

No. 22413

**FRANCE
and
EGYPT**

**Convention concerning judicial co-operation in criminal
matters. Signed at Paris on 15 March 1982**

Authentic texts: French and Arabic.

Registered by France on 26 October 1983.

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[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE FRENCH REPUBLIC AND THE ARAB REPUBLIC OF EGYPT CONCERNING JUDICIAL CO-OPERATION IN CRIMINAL MATTERS

The Government of the French Republic and the Government of the Arab Republic of Egypt,

Desiring to promote fruitful co-operation in the legal field between the French Republic and the Arab Republic of Egypt and desiring to establish it on solid bases, have resolved to conclude a convention on judicial co-operation in criminal matters and have agreed on the following provisions:

PART I. JUDICIAL CO-OPERATION IN CRIMINAL MATTERS

GENERAL PROVISIONS

Article 1. 1. The two States undertake to extend to each other, in accordance with the provisions of this Convention, the broadest possible judicial co-operation in any proceeding relating to offences the punishment of which is, at the time when assistance is requested, within the competence of the judicial authorities of the requesting State.

2. This part shall not apply to the execution of warrants of arrest and sentences or to military offences that do not constitute offences under ordinary law.

Article 2. Judicial co-operation may be refused:

- (a) If the request relates to any offence which the requested State regards as a political offence or an offence connected with a political offence or as an offence concerning taxes, duties, customs or foreign exchange;
- (b) If the requested State considers that execution of the request is likely to impair its sovereignty, security, public policy or other essential interests.

LETTERS ROGATORY

Article 3. 1. The requested State shall, in accordance with its legislation, cause to be executed letters rogatory relating to a criminal case which are forwarded to it by the judicial authorities of the requesting State and whose object is the performance of acts pertaining to the investigation of the case or the communication of evidence, records, documents, commercial books, correspondence and other papers relating to the offence.

2. If the requesting State wishes to have witnesses or experts give testimony under oath, it shall make an express request to that effect and the requested State shall comply with it unless its legislation precludes this.

3. The requested State may merely transmit certified true copies or photocopies of the records or documents requested. However, if the requesting State

¹ Came into force on 7 August 1983, i.e., the sixtieth day following the date of the last of the notifications (effected on 15 August 1982 and 8 June 1983) by which the Contracting Parties informed each other of the completion of the required constitutional formalities, in accordance with article 45.

expressly asks for communication of the originals, its request shall be complied with to the extent possible.

4. The information provided to the requesting State may be used by the judicial authorities only within the framework of the proceedings for which it was requested.

Article 4. If the requesting State makes an express application to that effect, the requested State shall inform it of the date and place of execution of the letter rogatory. The authorities and individuals concerned may be present at the execution if the requested State so agrees.

Article 5. 1. The requested State may delay the delivery of articles, records or documents whose communication is requested if they are required for criminal proceedings in progress.

2. The articles and the originals of records or 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.

DELIVERY OF JUDICIAL DOCUMENTS AND JUDICIAL DECISIONS—APPEARANCE OF WITNESSES, EXPERTS AND ACCUSED PERSONS

Article 6. 1. The requested States shall effect the delivery of judicial instruments and judicial decisions transmitted to it for that purpose by the requesting State.

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

It shall be effected in accordance with the legislation of the requested State.

2. 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. If it was not possible to deliver the document, the requested State forthwith why delivery could not be affected.

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

Article 7. A witness or expert who fails to comply with a summons to appear in court the delivery of which was requested may not be subjected, even where such summons contains injunctions, to any penalty or measure of constraint, unless he subsequently goes, of his own free will, to the territory of the requesting State and is summoned again in due form.

Article 8. The allowances to be paid and the travel and subsistence expenses to be reimbursed to witnesses and experts by the requesting State shall be calculated from the place of their residence and shall be at least equal to those provided for under the scales and regulations in force in the State in which the appearance is required.

Article 9. 1. If the requesting State considers that the personal appearance of a witness or an expert before its judicial authorities is particularly necessary, it shall indicate this in the request for delivery of the summons, and the requested State shall urge the witness or the expert to appear.

The required State shall notify the requesting State of the response of the witness or expert.

2. In the case provided for in paragraph 1 of this article, the request or summons must mention the approximate amount of the allowances to be paid and the travel and subsistence expenses to be reimbursed.

3. If a request is made to that effect, the requested State may issue an advance to the witness or experts. This shall be mentioned in the summons and reimbursed by the requesting State.

Article 10. 1. No witness or expert of any nationality who, in response to a summons, appears before the judicial authorities of the requesting State, shall be prosecuted, detained or subjected to any other restriction of his personal liberty in the territory of that State by reason of acts committed or a conviction pronounced prior to his departure from the territory of the requested State.

2. No person of any nationality who is summoned to appear before the judicial authority of the requesting State for the purpose of giving evidence about acts in respect of which proceedings have been instituted against him shall be prosecuted, detained or subjected to any other restriction of his personal liberty in the said State by reason of acts committed or a conviction pronounced prior to his departure from the territory of the requested State and not mentioned in the summons.

