
STATUTORY INSTRUMENTS

2001 No. 962

EXTRADITION

The European Convention on Extradition Order 2001

Made - - - - *14th March 2001*
Laid before Parliament *26th March 2001*
Coming into force - - *17th April 2001*

At the Court at Buckingham Palace, the 14th day of March 2001

Present,

The Queen's Most Excellent Majesty in Council

Whereas the European Convention on Extradition (referred to in this Order as “the Convention”)(¹), the terms of which are set out in Schedule 1 to this Order, was opened for signature by Members of the Council of Europe at Paris on 13th December 1957 and entered into force for the United Kingdom on 14th May 1991:

And whereas the United Kingdom has made the reservations and a notification set out in Schedule 2 to this Order:

And whereas the States listed in Schedule 3 to this Order are parties to the Convention (and are each referred to in this Order as “a Convention State”) and have made the reservations, notifications and declarations set out in Schedule 4 to this Order:

And whereas section 3(2) of the Extradition Act 1989(²) (referred to in this Order as “the 1989 Act”) provides that, for the purpose of extradition procedures under Part III of the Act, a State which is a party to the Convention may be treated as a foreign State:

And whereas the Convention provides for denunciation by means of a notice given by a party to it, such denunciation to take effect six months after the date when the Secretary-General of the Council of Europe receives such notice:

And whereas the Convention, as it has effect in the United Kingdom, is in conformity with the provisions of the 1989 Act, in particular with the restrictions on return contained in Part II of that Act:

And whereas section 4(1) of the 1989 Act provides that, where general extradition arrangements have been made, Her Majesty may, by Order in Council reciting or embodying their terms, direct that the 1989 Act, so far as it relates to extradition procedures under Part III of that Act, shall apply as between the United Kingdom and the foreign state, or any foreign state, with which they have been made, subject to the limitations, restrictions, exceptions and qualifications, if any, contained in the Order:

(1) CM. 1762.
(2) 1989 c. 33.

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by sections 4(1) and 37(3) of the 1989 Act, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation

1. This Order may be cited as the European Convention on Extradition Order 2001 and shall come into force on 17th April 2001.

Application of Part III of 1989 Act

2.—(1) Subject to the provisions of this Order, the 1989 Act, so far as it relates to extradition procedures under Part III of that Act, shall apply as between the United Kingdom and any Convention State which is listed in Part I of Schedule 3 to this Order.

(2) For the purposes of paragraph (1) above Cyprus and Malta shall be treated as foreign states.

3. Where an extradition request is made by a Convention State in respect of a person accused of an offence it shall not be necessary

- (a) for that State to furnish the court of committal with evidence sufficient to make a case requiring an answer by that person if the proceedings were a summary trial of an information against that person and the extradition crime had taken place within the jurisdiction of the court; or
- (b) for the court of committal to be satisfied that there is evidence sufficient to make such a case.

Extent

4. The operation of this Order is limited to the United Kingdom, the Channel Islands and the Isle of Man.

Revocation and savings

5.—(1) Subject to paragraph (2) below the Orders listed in Part I of Schedule 5 to this Order are, to the extent specified in that Part, hereby revoked.

(2) The Orders referred to in paragraph (1) above shall, to the extent so specified, continue to have effect

- (a) without prejudice to the operation of section 16(1)(e) of the Interpretation Act 1978⁽³⁾, for the purposes of disposing of any requisition for the surrender of a fugitive criminal to a Convention State in respect of which an Order under paragraph 4(2) of Schedule 1 to the 1989 Act was made before this Order came into force; and
- (b) insofar as they relate to extradition between any territory for whose international relations a Convention State is responsible, but to which the Convention does not apply, and the United Kingdom, the Channel Islands, the Isle of Man or any colony.

(3) The European Convention on Extradition Order 1990⁽⁴⁾ and the other Orders listed in Part II of Schedule 5 to this Order are hereby revoked.

(3) 1978 c. 30.

(4) S.I. 1990/1507 as amended by S.I. 1992/2663, 1993/2667, 1994/2796, 1994/3203, 1995/1962, 1995/2703, 1997/1759, 1997/2596, 1998/259 and 1999/2035.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

A.K. Galloway
Clerk of the Privy Council

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

THE CONVENTION

THE EUROPEAN CONVENTION ON EXTRADITION

The Governments signatory hereto, being Members of the Council of Europe.

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members:

Considering that this purpose can be obtained by the conclusion of agreements and by common action in legal matters:

Considering that the acceptance of uniform rules with regard to extradition is likely to assist this work of unification.

Have agreed as follows:

ARTICLE 1

OBLIGATION TO EXTRADITE

The Contracting Parties undertake to surrender to each other, subject to the provisions and conditions laid down in this Convention, 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 one year or by a more severe penalty. 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.

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.

3. Any Contracting Party whose law does not allow extradition for certain of the offences referred to in paragraph 1 of this Article may, insofar as it is concerned, exclude such offences from the application of this Convention.

4. Any Contracting Party which wishes to avail itself of the right provided for in paragraph 3 of this Article shall, at the time of the deposit of its instrument of ratification or accession, transmit to the Secretary-General of the Council of Europe either a list of the offences for which extradition is allowed or a list of those for which it is excluded and shall at the same time indicate the legal provisions which allow or exclude extradition. The Secretary-General of the Council shall forward these lists to the other signatories.

5. If extradition is subsequently excluded in respect of other offences by the law of a Contracting Party, that Party shall notify the Secretary-General. The Secretary-General shall inform the other signatories. Such notification shall not take effect until three months from the date of its receipt by the Secretary-General.

6. Any Party which avails itself of the right provided for in paragraphs 4 or 5 of this Article may at any time apply this Convention to offences which have been excluded from it. It shall inform the Secretary-General of the Council of such changes, and the Secretary-General shall inform the other signatories.

7. Any Party may apply reciprocity in respect of any offences excluded from the application of the Convention under this Article.

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 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.

