

No. 22128

**BELGIUM
and
NORWAY**

**Convention on extradition. Signed at Oslo on 3 November
1981**

Authentic texts: French, Dutch and Norwegian.

Registered by Belgium on 30 July 1983.

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[TRANSLATION — TRADUCTION]

CONVENTION¹ ON EXTRADITION BETWEEN THE KINGDOM OF BELGIUM AND THE KINGDOM OF NORWAY

The Government of the Kingdom of Belgium and the Government of the Kingdom of Norway, having decided to conclude a new Convention on the extradition of offenders, have agreed on the following provisions:

Article 1. OBLIGATION TO EXTRADITE

1. The 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 Party who are the subject of proceedings in respect of an offence or are wanted for the carrying out of a sentence or of a preventive detention order by the judicial authorities of the other Party.

2. For the purposes of this Convention, the term “preventive detention order” shall be deemed to mean only an order for deprivation of liberty made by a criminal justice authority in addition to or in lieu of another sentence.

Article 2. PLACE OF COMMISSION OF THE OFFENCE

1. The requested Party may refuse to extradite a person claimed for an offence which is regarded by its law as having been committed wholly or partly in its territory or in a place treated as its territory.

2. When the offence for which extradition is requested has been committed outside the territory of the requesting Party and of the requested Party, extradition may only be refused if the law of the requested Party does not allow prosecution for the same category of offence when committed outside the latter Party's territory.

Article 3. CONTINENTAL SHELF

Where the requesting Party exercises jurisdiction in respect of offences committed either against or on board installations or other facilities situated on or over its continental shelf or against any facility connected with such installations, extradition shall be granted as if the offence had been committed in the territory of the requesting Party.

Article 4. EXTRADITABLE OFFENCES

1. Extradition shall be granted in respect of offences punishable under the law of the requesting Party and of the requested Party by deprivation of liberty or under a detention order for a maximum period of more than one year. Moreover, where a conviction and prison sentence have occurred or a detention order has been made in the territory of the requesting Party, the punishment awarded must have been for a period of at least four months.

¹ Came into force on 1 April 1983, i.e., the first day of the second month following the exchange of the instruments of ratification, which took place at Brussels on 14 February 1983, in accordance with article 27 (1).

2. If the request for extradition includes several separate offences each of which is punishable under the law of the requesting Party and the requested Party by deprivation of liberty or under a detention order, but of which some do not fulfil the condition with regard to the amount of punishment which may be awarded, the requested Party shall also have the right to grant extradition for the latter offences.

3. Extradition shall be granted, under the conditions laid down in this Convention, in matters relating to taxes, duties, customs and foreign exchange, when so decided by a simple exchange of letters for each specially designated offence or category of offences.

4. Subject to the provisions of article 26, the requested Party shall be required to grant extradition only in respect of offences which are extraditable either under its national law or under international conventions.

Article 5. NON-EXTRADITION OF NATIONALS AND RESIDENTS

1. The Contracting Parties shall not extradite their own nationals. Nationality shall be determined as at the time of surrender.

2. The requested Party may refuse to extradite persons who have had their place of normal residence in its territory for the three years preceding receipt of the request for extradition, except in the case of nationals of the requesting Party.

Article 6. POLITICAL OFFENCES AND HUMANITARIAN CONSIDERATIONS

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

2. The same rule shall apply if the requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion or that that person's position may be prejudiced for any of these reasons or on account of political circumstances.

3. Extradition may be refused if the requested Party, while taking into account the nature of the offence and the interests of the requesting Party, deems it necessary to take into consideration any basic humanitarian factors, particularly where they are based on the age, state of health or family situation of the person claimed.

4. This article shall not affect any obligations which the Contracting Parties may have undertaken or may undertake under any international convention of a multilateral character.

Article 7. MILITARY OFFENCES

1. Extradition shall not be granted for military offences which do not constitute offences under ordinary criminal law.

2. If extradition is requested for an offence which, under the law of the requested Party, constitutes both a military offence and an offence under ordinary criminal law, the extradited person may not be prosecuted, sentenced or detained for the military offence.

