which the denunciation takes effect in respect of the other Parties to the Convention. It shall be automatically extended for successive periods of one year, unless either of the Contracting Parties informs the other in writing six months before the expiry of the period that it does not agree to a further extension.

*Article XIII*

This Agreement shall also apply to *Land Berlin*, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Swiss Federal Council within three months from the entry into force of the Agreement.

*Article XIV*

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

(2) This Agreement shall enter into force one month after the exchange of instruments of ratification, if at that time both Parties to this Agreement are bound by the European Convention on Extradition, and otherwise simultaneously with that Convention.

(3) This Agreement may be denounced in writing at any time; it shall cease to have effect six months after the date of denunciation. Even if it is not denounced it shall cease to have effect on the date when the European Convention on Extradition ceases to have effect as between the Parties to this Agreement.

IN WITNESS WHEREOF the plenipotentiaries have signed this Agreement and have thereto affixed their seals.

DONE at Bonn on 13 November 1969, in two original copies in German.

For the Federal Republic of Germany:

DUCKWITZ  
Dr. MAASSEN

For the Swiss Confederation:

HANS LACHER

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