3. The taking or attempted taking of the life of a Head of State or a member of his family shall not be deemed to be a political offence for the purposes of this Convention.

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

ARTICLE 4

MILITARY OFFENCES

Extradition for offences under military law which are not offences under ordinary criminal law is excluded from the application of this Convention.

ARTICLE 5

FISCAL OFFENCES

Extradition shall be granted, in accordance with the provisions of this Convention, for offences in connection with taxes, duties, customs and exchange only if the Contracting Parties have so decided in respect of any such offences or category of offences.

ARTICLE 6

EXTRADITION OF NATIONALS

- (a) (a) A Contracting Party shall have the right to refuse extradition of its nationals.
- (b) Each Contracting Party may, by a declaration made at the time of signature or of deposit of its instrument of ratification or accession, define as far as it is concerned the term "nationals" within the meaning of this Convention.
- (c) Nationality shall be determined as at the time of the decision concerning extradition. If, however, the person claimed is first recognised as a national of the requested Party during the period between the time of the decision and the time contemplated for the surrender, the requested Party may avail itself of the provision contained in sub-paragraph (a) of this Article.

2. If the requested Party does not extradite its national, it shall at the request of the requesting Party submit the case to its competent authorities in order that proceedings may be taken if they are

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

considered appropriate. For this purpose, the files, information and exhibits relating to the offence shall be transmitted without charge by the means provided for in Article 12, paragraph 1. The requesting Party shall be informed of the result of its request.

ARTICLE 7

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 or does not allow extradition for the offence concerned.

ARTICLE 8

PENDING PROCEEDINGS FOR THE SAME OFFENCES

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

ARTICLE 9

NON BIS IN IDEM

Extradition shall not be granted if final judgment has been passed by the competent authorities of the requested Party upon the person claimed in respect of the offence or 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 offence or offences.

ARTICLE 10

LAPSE OF TIME

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

ARTICLE 11

CAPITAL PUNISHMENT

If the offence for which extradition is requested is punishable by death under the law of the requesting Party, and if in respect of such offence the death-penalty is not provided for by the law of the requested Party or is not normally carried out, extradition may be refused unless the requesting Party gives such assurance as the requested Party considers sufficient that the death penalty will not be carried out.

ARTICLE 12

THE REQUEST AND SUPPORTING DOCUMENTS

1. The request shall be in writing and shall be communicated through the diplomatic channel. Other means of communication may be arranged by direct agreement between two or more Parties.
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; and
 - (c) a copy of the relevant enactments or, where this is not possible, a statement of the relevant law 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 13

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

ARTICLE 14

RULE OF SPECIALITY

1. A person who has been extradited shall 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 shall 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 12 and a legal record of any statement made by the extradited person in respect of the offence concerned. Consent shall be given when the offence for which it is requested is itself subject to extradition in accordance with the provisions 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 45 days of his final discharge, or has returned to that territory after leaving it.
2. The requesting Party may, however, take any measures necessary to remove the person from its territory, or any measures necessary under its law, including proceedings by default, to prevent any legal effects of lapse of time.
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 insofar as the offence under its new description is shown by its constituent elements to be an offence which would allow extradition.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

ARTICLE 15

RE-EXTRADITION TO A THIRD STATE

Except as provided for in Article 14, paragraph 1(b), the requesting Party shall not, without the consent of the requested Party, surrender to another Party or to a third State a person surrendered to the requesting Party and sought by the said other Party or third State in respect of offences committed before his surrender. The requested Party may request the production of the documents mentioned in Article 12, paragraph 2.

ARTICLE 16

PROVISIONAL ARREST

1. In case of urgency, the competent authorities of the requesting Parties 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. The request for provisional arrest shall state that one of the documents mentioned in Article 12, paragraph 2(a), exists and that it is intended to send a request for extradition. It shall also state for what offence extradition will be requested and when and where such offence was committed and shall so far as possible give a description of the person sought.

3. A request for provisional arrest shall be sent to the competent authorities of the requested Party either through the diplomatic channel or direct by post or telegraph or through the International Criminal Police Organisation (Interpol) or by any other means affording evidence in writing or accepted by the requested Party. The requesting authority shall be informed without delay of the result of its request.

4. Provisional arrest may be terminated if, within a period of 18 days after arrest, the requested Party has not received the request for extradition and the documents mentioned in Article 12. It shall not, in any event, exceed 40 days from the date of such arrest. The possibility of provisional release at any time is not excluded, but the requested Party shall take any measures which it considers necessary to prevent the escape of the person sought.

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

ARTICLE 17

CONFLICTING REQUESTS

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 having regard to all the circumstances and especially the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality of the person claimed and the possibility of subsequent extradition to another State.

ARTICLE 18

SURRENDER OF THE PERSON TO BE EXTRADITED

1. The requested Party shall inform the requesting Party by the means mentioned in Article 12, paragraph 1 of its decision with regard to the 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. Subject to the provisions of paragraph 5 of this Article, if the person claimed has not been taken over on the appointed date, he may be released after the expiry of 15 days and shall in any case be released after the expiry of 30 days. The requested Party may refuse to extradite him for the same offence.

5. If circumstances beyond its control prevent a Party from surrendering or taking over the person to be extradited, it shall notify the other Party. The two Parties shall agree a new date for surrender and the provisions of paragraph 4 of this Article shall apply.

ARTICLE 19

POSTPONED OR CONDITIONAL SURRENDER

1. The requested Party may, after making its decision on the request for extradition, postpone the surrender of the person claimed in order that he may be proceeded against by that Party or, if he has already been convicted, in order that he may serve his sentence in the territory of that Party for an offence other than that for which extradition is requested.

2. The requested Party may, instead of postponing surrender, temporarily surrender the person claimed to the requesting Party in accordance with conditions to be determined by mutual agreement between the Parties.

ARTICLE 20

HANDING OVER OF PROPERTY

1. The requested Party shall, insofar as its law permits and at the request of the requesting Party, seize and hand over property:

- (a) which may be required as evidence or
- (b) which has been acquired as a result of the offence and which, at the time of the arrest, is found in the possession of the person claimed or is discovered subsequently.

