

N° 3240.

ITALIE. ET PANAMA

Traité d'extradition et d'assistance
judiciaire en matière pénale. Signé
à Panama, le 7 août 1930.

ITALY AND PANAMA

Treaty of Extradition and Judicial
Assistance in Criminal Matters.
Signed at Panama, August 7, 1930.

TEXTE ITALIEN. — ITALIAN TEXT.

N^o 3240. — TRATTATO ¹ D'ESTRADIZIONE E D'ASSISTENZA GIUDIZIARIA IN MATERIA PENALE TRA L'ITALIA E IL PANAMA. FIRMATO A PANAMA, IL 7 AGOSTO 1930.

Spanish and Italian official texts communicated by the Secretary of State for Foreign Affairs of the Republic of Panama and by the Italian Minister for Foreign Affairs. The registration of this Treaty took place August 11, 1933.

SUA MAESTÀ IL RE D'ITALIA e SUA ECCELLENZA IL PRESIDENTE DELLA REPUBBLICA DEL PANAMA, desiderando di regolare le questioni relative all'estradizione dei delinquenti e all'assistenza giudiziaria in materia penale, e di concludere un trattato a questo effetto, hanno nominato loro plenipotenziari :

SUA MAESTÀ IL RE D'ITALIA :

Sua Eccellenza il Dott. Carlo UMITÀ, Commendatore dell' Ordine della Corona d'Italia, Cav. Ufficiale dello Ordine dei Santi Maurizio e Lazzaro, Suo Inviato Straordinario e Ministro Plenipotenziario nella Repubblica di Panama ;

SUA ECCELLENZA IL PRESIDENTE DELLA REPUBBLICA DI PANAMA :

Sua Eccellenza Giovanni Demostene AROSEMENA, Dottore in Diritto e Scienze Politiche, Segretario di Stato per gli Affari Esteri ;

i quali, dopo essersi reciprocamente comunicati i rispettivi pieni poteri, trovati in buona e debita forma, hanno convenuto negli articoli seguenti :

Articolo I.

Le Alti Parti contraenti s' impegnano a far ricercare, arrestare e consegnarsi reciprocamente le persone che, imputate o condannate dall' autorità giudiziaria competente di uno dei due paesi, per alcuno dei delitti indicati nel seguente articolo, si trovino nel territorio sottoposto all' autorità dell' altro paese.

Articolo II.

La estradizione verrà concessa per gli autori, correi, complici o favoreggiatori di delitti comuni anche tentati, o mancati che siano stati condannati, o che siano processati o che siano ricercati per fatti punibili in tutti e due gli Stati con pena restrittiva della libertà personale non minore di due anni.

¹ The exchange of ratifications took place at Rome, February 18, 1933.

¹ TRANSLATION.No. 3240. — TREATY OF EXTRADITION AND JUDICIAL ASSISTANCE
IN CRIMINAL MATTERS BETWEEN ITALY AND PANAMA. SIGNED
AT PANAMA, AUGUST 7, 1930.

HIS MAJESTY THE KING OF ITALY and HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC
OF PANAMA,

Being desirous of settling questions concerning the extradition of offenders and legal assistance
in criminal matters, and of concluding a treaty for that purpose,

Have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF ITALY :

His Excellency Dr. Carlo UMITÀ, Commander of the Order of the Crown of Italy, Knight
Officer of the Order of Saint Maurice and Saint Lazarus, His Envoy Extraordinary
and Minister Plenipotentiary in the Republic of Panama ;

HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF PANAMA :

His Excellency Juan Demóstenes AROSEMENA, Doctor of Law and Political Science,
Secretary of State for Foreign Affairs ;

Who, having communicated their full powers, found in good and due form, have agreed on
the following Articles :

Article I.

The High Contracting Parties undertake to seek, arrest and surrender to each other any
persons who are being proceeded against or who have been convicted by the competent judicial
authorities of one of the two States for any of the offences indicated in the following Article, and
who shall be found within the territory under the authority of the other.

Article II.

