

No. 8893

BELGIUM, LUXEMBOURG and NETHERLANDS

Treaty concerning extradition and mutual assistance in criminal matters (with Protocol and Declarations made on 9 October 1967, in accordance with article 50 of the Treaty, by Belgium and Luxembourg, on the one hand, and Belgium and the Netherlands, on the other hand). Signed at Brussels, on 27 June 1962

Official texts: French and Dutch.

Registered by Belgium on 2 January 1968.

BELGIQUE, LUXEMBOURG et PAYS-BAS

Traité d'extradition et d'entraide judiciaire en matière pénale (avec Protocole et Déclarations faites le 9 octobre 1967, conformément à l'article 50 du Traité, par la Belgique et le Luxembourg, d'une part, et la Belgique et les Pays-Bas, d'autre part). Signé à Bruxelles, le 27 juin 1962

Textes officiels français et néerlandais.

Enregistré par la Belgique le 2 janvier 1968.

[TRANSLATION — TRADUCTION]

No. 8893. TREATY¹ BETWEEN THE KINGDOM OF BELGIUM, THE GRAND DUCHY OF LUXEMBOURG AND THE KINGDOM OF THE NETHERLANDS CONCERNING EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS. SIGNED AT BRUSSELS, ON 27 JUNE 1962

His Majesty the King of the Belgians,

Her Royal Highness the Grand Duchess of Luxembourg,

Her Majesty the Queen of the Netherlands,

Considering that, by reason of the close ties uniting their countries and particularly in consequence of the abolition of the examination of persons at the internal frontiers, it is necessary to extend the extradition of offenders to a larger number of offences, to simplify the formalities connected therewith and to permit mutual assistance in criminal matters to a greater extent than is provided for in the existing treaties;

Guided by the principles contained in the European Conventions on extradition and on mutual assistance in criminal matters;

Have decided to conclude a Treaty between the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands to regulate the extradition of offenders and mutual assistance in criminal matters and have appointed as Plenipotentiaries :

His Majesty the King of the Belgians :

His Excellency Mr. H. Fayat, Deputy Minister for Foreign Affairs;

Her Royal Highness the Grand Duchess of Luxembourg :

His Excellency Mr. N. Hommel, Ambassador Extraordinary and Plenipotentiary at Brussels;

Her Majesty the Queen of the Netherlands :

His Excellency Jonkheer E. Teixeira de Mattos, Ambassador Extraordinary and Plenipotentiary at Brussels;

¹ Came into force on 11 December 1967, two months after the deposit of the last instrument of ratification, in accordance with article 49 (2). The instruments of ratification were deposited with the Belgian Government on the following dates :

Belgium	30 July 1964
Luxembourg	23 August 1965
Netherlands	11 October 1967

Who, having exchanged their full powers, found in good and due form, have agreed as follows :

CHAPTER I

EXTRADITION

Article 1

OBLIGATION TO EXTRADITE

The High Contracting Parties undertake to surrender to each other, subject to the provisions and conditions laid down in the following articles, all persons against whom the competent authorities of the requesting Party are proceeding for an offence or who are wanted by the said authorities for the carrying out of a sentence or detention order.

Article 2

EXTRADITABLE OFFENCES

1. Extradition shall be granted in respect of offences punishable under the laws of the requesting Party and of the requested Party by deprivation of liberty or under a detention order for a maximum period of at least six months or by a more severe sentence or order. Where a sentence or detention order has been imposed in the territory of the requesting Party, such sentence or order must have been for a period of at least three months.
2. If the request for extradition includes several separate offences each of which is punishable under the laws 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.

Article 3

POLITICAL OFFENCES

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 following shall not be deemed to be political offences for the purposes of this Treaty :
 - (a) The taking or attempted taking of the life or liberty of a Head of State or a member of the reigning House;
 - (b) Desertion.

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

Article 4

FISCAL OFFENCES

Extradition shall be granted, in accordance with the provisions of this Treaty, for offences in connexion with taxes, duties, customs, exchange, import, export and transit, only if the Governments of the High Contracting Parties have so decided in respect of any such offence or category of offences.

Article 5

EXTRADITION OF NATIONALS

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

Article 6

PLACE OF COMMISSION

1. The requested Party may refuse to extradite a person claimed for an offence which is regarded by its law as having been committed in whole or in part 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, 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 7

PENDING PROCEEDINGS FOR THE SAME OFFENCES

A requested Party may refuse to extradite the person claimed if the competent authorities of such Party are proceeding against him in respect of the offences for which extradition is requested.

Article 8

"NON BIS IN IDEM"

Extradition shall not be granted if final judgement has been passed by the competent authorities of the requested Party upon the person claimed in respect of the offences for which extradition is requested. Extradition may be refused if the competent authorities of the requested Party have decided either not to institute or to terminate proceedings in respect of the same offences.

Article 9

LAPSE OF TIME

Extradition shall not be granted when the person claimed has, according to the law of the requested Party, become immune by reason of lapse of time from public prosecution or punishment at the time when he is to be surrendered.

Article 10

CAPITAL PUNISHMENT

If the offence for which extradition is requested is punishable by death under the law of the requesting Party, and if the death penalty is not applicable to such offence under the law or according to the practice of the requested Party, the latter Party may grant extradition on condition that the requesting Party undertakes to recommend to the Head of State that the death penalty be commuted to another penalty.

Article 11

THE REQUEST AND SUPPORTING DOCUMENTS

1. The request for extradition shall be addressed in writing by the Minister of Justice of the requesting Party to the Minister of Justice of the requested Party.
2. The request shall be supported by :
 - (a) The original or an authenticated copy of the conviction and sentence or detention order immediately enforceable or of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in 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 enactments and as accurate a description as possible of the person claimed, together with any other information which will help to establish his identity and nationality.

Article 12

SUPPLEMENTARY INFORMATION

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 Treaty, the latter Party shall request the necessary supplementary information and may fix a time-limit for the receipt thereof.