2. The property mentioned in paragraph 1 of this Article shall be handed over even if extradition, having been agreed to, cannot be carried out owing to the death or escape of the person claimed.

3. When the said property is liable to seizure or confiscation in the territory of the requested Party, the latter may, in connection with pending criminal proceedings, temporarily retain it or hand it over on condition that it is returned.

4. 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 after the trial.

ARTICLE 21

TRANSIT

1. Transit through the territory of one of the Contracting Parties shall be granted on submission of a request by the means mentioned in Article 12, paragraph 1, provided that the offence concerned is not considered by the Party requested to grant transit as an offence of a political or purely military character having regard to Articles 3 and 4 of this Convention.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

2. Transit of a national, within the meaning of Article 6, of a country requested to grant transit may be refused.
3. Subject to the provisions of paragraph 4 of this Article, it shall be necessary to produce the documents mentioned in Article 12, paragraph 2.
4. If air transport is used, the following provisions shall apply:
 - (a) when it is not intended to land, the requesting Party shall notify the Party over whose territory the flight is to be made and shall certify that one of the documents mentioned in Article 12, paragraph 2(a) exists. In the case of an unscheduled landing, such notification shall have the effect of a request for provisional arrest as provided for in Article 16, and the requesting Party shall submit a formal request for transit:
 - (b) when it is intended to land, the requesting Party shall submit a formal request for transit.
5. A Party may, however, at the time of signature or of the deposit of its instrument of ratification or, or accession to, this Convention, declare that it will only grant transit of a person on some or all of the conditions on which it grants extradition. In that event, reciprocity may be applied.
6. The transit of the extradited person shall not be carried out through any territory where there is reason to believe that his life or his freedom may be threatened by reason of his race, religion, nationality or political opinion.

ARTICLE 22

PROCEDURE

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

ARTICLE 23

LANGUAGE TO BE USED

The documents to be produced shall be in the language of the requesting or requested Party. The requested Party may require a translation into one of the official languages of the Council of Europe to be chosen by it.

ARTICLE 24

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.
3. In the event of extradition from a non-metropolitan territory of the requested Party, the expenses occasioned by travel between that territory and the metropolitan territory of the requesting Party shall be borne by the latter. The same rule shall apply to expenses occasioned by travel between the non-metropolitan territory of the requested Party and its metropolitan territory.

ARTICLE 25

DEFINITION OF “DETENTION ORDER”

For the purposes of this Convention, the expression “detention order” means any order involving deprivation of liberty which has been made by a criminal court in addition to or instead of a prison sentence.

ARTICLE 26

RESERVATIONS

1. Any Contracting Party may, when signing this Convention or when depositing its instrument of ratification or accession, make a reservation in respect of any provision or provisions of the Convention.

2. Any Contracting Party which has made a reservation shall withdraw it as soon as circumstances permit. Such withdrawal shall be made by notification to the Secretary-General of the Council of Europe.

3. A Contracting Party which has made a reservation in respect of a provision of the Convention may not claim application of the said provision by another Party save insofar as it has itself accepted the provision.

ARTICLE 27

TERRITORIAL APPLICATION

1. This Convention shall apply to the metropolitan territories of the Contracting Parties.

2. In respect of France, it shall also apply to Algeria and to the overseas Departments and, in respect of the United Kingdom of Great Britain and Northern Ireland, to the Channel Islands and to the Isle of Man.

3. The Federal Republic of Germany may extend the application of this Convention to the Land of Berlin by notice addressed to the Secretary-General of the Council of Europe, who shall notify the other Parties of such declaration.

4. By direct arrangement between two or more Contracting Parties, the application of this Convention may be extended, subject to the conditions laid down in the arrangement, to any territory of such Parties, other than the territories mentioned in paragraphs 1, 2 and 3 of this Article, for whose international relations any such Party is responsible.

ARTICLE 28

RELATIONS BETWEEN THIS CONVENTION AND BILATERAL AGREEMENTS

1. This Convention shall, in respect of those countries to which it applies, supersede the provisions of any bilateral treaties, conventions or agreements governing extradition between any two Contracting Parties.

2. The Contracting Parties may conclude between themselves bilateral or multilateral agreements only in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.

3. Where, as between two or more Contracting Parties, extradition takes place on the basis of a uniform law, the Parties shall be free to regulate their mutual relations in respect of extradition exclusively in accordance with such a system notwithstanding the provisions of this Convention. The same principle shall apply as between two or more Contracting Parties each of which has in

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

force a law providing for the execution in its territory of warrants of arrest issued in the territory of the other Party or Parties. Contracting Parties which exclude or may in the future exclude the application of this Convention as between themselves in accordance with this paragraph shall notify the Secretary-General of the Council of Europe accordingly. The Secretary-General shall inform the other Contracting Parties of any notification received in accordance with this paragraph.

ARTICLE 29

SIGNATURE, RATIFICATION AND ENTRY INTO FORCE

1. This Convention shall be open to signature by the Members of the Council of Europe. It shall be ratified. The instruments of ratification shall be deposited with the Secretary-General of the Council.
2. The Convention shall come into force 90 days after the date of deposit of the third instrument of ratification.
3. As regards any signatory ratifying subsequently the Convention shall come into force 90 days after the date of the deposit of its instrument of ratification.

ARTICLE 30

ACCESSION

1. The Committee of Ministers of the Council of Europe may invite any State not a Member of the Council to accede to this Convention, provided that the resolution containing such invitation receives the unanimous agreement of the Members of the Council who have ratified the Convention.
2. Accession shall be by deposit with the Secretary-General of the Council of an instrument of accession, which shall take effect 90 days after the date of its deposit.

ARTICLE 31

DENUNCIATION

Any Contracting Party may denounce this Convention insofar as it is concerned by giving notice to the Secretary-General of the Council of Europe. Denunciation shall take effect six months after the date when the Secretary-General of the Council received such notification.

