

No. 6430

**ISRAEL
and
AUSTRIA**

**Extradition Convention. Signed at Vienna, on 10 October
1961**

Official texts: Hebrew, German and French.

Registered by Israel on 18 December 1962.

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et
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Convention d'extradition. Signée à Vienne, le 10 octobre 1961

Textes officiels hébreu, allemand et français.

Enregistrée par Israël le 18 décembre 1962.

[TRANSLATION — TRADUCTION]

No. 6430. EXTRADITION CONVENTION¹ BETWEEN THE
STATE OF ISRAEL AND THE REPUBLIC OF AUSTRIA.
SIGNED AT VIENNA, ON 10 OCTOBER 1961

The State of Israel and the Republic of Austria, desiring to regulate their mutual relations in the matter of extradition, have agreed as follows :

Article 1

The Contracting States undertake to surrender to each other, subject to the rules and conditions laid down in this Convention, persons within the territory of the one State accused or convicted by the judicial authorities of the other State of any of the offences referred to in article 3, paragraph (1), below.

Article 2

(1) A Contracting State shall not extradite its own nationals.

(2) Nevertheless, either Contracting State may, in accordance with its laws, grant the extradition of a person who was not a national of the requested State at the time of the commission of the offence.

(3) Where a Contracting State refuses extradition under the terms of this article, it shall, upon the application of the requesting State, submit the case to the competent authorities with a view to the institution of judicial proceedings. For this purpose, the files, information and exhibits relating to the offence shall be transmitted through the diplomatic channel. The requesting State shall be informed of the action taken upon its request.

Article 3

(1) Extradition shall be granted for offences punishable under Austrian law by a maximum term of imprisonment for more than one year and extraditable under Israel law.

(2) In the case of a person convicted of one or more extraditable offences, extradition shall be granted only if the term or terms remaining to be served exceed six months' imprisonment.

¹ Came into force on 1 December 1962, thirty days after the exchange of the instruments of ratification which took place at Jerusalem on 31 October 1962, in accordance with the provisions of article 21.

Article 4

(1) Extradition shall not be granted if the offence for which it is requested is regarded by the requested State as a political offence or if the requested State has substantial grounds for believing that extradition has been requested for the purpose of proceeding against or punishing the wanted person for political, racial or religious reasons, or that, for any of these reasons, the position of the person concerned may be worsened if extradition is granted.

(2) The provisions of paragraph (1) above do not apply to offences covered by the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948.¹

Article 5

Extradition shall not be granted if the offence for which it is requested consists solely in the violation of military obligations.

Article 6

Extradition shall not be granted for violations of statutory provisions relating to foreign exchange, illicit profits, speculation, price controls or fraud with respect to foodstuffs.

Article 7

In the case of offences relating to taxes, customs or other duties, or monopolies, extradition shall be granted if any special agreement so provides.

Article 8

Extradition shall be refused :

1. If the courts of the requested State are competent, under its laws, to try the offence ;
2. If, for the same offence, the person claimed has already been convicted and has served his sentence, or has been acquitted, in either the requested or the requesting State ;
3. If prosecution or punishment is barred by lapse of time under the laws of either the requesting or the requested State ;

¹ United Nations, *Treaty Series*, Vol. 78, p. 277 ; Vol. 91, p. 383 ; Vol. 96, p. 327 ; Vol. 100, p. 295 ; Vol. 118, p. 306 ; Vol. 120, p. 300 ; Vol. 121, p. 330 ; Vol. 123, p. 304 ; Vol. 124, p. 318 ; Vol. 127, p. 331 ; Vol. 131, p. 336 ; Vol. 134, p. 379 ; Vol. 136, p. 389 ; Vol. 161, p. 369 ; Vol. 166, p. 369 ; Vol. 182, p. 225 ; Vol. 190, p. 381 ; Vol. 196, p. 345 ; Vol. 201, p. 368 ; Vol. 202, p. 334 ; Vol. 210, p. 332 ; Vol. 211, p. 404 ; Vol. 230, p. 435 ; Vol. 243, p. 320 ; Vol. 248, p. 365 ; Vol. 254, p. 407 ; Vol. 277, p. 347 ; Vol. 286, p. 341 ; Vol. 289, p. 316 ; Vol. 317, p. 319 ; Vol. 320, p. 338 ; Vol. 340, p. 341 ; Vol. 344, p. 313 ; Vol. 346, p. 324 ; Vol. 351, p. 392 ; Vol. 367, p. 316, and Vol. 429, p. 274.

4. If, after consultation with the requesting State, it is found that the person claimed is entitled to a pardon or amnesty in that State.

Article 9

(1) If the offence for which extradition is granted is punishable by death under the laws of the requesting State but is not punishable by death under the laws of the requested State, the requesting State shall not pronounce or execute the death sentence.

(2) Where sentence of death has already been pronounced, it shall not be executed but shall be commuted to imprisonment for life ; where sentence of death has not yet been pronounced, a sentence of life imprisonment shall be pronounced, save in cases where a shorter term of imprisonment is prescribed under the laws of the requesting State.

Article 10

(1) In case of urgency, the requesting State may apply to the requested State for the provisional arrest of the person claimed ; the application shall be transmitted by letter, telegram or any other means of communication.

(2) The application for provisional arrest shall state that a warrant of arrest or a judgement of conviction exists and that the application will be followed by a request for extradition ; it shall also give the legal description of the offence concerned and the time, place and pertinent facts of its commission and, wherever possible, a description of the person claimed.

(3) An application for provisional arrest on the part of the Republic of Austria shall be addressed by the competent judge, the Ministry of Justice, or the Ministry of the Interior, to the Police Headquarters of Israel ; an application on the part of the State of Israel shall be addressed by the Police Headquarters to the Ministry of Justice or the Ministry of the Interior of the Republic of Austria.

(4) The judicial authorities of the requested State shall dispose of the application for provisional arrest in accordance with the laws of that State. The requesting State shall be informed immediately of the action taken on its application.

(5) Provisional arrest may be suspended at any time ; it shall in any event terminate if, within a period of forty-five days from the date of arrest, the request for extradition accompanied by the documents described in article 11 below has not been received by the requested State.

(6) Release shall not preclude rearrest and extradition if the request for extradition is received subsequently.

Article 11

(1) The request for extradition shall be transmitted through the diplomatic channel.