*Article 8. LAPSE OF TIME, NON BIS IN IDEM PENDING PROCEEDINGS
FOR THE SAME OFFENCES*

1. Extradition shall not be granted if:

- (a) The person claimed has, according to the law of either the requested or the requesting Party, become immune by reason of lapse of time from prosecution or punishment;
- (b) Final judgement has been passed in the requested State upon the person claimed in respect of the offence for which extradition is requested.

2. Extradition may be refused where, in respect of the same offences as those for which it is requested, the person claimed:

- (a) Is the subject of proceedings in the territory of the requested Party or if the competent authorities of that Party have decided either not to institute or to terminate proceedings;
- (b) Has been tried in a third State and, if convicted and sentenced has served the sentence or been exempted from serving the sentence under the law of that State or enjoyed immunity under the statute of limitations;
- (c) Can be tried by a court which has only been established provisionally or under extraordinary circumstances to consider the offence for which extradition is requested. The same shall apply if extradition is requested for the execution of a sentence passed by such a court.

Article 9. CAPITAL PUNISHMENT

If the offence for which extradition is requested is punishable by death under the law of the requesting Party, the authorities of the requested Party may make extradition subject to the condition that the requesting Party shall give assurances, deemed satisfactory by the authorities of the requested Party, that the death penalty will not be carried out.

Article 10. OBLIGATION TO PROSECUTE

If extradition is not granted, either on account of the nationality or the residence of the person claimed, or because the offence was committed in the territory of the requested Party, that Party shall, at the request of the requesting Party, take all necessary measures in accordance with its own law to ensure that the case is submitted to its competent authorities for the conduct of proceedings. The requesting Party shall be informed of the result of the proceedings.

Article 11. RULE OF SPECIALITY

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

- (a) When the Party which surrendered him consents. A request for consent shall be submitted, accompanied by the documents mentioned in article 14 and a legal record of any statement made by the extradited person on the extension of

extradition and indicating what opportunity has been afforded him to submit a memorandum to the authorities of the requested Party.

The extension of extradition shall be consented to when the offence for which it is requested is itself an extraditable offence under the terms of this Convention.

- (b) When that person, having had an opportunity to leave the territory of the Party to which he has been surrendered, has not done so within forty-five days of his final discharge, or has returned to that territory after leaving it.

2. The requesting Party may, however, take any measures necessary under its law, including proceedings by default, to prevent any legal effects of lapse of time, or any measure to remove the person from its territory.

3. When the description of the offence charged is altered in the course of proceedings, the extradited person shall only be proceeded against or sentenced in so far as the offence under its new description is shown by its constituent elements to be an offence which could allow extradition.

Article 12. RE-EXTRADITION TO A THIRD STATE

Except where the person concerned has remained in or returned to the territory of the requesting Party in the circumstances referred to in the preceding article, the consent of the requested Party shall be necessary to enable the requesting Party to surrender him to a third State.

Article 13. CONFLICTING REQUESTS

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

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

Article 14. THE REQUEST AND SUPPORTING DOCUMENTS

1. A request for extradition shall be transmitted through the diplomatic channel.

2. The request shall be supported by:

- (a) The original or certified copy either of an enforceable sentence or of a warrant of arrest or any other document having the same force and issued in the manner prescribed by the law of the requesting Party;
- (b) A statement of the offences for which extradition is requested. The time and place of their commission, their legal descriptions and a reference to the relevant legal provisions shall be set out as accurately as possible;
- (c) A copy of the relevant legal provisions;
- (d) As accurate a description as possible of the person claimed, together with any other information which will help to establish his identity, nationality and residence.

Article 15. SUPPLEMENTARY INFORMATION

1. If the information communicated by the requesting Party is found to be insufficient to allow the requested Party to make a decision in pursuance of this Convention, the authorities of the latter Party may request the necessary supplementary information. They may fix a time-limit for the receipt of such information. If the information is not provided within the specified time-limit or is not considered satisfactory, extradition may be refused.

2. If the person whose extradition is requested has been convicted in the requesting State by a judgement by default, the requested Party may make extradition subject to the condition that the person concerned shall have the right to be sentenced after trial.