ARTICLE 32

NOTIFICATIONS

The Secretary-General of the Council of Europe shall notify the Members of the Council and the Government of any State which has acceded to this Convention of:

- (a) the deposit of any instrument of ratification or accession;
- (b) the date of entry into force of this Convention;
- (c) any declaration made in accordance with the provisions of Article 6, paragraph 1 and of Article 21, paragraph 5;
- (d) any reservation made in accordance with Article 26, paragraph 1;
- (e) the withdrawal of any reservation in accordance with Article 26, paragraph 2;
- (f) any notification of denunciation received in accordance with the provisions of Article 31 and by the date on which such denunciation will take effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Paris

this 13th day of December 1957, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General of the Council of Europe shall transmit certified copies to the signatory Governments.

SCHEDULE 2

RESERVATIONS AND NOTIFICATION BY THE UNITED KINGDOM

Article 1

The United Kingdom reserves the right to refuse to grant extradition which is requested pursuant to or for the purpose of executing a conviction or sentence pronounced against the person concerned in his absence from the proceedings in respect of which the conviction or sentence was pronounced.

Article 2

(1) The United Kingdom may decide to grant extradition in respect of any offences which under the law of the requesting State and the law of the United Kingdom are punishable by a sentence of imprisonment for a term of 12 months or any greater punishment, whether or not such a sentence has in fact been imposed.

(2) The United Kingdom reserves the right to refuse extradition if it appears, in relation to the offence or each of the offences in respect of which a person's return is sought, that by reason of its trivial nature, or because the accusation is not made in good faith in the interests of justice, it would in all the circumstances be unjust or oppressive to return him.

Article 3

The United Kingdom reserves the right to apply the provisions of Article 3, paragraph 3, only in respect of States parties to the European Convention on the Suppression of Terrorism.

Article 8

The United Kingdom may refuse to extradite a person if the authorities in any part of the United Kingdom, the Channel Islands or the Isle of Man have instituted or are about to institute criminal or other proceedings against that person, whether or not those proceedings are in respect of the offence or offences for which extradition is requested.

Article 9

The United Kingdom reserves the right to refuse to grant extradition of a person accused of an offence, if it appears that that person would if charged with that offence in the United Kingdom be entitled to be discharged under any rule of law relating to previous acquittal or conviction.

Article 10

The United Kingdom reserves the right to refuse extradition if it appears, in relation to the offence, or each of the offences, in respect of which the person's return is sought, that by reason of the passage of time since he is alleged to have committed it, or to have become unlawfully at large, as the case may be, it would, having regard to all the circumstances, be unjust or oppressive to return him.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 12

(1) In addition to the request and any supporting documents, the United Kingdom will require a statement indicating whether or not a conviction in respect of which extradition is requested was obtained in the presence of the person whose return is sought.

(2) The statement of the offences for which extradition is requested must contain a description of the conduct which it is alleged constitutes the offence or offences for which extradition is requested.

(3) For the purposes of proceedings in the United Kingdom, foreign documents shall be deemed duly authenticated:

- (a) if they purport to be signed by a judge, magistrate or officer of the State where they were issued; and
- (b) if they purport to be certified by being sealed with the official seal of the Minister of Justice, or some other Minister of State, of that State.

Article 14

The United Kingdom reserves the right in any case to refuse to consent to a person who has been extradited being proceeded against, sentenced or detained with a view to carrying out the sentence or detention order for any offence committed prior to his surrender other than that for which he was extradited or to his being for any other reason restricted in his personal freedom.

Article 21

The United Kingdom cannot accept the application of Article 21.

Article 23

The documents to be produced shall be in English or accompanied by a translation into English.

Article 27

This Convention shall apply to the United Kingdom of Great Britain and Northern Ireland, to the Channel Islands and to the Isle of Man. The United Kingdom reserves the right to notify the Secretary-General of the application of the Convention to any territory for the international relations of which the United Kingdom is responsible.

Article 28

The Convention supersedes the provisions of bilateral treaties between the United Kingdom and other Contracting Parties only to the extent that the Convention applies, by or under Article 27, to the United Kingdom, the Contracting Parties, and any territories for whose international relations the United Kingdom or the Contracting Parties are responsible.

NOTIFICATION

The Convention shall not apply between the United Kingdom and any Contracting Party when laws are in force in the United Kingdom and in that Contracting Party providing for the execution in the territory of each of them of warrants issued in the territory of the other.

SCHEDULE 3

PART I

CONVENTION STATES

Albania
Andorra
Austria
Belgium
Bulgaria
Croatia
Cyprus
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Iceland
Israel
Italy
Latvia
Liechtenstein
Lithuania
Luxembourg
Macedonia, Former Yugoslav Republic of
Malta
Moldova
Netherlands
Norway
Poland
Portugal
Romania
Russian Federation
Slovakia
Slovenia
Spain
Sweden

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Switzerland

Turkey

Ukraine

PART II

Republic of Ireland

SCHEDULE 4

RESERVATIONS AND DECLARATIONS MADE BY CONVENTION STATES

PART 1

ALBANIA

Reservations and Declarations

Article 2

Relating to paragraph 1 of Article 2 of the Convention, the Albanian party has no minimum limits for the term of imprisonment for the effect of extradition. The Albanian party considers this declaration as valid only in conditions of reciprocity.

Article 6

Relating to paragraph 1, sub-paragraph a, of Article 6, the Albanian party refuses the extradition of its nationals, unless otherwise provided in the International Agreements to which Albania is a contracting party.

Article 6

Relating to paragraph 1, sub-paragraph b, of Article 6, the Albanian party includes in the term “nationals” the “persons with double nationality”, in case either of them is Albanian.

Article 7

Relating to paragraph 1 of Article 7, the Albanian party does not allow the extradition of the persons who have committed offences either in the Albanian territory or outside it, when the offence has injured the interest of the State or of the nationals, unless it is otherwise agreed with the interested party.

Article 19

Relating to paragraph 2 of Article 19, the Albanian party declares that when a person asked to be surrendered is serving a sentence for another offence, he or she, in the event of extradition, shall be permitted to serve the full sentence in the requesting country.