3. The immunity provided for in this article shall cease if the witness, expert or person against whom proceedings have been instituted, having had the opportunity to leave the territory of the requesting State during a period of 15 consecutive days after the date on which his presence ceased to be required by the judicial authorities, nevertheless remained in that territory or, having left it, returned to it.

COURT RECORDS

Article 11. 1. The requested State shall to the extent that its judicial authorities would themselves be able to obtain them in a similar case, transmit excerpts from the court records and any information relating thereto which is requested of it by the judicial authorities of the requesting State for the purposes of a criminal case.

2. In cases other than those provided for in paragraph 1 of this article, such a request shall be complied with on the conditions provided for by the legislation, regulations or practice of the requested State.

PROCEDURE

Article 12. 1. The request for reciprocal assistance shall contain the following particulars:

- (a) The name of the requesting authority;
- (b) The purpose of and reason for the request;
- (c) To the extent possible, the identity and nationality of the person concerned; and
- (d) The name and address of the intended recipient, where appropriate, or as much information as possible to assist in identifying and locating him.

2. The letters rogatory provided for in articles 3 and 4 shall also mention the charge and shall contain a summary of the facts.

Article 13. 1. The letters rogatory provided for in articles 3 and 4 shall be sent by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State and returned through the same channel.

2. In an emergency, the letters rogatory provided for in articles 3 and 4 shall be sent directly by the judicial authorities of the requesting State to the judicial authorities of the requested State. A copy of the letters rogatory shall be transmitted at the same time to the Ministry of Justice of the requested State.

Letters rogatory shall be returned together with the documentation relating to their execution through the channel provided for in paragraph 1 of this article.

3. The requests provided for in article 11, paragraph 1, may be sent directly by the judicial authorities to the competent service of the requested State, and the replies may be sent directly by that service. The requests provided for in article 11, paragraph 2, shall be sent by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State.

4. Requests for judicial assistance other than that provided for in paragraphs 1 and 3 of this article, in particular requests for preliminary hearings prior to prosecution, shall be sent by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State and returned through the same channel.

Article 14. 1. Requests for judicial assistance and documentation relating to execution shall be drawn up in the language of the requesting State.

2. However, records of proceedings and judicial decisions which are to be notified to persons in the territory of the requested State may be accompanied by a translation in the language of that State. In such cases, translations of judicial decisions shall be certified by a sworn or accredited translator, in accordance with the legislation of the requesting State.

Article 15. Requests for judicial assistance and the accompanying documentation shall bear the signature and seal of a competent authority or be certified by such authority. Such documents shall be exempted from any authentication formality.

Article 16. If the authority which receives a request for assistance is incompetent to comply with it, it shall automatically transmit such request to the competent authority of its country and, if the request has been sent directly, it shall so inform the requesting State through the same channel.

Article 17. Reasons shall be given for any refusal of judicial assistance.

Article 18. Subject to the provisions of article 8, the execution of requests for assistance, including letters rogatory, shall not give rise to the refunding of any costs save the fees paid to experts in the territory of the requested State.

REPORTS WITH A VIEW TO PROSECUTION

Article 19. 1. Any report made by one State with a view to bringing a case before the judicial authorities of the other State responsible for prosecution shall be the subject of communications between Ministries of Justice.

2. 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.

3. The provisions of article 14, paragraph 1, shall apply to the reports provided for in paragraph 1 of this article.

EXCHANGE OF CONVICTIONS

Article 20. Each of the two States shall report to the other State criminal sentences that concern nationals of the latter State and which have been entered in the court records. The Ministries of Justice shall exchange such reports every two years.

CONSULAR INTERVENTION

Article 21. 1. The competent authorities of either of the two States must, in all cases and within seven days, notify the consular post of the other State when a national of the latter State is arrested or subjected to any other form of restriction of his personal liberty.

2. Consular officers shall have the right to visit such a national, to talk and correspond with him and to arrange for his representation in court, unless that national expressly objects in the presence of the consular officer. The exercise of this right may not be deferred for more than 15 days from the date of the arrest of the person concerned or from the beginning of the restriction of his personal freedom.

PART II. EXTRADITION

Article 22. The two States undertake to surrender to each other, in accordance with the rules and conditions laid down in the following articles, persons in the territory of either State who are the subject of proceedings or have been sentenced by the judicial authorities of the other State.

Article 23. 1. The 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.

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

Article 24. Extradition shall be granted:

- (a) In respect of an act or acts which, under the legislation of both States, constitute crimes or offences punishable under the laws of both States:
—Either by a penalty involving at least two years' deprivation of liberty;
—Or, subject, in the case of the death penalty, to the provisions of article 29, by a more severe penalty, provided that this last-mentioned penalty is provided for in the range of penalties of each of the two States;
- (b) In respect of sentences passed by the courts of the requesting State for the offences referred to in the preceding subparagraph, involving either at least six months' deprivation of liberty or a more severe penalty, provided that this last-mentioned penalty is included in the range of penalties in each of the two States.