Article 16. PROVISIONAL ARREST

1. In case of urgency, the competent authorities of the requesting Party may request the provisional arrest of the person sought; the competent authorities of the requested Party shall decide the matter in accordance with its law.

2. A request for provisional arrest shall be sent to the competent authorities of the requested Party either through the diplomatic channel or through the International Criminal Police Organization (Interpol).

3. The request for provisional arrest shall state that one of the documents mentioned in article 14, paragraph 2 (a), exists and that it is intended to send a request for extradition. It shall also state for what offence extradition is requested and when and where such offence was committed and give the description of the person claimed, which shall be as accurate as possible.

4. The requesting authority shall be informed without delay of the result of its request.

5. Provisional arrest shall be terminated if, within a period of 21 days after arrest, the requested Party has not received the request for extradition and the documents mentioned in article 14.

Provisional release may be allowed before the expiry of the aforesaid period in accordance with the law of the requested Party.

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

Article 17. SURRENDER OF THE PERSON TO BE EXTRADITED

1. The requested Party shall inform the requesting Party, 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 requesting Party shall be informed of the place and date of surrender and of the length of time for which the person claimed was detained with a view to surrender.

4. If the person claimed has not been taken over within a period of two weeks from the appointed date he may be released. If he has not been taken over within a period of four weeks, the requested Party may refuse to extradite him for the same offence.

5. If, owing to exceptional circumstances, the person claimed cannot be surrendered or taken over the Party concerned shall so inform the other Party. The two Parties shall agree on another date for surrender.

Article 18. POSTPONED SURRENDER

1. If the person claimed is the subject of proceedings or has been sentenced in the requested State for an offence other than the one giving rise to the request for extradition, the requested Party shall none the less consider the request and inform the requesting Party of its decision with regard to extradition, in the manner prescribed in article 17. Surrender of the person claimed may be deferred until he has fulfilled the requirements of justice in the requested State.

2. Surrender shall take place on a date to be determined in accordance with the provisions of article 17.

Article 19. HANDING OVER OF PROPERTY

1. Where extradition is granted, the requested Party shall in so far as its law permits, seize and hand over all property which has been acquired as a result of the offence or which may be required as evidence, and which is found in the possession of the person claimed at the time of his arrest or discovered subsequently.

2. Such property may be handed over even if extradition cannot be carried out owing to the escape or death of the person claimed.

3. Any rights which the requested Party 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 Party as soon as possible.

4. If the requested Party deems it necessary for the purpose of criminal proceedings, it may either temporarily retain the property seized or forward it on condition that it is returned.

Article 20. TRANSIT

Transit through the territory of one of the Contracting Parties of a person surrendered to the other Party shall be requested through the diplomatic channel. It may be refused on grounds provided for in the law of the Party requested to grant transit.

Article 21. LANGUAGES TO BE USED

Documents to be transmitted or produced in pursuance of this Convention and intended for Norway shall be accompanied by a translation into Norwegian or English. Those intended for Belgium shall be accompanied by a translation into French or Dutch.

Article 22. EXPENSES

1. Expenses incurred in the territory of the requested Party by reason of extradition shall be borne by that Party.

2. Expenses incurred by reason of transit through the territory of a Party requested to grant transit shall be borne by the requesting Party.

Article 23. PROCEDURE

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

FINAL PROVISIONS

Article 24

With the entry into force of this Convention, the Convention on extradition concluded between Belgium and Sweden/Norway on 26 April 1870, and also the additional agreements to that Convention, shall cease to have effect between Belgium and Norway.

Article 25

This Convention shall apply to requests for extradition made after its entry into force, even in respect of offences committed previously.

Article 26

The Contracting Parties may agree at any time, by an exchange of letters, to amend or abrogate the provisions of article 4, paragraph 4.

Article 27

1. 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.

2. It shall cease to have effect one year after it is denounced by one of the Contracting Parties.

DONE at Oslo on 3 November 1981, in duplicate in the French, Dutch and Norwegian languages, the three texts being equally authentic.

For the Government
of the Kingdom of Belgium:

[Signed]

JACQUES VERMER

For the Government
of the Kingdom of Norway:

[Signed]

MONA RØKKE