Article 21

Relating to paragraph 4, sub-paragraph a, of Article 21, the Albanian party declares that prior notification is not necessary in cases of transit by air that does not schedule a landing in Albanian territory.

Declarations contained in the first, fourth and fifth paragraphs are valid only in conditions of reciprocity.

Article 12

Relating to paragraph 2 of Article 12, the Albanian party presents the reservation that the request for extradition must be accompanied always by the original text, or authenticated copy of the applied law.

PART 2

ANDORRA

Declarations

Article 6

Article 14, paragraph 1, of the Law “qualificada” on Extradition prohibits the extradition of persons having the Andorran nationality. For the purposes of this Convention, the term “national” means any person having the Andorran nationality at the time of the commission of the facts in accordance with the provisions of the Law “qualificada” on Andorran nationality.

Article 11

Article 8, paragraph 3, of the Constitution of the Principality of Andorra prohibits the death penalty. When the offence for which the extradition is requested may be punishable by death under the law of the requesting Party, the Principality of Andorra shall refuse extradition, unless the requesting Party gives such assurance as considered sufficient by the requested Party that the death penalty will not be executed.

Article 16

In the case of a request for provisional arrest, the Principality of Andorra shall require, as complementary information, a short statement of the facts alleged against the person sought.

Article 21

The Principality of Andorra will only grant transit when all the conditions required for the granting of extradition are fulfilled in accordance with this Convention.

Article 23

The Principality of Andorra will require the requesting Party to supply a translation of the request for extradition and all accompanying documents into Catalan, Spanish or French.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Reservations

Article 1

The Constitution of the Principality of Andorra prohibits special courts in its Article 85, paragraph 2. Extradition shall therefore not be granted in cases if the person sought would be tried in the requesting State by a special court or if extradition is requested for the enforcement of a sentence or detention order imposed by such a court.

In the same way, and pursuant to Article 14, paragraphs 12, 13, 14 and 15 of the Law “qualificada” of the Principality of Andorra [*Law which, to be passed, requires a higher majority than other laws*], extradition shall not be granted:

- (a) when the sentence is based on a manifest error;
- (b) when extradition is likely to have consequences of an exceptional gravity for the person sought particularly by reason of his or her age or state of health;
- (c) when the person sought would be tried in the requesting State by a tribunal which does not assure the fundamental procedural guarantees and the protection of the rights of the defence or by a tribunal created for that person’s particular case, as the only person concerned or not.

Article 12

The Principality of Andorra reserves itself the right to require the requesting Party to produce evidence establishing a sufficient presumption that the offence was committed by the person whose extradition is requested. Should such evidence be deemed insufficient, extradition may be refused.

PART 3

AUSTRIA

Declarations

Article 2

Austria will grant extradition also under the conditions mentioned in Article 2, paragraph 2.

Articles 6 and 21

The Government of Austria declares that Romania’s declaration concerning Article 6, paragraph 1(a) and (b) and Article 21, paragraph 5, of the Convention is interpreted by Austria in the way that persons who have been granted asylum in Romania will be placed on an equal footing with Romanian nationals only in the event of a request for extradition or transit through Romania’s territory by the persecuting State and that, in that case, such persons will neither be extradited nor transited through Romania.

The declaration by Romania concerning Article 6, paragraph 1(a) and (b) and Article 21, paragraph 5, is compatible with the aim and purpose of the Convention only if the extradition or transit through Romania’s territory to a third State of persons granted asylum in Romania is not refused solely on the grounds that those persons are treated as Romanian nationals.

Concerning the declarations and reservations formulated by Poland with regard to the European Convention on Extradition, the Austrian Government shares the interpretation contained in the declaration of the Government of the Federal Republic of Germany, dated 11 October 1993.

The Government of Austria declares that Poland's declaration concerning Article 6, paragraph 1(b) of the European Convention on Extradition is interpreted by Austria in the same way, as meaning that persons who have been granted asylum in Poland will be placed on an equal footing with Polish nationals only in the event of a request for extradition by the persecuting State and that, in that case, such persons will not be extradited.

The declaration by Poland concerning Article 6, paragraph 1(b) is compatible with the aim and purpose of the Convention only if the extradition to a third state of persons granted asylum in Poland is not refused solely on the grounds that those persons are treated as Polish nationals.

In any case Austria will refuse transit of Austrian nationals.

Transit for offences punishable, under the law of the requesting Party, by death or by a sentence incompatible with the requirements of humanity and human dignity, will be granted under the conditions governing the extradition for such offences.

Austria will regard the time of surrender of the person claimed as decisive for the determination of nationality.

Article 7

Austria will only grant extradition of a person for an offence which, according to Austrian law, is under Austrian jurisdiction, insofar as that person will be extradited for another offence and as the condemnation of that person by the judicial authorities of the requesting State for all offences is in the interest of ascertaining the truth or useful by reason of fixing of the penalty and execution of the sentence.

Article 9

Austria will grant extradition if the person claimed was acquitted only for lack of Austrian jurisdiction, or if, only for this reason, criminal proceedings against this person have not been instituted or if instituted criminal proceedings were terminated.

Article 11

With reference to circular No. JJ2356C Tr./24-4 of 16 February 1990 concerning the declarations and reservations made by Portugal [*Note from the Secretariat: letter from the Permanent Representative of Portugal dated 12 February 1991*] in respect of the European Convention on Extradition and with reference to the declaration by the Government of the Federal Republic of Germany dated 4 February 1991, the Austrian Government shares the German interpretation of the matter.

Article 11 of the European Convention on Extradition provides for the possibility of refusing extradition in cases in which the offence for which extradition is requested is punishable by death under the law of the requesting Party. However, the Convention does not contain a similar provision for sentences of life imprisonment.

The application of the European Convention on Extradition in respect of Portugal without the interpretation proposed by the German Government would result in a situation where extradition for a crime punishable by life imprisonment would have to be refused.