Article 25. 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. Extradition shall not be granted where the requested State has serious grounds for believing that a request for extradition based on an offence in ordinary

law has been submitted for the purpose of prosecuting or punishing a person on grounds of race, religion, nationality or political opinion or that the situation of that person may be worsened for one or other of these reasons.

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

Article 26. Extradition shall not be granted if the offence in respect of which it is requested consists solely of a breach of military obligations.

Article 27. In cases of offences in matters relating to taxes, duties, customs or foreign exchange, extradition may be granted on the conditions laid down in this Convention if it has been so decided by a simple exchange of letters between the two Governments for each offence or category of offences.

Article 28. 1. Extradition shall be refused:

- (a) If the offences in respect of which it is requested have been committed, in whole or in part, in the territory of the requested State or in a place within the jurisdictional competence of that State;
- (b) If a final judgement on the offences has been rendered in the requested State or if the authorities competent to institute criminal proceedings in the requested State have decided not to prosecute or to terminate the proceedings which they have instituted in respect of the same act or acts;
- (c) If the prosecution or the penalty is barred by statutory limitation under the legislation of the requesting State or of the requested State at the time of receipt of the request;
- (d) If the offences were committed outside the territory of the requesting State by a person not a national of that State and the legislation of the requested State does not permit prosecution 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 in the requested State, provided, in the latter case, that the offence is one for which a prosecution may be instituted in that State when it has been committed outside the territory of that State by an alien.

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

Article 29. Extradition may be refused if the offence in question is punishable by the death penalty under the legislation of only one of the two States.

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

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

- (a) The original or a certified copy of a sentence, a warrant of arrest or any other document having the same force issued in the manner prescribed by the legislation of the requesting State;
- (b) A description of the acts in respect of which extradition is requested, stating the time and place of their commission and their designation and mentioning the legal provisions applicable thereto, together with a copy of those provisions;

(c) As accurate a description as possible of the person sought and any other information which will help to establish his identity and nationality.

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

2. A request for provisional arrest shall state that one of the documents mentioned in article 30, paragraph 2 (a), exists. It shall state the offence committed, the duration of the penalty incurred or imposed, and when and where the offence was committed, and shall, so far as possible, provide as much information as possible to assist in identifying and locating the person sought.

3. It shall be transmitted to the judicial authorities of the requested State either directly by post or telegraph or by any other means constituting a written record.

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

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

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

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

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

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

Article 34. If extradition is requested concurrently by more than one State, whether for the same offence or for different offences, the requested State shall make a 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 request, and the relative seriousness and the place of commission of the offences.

Article 35. 1. Without prejudice to the rights of the requested State or the rights of third States and at the instance of the requesting State, the requested State shall seize and hand over, in the manner prescribed in its legislation, any articles:

- (a) Which may serve as evidence;
- (b) Which are associated with the offence and were found before or after the surrender of the person sought or extradited;
- (c) Which were required in exchange for articles associated with the offence.

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

3. If the requested State or third parties have acquired rights in the articles, the articles shall be returned as soon as possible and without charge to the requested State after completion of the proceedings in the territory of the requesting State.

Article 36. 1. The requested State shall inform the requesting State through the diplomatic channel of its decision with regard to extradition.

2. Reasons shall be given for any complete or partial rejection.

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

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

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

Article 37. 1. If the person sought is the subject of proceedings or has been sentenced in the requested State for an offence other than that giving rise to the request for extradition, the latter State shall nonetheless take a decision on the request and inform the requesting State of its decision regarding extradition in the manner prescribed in article 36, paragraphs 1 and 2. If the request is agreed to, however, the surrender of the person sought shall be deferred until the requirements of justice have been satisfied in the requested State. Surrender shall then take place on a date to be determined in accordance with article 36, and paragraphs 4 and 5 of the said article shall apply.

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

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

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

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

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

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

Article 41. 1. Extradition involving transit through the territory of one of the two States of a person surrendered to the other Party shall be granted on an application transmitted through the diplomatic channel. The documents required to establish that the offence is one giving grounds for extradition shall be furnished in support of the application.

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

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

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

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

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

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

PART III. FINAL PROVISIONS

Article 44. Any difficulties of interpretation that may arise in the course of the application of this Convention shall be resolved through the diplomatic channel.

Article 45. Each of the Contracting Parties undertakes to notify the other of the completion of the formalities required by its Constitution for the entry into force of this Convention, which shall take effect on the sixtieth day following the date of the last such notification.

Article 46. This Convention is concluded for an indefinite period. It may be denounced at any time by either of the Contracting States, such denunciation to take effect six months from the date on which the notice of denunciation is received by the other State.

IN WITNESS WHEREOF the representatives of the two Governments, being duly authorized for that purpose, have signed this Convention and have fixed their seals thereto.

DONE at Paris, on 15 March 1982, in duplicate in the French and Arabic languages, both texts being equally authentic.

For the Government
of the French Republic:

[Signed]

R. BADINTER

For the Government
of the Arab Republic of Egypt:

[Signed]

AHMED SAMIR SAMI
Minister of Justice