Extradition shall be granted in the case of principals, accomplices, accessories and abettors
in the commission of or in attempts, even if unsuccessful, to commit ordinary offences, who have
been convicted or are being proceeded against or are being sought for acts punishable in both States
by deprivation of freedom for a term of not less than two years.

Article III.

In special circumstances extradition may also be granted for offences not covered by the
preceding Article, provided that the laws of the Contracting States permit.

¹ Translated by the Secretariat of the League of Nations, for information.

Article IV.

A person whose extradition has been granted may be tried for any other offence committed prior to his extradition and connected with the offence for which he was surrendered, except as otherwise provided in Article VIII.

The same person may not be tried or punished for any other offence committed prior to his extradition unless the State to which extradition has been granted seeks and obtains the consent of the other State, or unless the person in question, having served his sentence or been acquitted in respect of the offence for which he was surrendered, remains for more than thirty days within the territory of the applicant State.

Article V.

If the offence was committed outside the territory of the High Contracting Parties, the requisition for extradition may be complied with, provided the laws of the applicant State and of the State applied to authorise prosecution for offences committed abroad.

Article VI.

The High Contracting Parties shall not be required to surrender their own nationals or subjects.

Article VII.

Naturalisation granted subsequent to the offence shall not prevent extradition, except in the case of the recognition of a national status which has previously been acquired.

Article VIII.

Extradition shall not be granted :

(1) If in the applicant State the offence is punishable with death, unless the applicant State undertakes to commute the penalty or to substitute another for it ;

(2) For unpremeditated offences ;

(3) For acts that are offences under the Press laws only ;

(4) For purely military offences, that is to say, acts which are not punishable except under military law ;

(5) For political offences or acts connected therewith except where the act in itself constitutes an ordinary offence.

Acts of an anarchist nature, under the laws of the two countries, shall not be regarded as political offences.

An attack made or attempted against a Head of State shall also not be regarded as a political offence or an act connected therewith.

The authorities of the State applied to shall alone be competent to decide whether an offence is a political offence or not.

Article IX.

Extradition shall not be granted if, under the laws of the State applied to, exemption from prosecution or punishment has been acquired by lapse of time or in any other manner.

Article X.

Extradition may be refused if the authorities of the State applied to are competent under their own laws to try the offence in respect of which the requisition for extradition is made.

If criminal proceedings have been instituted against the person whose extradition is claimed or if he is in custody for another offence committed in the country in which he is found, his surrender may be postponed until the conclusion of the proceedings in question or, in the event of a conviction, until he has served his sentence.

Article XI.

Requisitions for extradition shall be forwarded by the Ministry of Foreign Affairs of the State making application direct to the Ministry of Foreign Affairs of the State applied to.

Extradition shall be granted in virtue of a certificate of conviction, including conviction by default, or a warrant of arrest, or any other paper having the effect of a warrant, stating the nature and degree of gravity of the alleged offence and the provisions of the criminal law which have been or may be applied.

Certified copies of the papers in question shall be forwarded in the form prescribed by the law of the applicant State together, if possible, with the descriptions and photographs of the persons whose extradition is demanded and any other particulars which may assist in establishing their identity.

The requisition and other papers shall be drawn up in the official language of the applicant State.

Article XII.

In urgent cases, an application, accompanied by a telegraphic declaration of the existence of one of the papers mentioned in the preceding Article, may be made for provisional arrest. The judicial authorities and diplomatic and consular agents of the applicant State shall be authorised to make such declaration direct to the Ministry of Foreign Affairs or the judicial authorities of the State applied to.

A person placed under provisional arrest shall be released if the Ministry of Foreign Affairs of the State applied to does not receive the requisition and relevant papers within thirty days of the date of arrest, over and above the time required for such requisition and papers to arrive at their destination.

If the requisition and relevant documents arrive after the expiry of the period indicated above, the release of the person to be surrendered shall not prevent the extradition proceedings from taking their course; but such person may be arrested a second time only after extradition has been granted and only for the purpose of surrendering him to the applicant State.

Article XIII.

If the extradition of a person is claimed by one of the High Contracting Parties and at the same time by other States, preference shall be given to the requisition in respect of the offence which the State applied to considers to be the most serious.