This is not compatible with the meaning and purpose of the Convention. The result of such an application would be the regular refusal of extradition for serious crimes and the authorisation of extradition for relatively minor crimes. This would be contrary to the purpose of the Convention, namely to achieve co-operation between the Contracting Parties to take international action against crime.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 16

In a case of a request for provisional arrest, Austria also requires a short statement of the facts the person claimed is charged with.

Reservations

Article 1

Austria will not grant extradition if the person claimed is to be brought before a special court or if the extradition should lead to the execution of a sentence or a detention order inflicted by such a court.

Article 5

Austria will further grant extradition for offences which are exclusively contravention against regulations concerning monopolies or the export, import, transit and rationing of goods only under the conditions mentioned in Article 5.

Article 11

Austria will refuse extradition requested in order to carry out death-penalty. Extradition for an offence punishable by death under the law of the requesting Party will only be granted if the requesting State accepts the condition that a death-penalty will not be pronounced. Austria will apply the same principles in the case of sentences which are incompatible with the requirements of humanity and human dignity.

PART 4

BELGIUM

Article 1

The Belgian Government considers that the reservation made by Portugal regarding Article 1, item c, is not compatible with the object of the Convention. It takes the reservation to mean that extradition shall not be granted only if, in accordance with the legislation of the requesting State, the person sentenced to life imprisonment cannot be released after a certain time, following a legal or administrative procedure.

Article 14

Belgium considers that the rule of specialty is not applicable when the person claimed by Belgium has given, before the judicial authority of the requested State, his or her explicit consent to be prosecuted and punished on whatever count if this possibility is provided for in the legislation of the latter State. If, on the other hand, the extradition is requested from Belgium, it considers that, when the person to be claimed has formally renounced to the formalities and guarantees of extradition, the rule of specialty shall no longer apply.

Article 15

Belgium considers that the exception provided for by Article 15 is extended, in the event that the person surrendered to Belgium has renounced to the speciality of extradition according to the legislation of the requested Party.

Article 21

The Belgian Government will allow transit through its territory on the same conditions on which extradition is granted.

Article 23

If the request for extradition and the documents to be produced are in the language of the requesting Party and this language is neither Dutch, French nor German, they must be accompanied by a translation into French.

Reservations

Article 1

Belgium reserves the right not to grant extradition if the person claimed could be brought before a court of special jurisdiction, or if the extradition is requested for the execution of a sentence rendered by such a court.

Extradition will not be granted when the surrender might have consequences of an exceptional gravity for the person claimed, in particular on account of his or her age or health.

Article 18

The obligation to release after the expiry of 30 days provided for by Article 18, paragraph 4, will not be applicable in the event that the person claimed has introduced an appeal against the decision to extradite or concerning the legality of the detention.

Article 19

The Government of the Kingdom of Belgium will grant the temporary surrender provided for by Article 19, paragraph 2, only if it concerns a person who serves a sentence on its territory and if particular circumstances require it.

Notification

Article 28

By reason of the special arrangements between the Benelux countries, the Belgian Government does not accept Article 28, paragraphs 1 and 2, in respect of its relations with the Kingdom of the Netherlands and the Grand Duchy of Luxembourg.

The Belgian Government reserves the right to derogate from these provisions in respect of its relations with the other Member States of the European Community.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART 5 BULGARIA

Reservations

Article 1

Extradition may be refused if the person proceeded against is to be tried by a special court in the requesting state or if a sentence delivered by such a court will be executed against that person.

Article 4

Extradition for military offences which are also offences under ordinary law may be granted solely on condition that the person extradited will not be tried by a military court or accused of a military offence.

Article 7

The Republic of Bulgaria declares its right to refuse extradition if the requesting party refuses extradition in similar cases, in accordance with Article 7, paragraph 2.

Article 12

The Republic of Bulgaria declares its right to require that the requesting party submit evidence that the offence was committed by the person whose extradition is requested. If it considers the evidence submitted to be inadequate, it may refuse extradition.

Declarations

Article 21

The Republic of Bulgaria declares that it will allow transit on the same conditions on which extradition is granted.

Article 6

The Republic of Bulgaria declares that it will recognise as a national for the purposes of the Convention any person having Bulgarian nationality at the time of the extradition order.

Article 23

The Republic of Bulgaria declares that it will require the documents submitted in execution of the present Convention to be accompanied by a translation into one of the official languages of the Council of Europe.

PART 6 CROATIA

Declarations and Reservations

Articles 6 and 21

Article 9 of the Constitution of the Republic of Croatia prohibits the extradition of Croatian citizens. Consequently, the Republic of Croatia will not allow any extradition or transit (Article 21, paragraph 2, of the Convention) of its own citizens.

The “nationality” of a person being requested for extradition will be considered in terms of the time when the criminal act was committed and in compliance with the regulations of the Republic of Croatia regarding citizenship (Article 6, paragraph 1(b), of the Convention).

The Republic of Croatia will approve the transit of a person only under the conditions applying to extradition (Article 21, paragraph 5, of the Convention).

PART 7 CYPRUS

Declarations

Article 1

The Government of the Republic of Cyprus declares that under Article 11.2f of the Constitution of the Republic, no extradition of citizens of the Republic can be made. The provisions, therefore of this Article, as far as the Republic of Cyprus is concerned, should be restricted to extradition of aliens.

Article 6

The Government of the Republic of Cyprus declares that so long as under its Constitution no extradition of citizens of the Republic is allowed (cf declaration in respect of Article 1) the term “nationals” within the meaning of the Convention, as far as the Republic of Cyprus is concerned, should mean “citizens of the Republic of Cyprus or persons who, under the provisions relating to citizenship of the Republic in force for the time being, would be entitled to become citizens of the Republic”.

Furthermore, under the provisions of the Criminal Code of Cyprus, citizens of the Republic may be prosecuted in Cyprus, for offences committed in a foreign country punishable with death or imprisonment exceeding two years if the act or omission constituting the offence is also punishable by the law of the country where it was committed.

Article 11

Under the Criminal Code of Cyprus in the case of the Republic committing an offence in a foreign country punishable under the law of Cyprus with death but not so punishable under the law of the foreign country the death penalty is not imposed in the Republic but such citizen is punishable with any other punishment up to imprisonment for life.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 21

With regard to citizens of the Republic, the same declaration is made in respect of Articles 1 and 6.

PART 8 CZECH REPUBLIC

Article 21

Under the terms of the Article 21.5 the transit of a person within the meaning of Article 21 will be granted only on conditions applied in cases of extradition.

PART 9 DENMARK

Reservations

Article 1

Extradition may be granted on condition that the person charged with an offence shall not be proceeded against before a special court. Extradition may be refused if its object is the execution of a sentence pronounced by such a court.

Extradition may also be refused if it is liable to have particularly serious consequences for the person claimed on account of his age, state of health or other personal reasons.

Articles 1 and 9

Extradition may be refused if the competent authorities of a third State have, by a final judgment, either acquitted or convicted the person concerned in respect of the offence giving rise to the request for extradition, or if the competent authorities of a third State have decided to waive or to discontinue proceedings in respect of the same offence.

Article 2

The obligation to grant extradition shall be restricted to offences which, under the Danish penal code, are punishable by a penalty more severe than imprisonment for one year or simple detention.

Article 3

A decision as to whether, in a given instance, the taking or attempted taking of the life of a Head of State or a member of his family is to be deemed a political offence shall be made after consideration of the facts of the case.

Article 4

Extradition for a military offence which is also a civil offence may only be granted provided the extradited person is not convicted under military law.

Article 12

Where seemingly indicated by special circumstances, the Danish authorities may require the requesting country to produce evidence establishing a sufficient presumption of guilt on the part of the person concerned. Should such evidence be deemed insufficient, extradition may be refused.

Declarations

Article 6

The term “national” means in Denmark a national of Denmark, Finland, Iceland, Norway or Sweden, or a person domiciled in one of those countries.

Notification

Article 28

The Convention will not apply to Denmark’s relations with Norway and Sweden, extradition between the Scandinavian countries being governed by uniform legislation.

PART 10

ESTONIA

Declarations

Article 6

1. Pursuant to Article 6, paragraph 1, sub-paragraph (b) of the Convention, the Republic of Estonia declares that the term “national” within the meaning of this Convention means nationals of the Republic of Estonia.

2. Pursuant to Article 6, paragraph 1, sub-paragraph (a) of the Convention, the Republic of Estonia reserves the right to refuse extradition of one of her own nationals, if the national has not consented to it.

Article 23

3. Pursuant to Article 23 of the Convention, the Republic of Estonia declares that requests and their annexes presented to the Republic of Estonia shall be accompanied by a translation into English.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART 11

FINLAND

Declaration

Article 6

Within the meaning of this Convention, the term “nationals” shall denote nationals of Finland, Denmark, Iceland, Norway and Sweden as well as aliens domiciled in these States.

Reservations

Article 1

Finland reserves the right, when granting extradition, to stipulate that the extradited person shall not be prosecuted for the offence in question in a court which is only provisionally, or under exceptional circumstances, empowered to deal with such offences. Extradition requested for the execution of a sentence rendered by such special court may be refused. Finland reserves also the right to refuse extradition, if extradition on account of the age, the state of health or any other condition affecting the individual in question or on account of special conditions would be unreasonable for human reasons.

Article 2

The obligation to extradite mentioned in paragraph 1 of this Article shall be restricted to offences which, under Finnish law, are punishable by a penalty more severe than imprisonment for one year. A person sentenced in a foreign state for such offence may be extradited only if the term not yet served is deprivation of liberty for at least four months.

Article 3

Finland reserves the right to regard the offence mentioned in paragraph 3 of this Article as a political offence, if such offence has been committed in open fight.

Article 4

Where a military offence also comprises an offence in respect of which extradition otherwise is permissible. Finland reserves the right to stipulate that the extradited person shall not be punished under a provision pertaining to military offences.

Article 18

If the person taken into custody, whose extradition has been granted, has not been taken over by the requesting State on the date appointed, Finland reserves the right to release him immediately.

Notification

Article 28

The Convention shall not apply to extradition for offences between Finland, Denmark, Iceland, Norway and Sweden because extradition between these States is governed by uniform legislation.

PART 12

FRANCE

Reservations and Declarations

Article 1

Extradition shall not be granted if the person sought would be tried in the requesting State by a tribunal which does not assure the fundamental procedural guarantees and the protection of the rights of the defence or by a tribunal created for that person's particular case or if extradition is requested for the enforcement of a sentence or detention order imposed by such a tribunal.

Extradition may be refused if surrender is likely to have consequences of any exceptional gravity for the person sought, particularly by reason of his age or state of health.

Article 2

Concerning persons prosecuted, extradition shall only be granted in respect of offences which under French law and under the law of the requesting State, are punishable by deprivation of liberty or by a detention order for a maximum period of at least two years.

With regard to punishments which are more severe than deprivation of liberty or detention orders, extradition may be refused if these punishments or detention orders are not provided for in the scale of punishments applicable in France.

Article 3

France reserves the right, in the light of the individual circumstances of each case, to appreciate if the taking or attempted taking of the life of a Head of State or a member of his family is to be deemed or not a political offence.

Article 5

France declares that for offences in connection with taxes, duties, customs and exchange, extradition shall be granted to the requesting State if it has been so decided by a simple exchange of letters in each category of case.

Article 6

Extradition shall be refused when the person sought had French nationality at the time of the alleged offence.

Article 14

France will require that any description of an offence relates to the same facts as those for which extradition was granted and that this new description does not imply the application of a penalty for which extradition could be refused.

Article 16

In the case of a request for provisional arrest, France shall require a short memorandum of the facts alleged against the person sought.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 21

France reserves the right not to grant transit except on the same conditions as those on which it grants extradition.