If the offences are considered to be of equal gravity, the requisition bearing the earliest date shall receive preference. If, however, one of the States making application is the State of which the person claimed is a national, preference shall be given to that State, provided that under its legislation proceedings can be taken against the person in question for offences committed in the territory of the other applicant States.

Article XIV.

All money and effects found at the time of arrest in the possession of the person wanted shall be seized and forwarded to the applicant State.

Money and effects of which the arrested person was legitimately in possession shall be handed over, should they come into the hands of the authorities after the arrest, even if they were in the possession of third parties.

The effects handed over shall not be confined to articles acquired as a result of the offence for which extradition is claimed, but shall include everything that may serve as evidence of the crime; they shall be given up even if it is impossible to effect extradition owing to the escape or death of the person claimed.

The rights belonging to third parties not implicated in the case over the confiscated articles shall be reserved; these articles shall be restored to them free of charge by the judicial authorities of the State to which the application was made.

Article XV.

Permission for the transit over the territory of the High Contracting Parties of persons who, not being nationals of the country of transit, are surrendered by another country, shall be granted merely on receipt of a request made in accordance with Article XI of the present Treaty by the authorities of the country applying for extradition.

Permission for transit shall be given, without any legal formality, by the competent Ministry of the country to which application for transit is made, provided that the offence is not one of those referred to in Article VIII above, and that no serious reasons of public policy form an obstacle.

The person under arrest shall be conveyed by the most rapid means under the supervision of agents of the State applied to.

Article XVI.

The expenses occasioned by extradition in the territory of the State applied to shall be borne by that State. Transit expenses shall be borne by the applicant State.

Article XVII.

In criminal matters the judicial authorities of one of the Contracting States may, by letters of request, call on the judicial authorities of the other State to carry out a preliminary legal enquiry or to communicate evidence or documents in the possession of the authorities of the State applied to.

Article XVIII.

Letters of request shall be transmitted in the manner indicated in Article XI of this Treaty.

Letters of request shall be drawn up in the official language of the applicant State, and no legalisation shall be necessary.

Article XIX.

If, during criminal proceedings, the attendance of a witness or expert in person is deemed to be necessary, the subpoena shall be served by the authorities of the State applied to. In every case, however, the witness or expert need only attend if he so desires.

The expenses entailed by such attendance shall be borne by the applicant State, which shall indicate approximately the sums which it will allow for travelling and subsistence expenses and the amount which will be advanced on those sums by its diplomatic and consular agents.

A witness or expert, whatever his nationality, who appears before the judicial authorities of the applicant State may not be proceeded against or arrested for previous acts or convictions, or as accomplice in the acts in respect of which his evidence or expert opinion is called for, during the time required for the giving of such evidence or expert opinion or during the time required by him to return to the country from which he came.

If a person called on to appear is under arrest, his provisional extradition may be applied for ; his consent will, however, always be necessary in order that this may be granted.

Article XX.

Documents shall be served and letters of request executed in conformity with the laws of the State applied to.

The expenses entailed shall be borne by the State applied to, excepting expenses occasioned by the consultation of experts, which shall be borne by the applicant State.

Article XXI.

Each of the High Contracting Parties undertakes to communicate to the other, through the diplomatic channel, an extract from the final sentences passed by its judicial authorities on nationals of the other State.

This undertaking includes sentences the operation of which is conditionally suspended.

Article XXII.

The present Treaty is drawn up in two original copies, one in the Italian language and the other in the Spanish language, both being equally authentic.

Article XXIII.

The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

It shall enter into force on the first day of the month following that in which the exchange of ratifications takes place and shall apply to offences committed before as well as those committed after it came into operation.

Either High Contracting Party may denounce it at any time ; in such case it shall cease to be in force six months after the day on which it was denounced.

In faith whereof the Plenipotentiaries have signed it and affixed their seals thereto.

Done at Panama on the seventh day of August, one thousand nine hundred and thirty.

(Signed) J. D. AROSEMENA.

(Signed) Carlo UMILTA.