Article 23

France declares that it will request a translation of the requests for extradition and documents annexed thereto into one of the official languages of the Council of Europe and that it chooses French.

Article 27

The Government of the French Republic declares that, with respect to France, the Convention applies to the European and overseas departments of the Republic.

PART 13

GERMANY

Reservations and Declarations

Article 1

The Government of the Federal Republic of Germany considers Portugal's reservation (under item c) to Article 1 of the Convention to be compatible with the object and purpose of the Convention only if refusal to grant extradition for offences punishable by a life-long sentence or detention order is not absolute. It takes the reservation to mean that the only circumstance in which extradition will not be granted is where there is no possibility under the law of the requesting state for the person sentenced to life imprisonment, having completed a certain proportion of the sentence or period of detention, to obtain a judicial review of his case with a view to having the remainder of the sentence commuted to probation.

Article 6

Extradition of Germans from the Federal Republic of Germany to a foreign country is not permitted by virtue of Article 16, paragraph 2, first sentence, of the Basic Law for the Federal Republic of Germany and must, therefore, be refused in every case.

The term "nationals" within the meaning of Article 6, paragraph 1b, of the European Convention on Extradition covers all Germans within the meaning of Article 116, paragraph 1, of the Basic Law for the Federal Republic of Germany.

The Federal Republic of Germany considers the placing of persons granted asylum in Poland on an equal standing with Polish nationals in Poland's declaration with respect of Article 6, paragraph 1(a) of the Convention to be compatible with the object and purpose of the Convention only with the provision that it does not exclude extradition of such persons to a state other than that in respect of which asylum has been granted.

Article 21

In a case of transit under Article 21 of the European Convention on Extradition, Article 11 of the Convention will be applied *mutatis mutandis*.

Article 21

Transit of a German through the territory of the Federal Republic of Germany is not permitted by virtue of Article 16, paragraph 2, first sentence, of the Basic Law for the Federal Republic of Germany and must, therefore, be refused in every case.

Article 21

Where transit is to be effected by air through the territory of the Federal Republic of Germany without any intention to land, an assurance will be required to the effect that, according to the facts known to the requesting Party and the documents in its possession, the extradited person is not a German and does not claim such status.

Article 23

Where the request for extradition and the documents to be produced are not in the German language they must be accompanied by translations of the request and the documents into the German language or into one of the official languages of the Council of Europe.

PART 14

GREECE

Declarations and Reservations

Article 6

The provisions of Article 6 will be applied subject to the application of Article 438a of the Greek Code of Criminal Procedure, which prohibits extradition of nationals of the requested Party.

Article 438 of the Greek Code of Criminal Procedure will also be applied in relation to paragraph 1c. Under that Article, the date of commission of the offence will on no account be taken into consideration in establishing the nationality of the wanted person.

Article 7

Paragraph 1 will be applied subject to the provisions of Article 438b of the Greek Code of Criminal Procedure.

Article 11

Article 437, paragraph 1, of the Greek Code of Criminal Procedure will continue to be applied in place of Article 11 of the Convention. Under that clause, extradition of a foreign national for an offence punishable by death under the law of the requesting Party is authorised only if Greek criminal law prescribes the same penalty for the offence in question.

Article 18

The last sentence of Article 18, paragraph 4, of the Convention is accepted, with the addition of the following clause from Article 454 of the Greek Code of Criminal Procedure: “provided that the new request is based on the same facts”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 19

This Article is accepted subject to the provisions of Article 441 of the Greek Code of Criminal Procedure.

PART 15 HUNGARY

Reservations and Declarations

Article 1

Hungary will not grant extradition if the person sought is to be brought before a special court or if the extradition should lead to the enforcement of a sentence or detention order inflicted by such a court.

Hungary moreover reserves the right to refuse extradition on humanitarian grounds if it would cause particular hardship to the person claimed, for example, because of his youth, advanced age or state of health, or any other condition affecting the individual in question, having regard also to the nature of the offence and the interests of the requesting State.

Article 6

Notwithstanding the provisions of Article 6, paragraph 1a of the Peace Treaty concluded in Paris on 10 February 1947, Hungary will not grant extradition of its own nationals, except in the case where the person sought for extradition is also a citizen of another State and has his permanent residence in a foreign State. Irrespective of his permanent residence and his incidental other citizenship, a Hungarian citizen may be transferred to another State, if the extradition of such a person to Hungary was granted under the condition that, following completion of the criminal proceedings or the execution of the sentence against him, he would be transferred back to that State for the purpose of fulfilling the request for extradition.

Hungary reserves the right to refuse extradition of persons settled definitively in Hungary.

Article 11

Hungary will refuse extradition if it is requested to carry out death penalty or to prosecute a person charged with an offence punishable by death penalty. However, extradition may be granted in respect of an offence punishable by death penalty under the law of the requesting State, if that State accepts that death penalty, if pronounced, will not be executed.

Article 16

In case of request for provisional arrest, Hungary also requires a short statement of the facts the person claimed is charged with.

Article 21

Hungary will refuse transit of its own nationals and of persons settled definitively in Hungary.

Article 23

Hungary declares that it will require a translation of the request for extradition and documents annexed thereto into either Hungarian, or any of the official languages of the Council of Europe, if they are not drawn up in these languages.

PART 16

ICELAND

Reservations

Article 1

When granting extradition, Iceland reserves the right to stipulate that the extradited person may not be summoned to appear before a provisional court or a court empowered under exceptional circumstances to deal with such offences, as well as the right to refuse extradition for the execution of a sentence rendered by such special court.

Extradition may also be refused if it is liable to have particularly serious consequences for the person claimed on account of his age, state of health or other personal circumstances.

Article 2

Iceland can only grant extradition in respect of an offence, or corresponding offence, which under Icelandic law is punishable, or would have been punishable, with imprisonment for more than one year.

Article 3

Iceland reserves the right, in light of individual circumstances to consider the offence described in paragraph 3 of Article 3 as a political offence.

Article 4

Extradition for a military offence which is also an offence under ordinary criminal law may only be granted provided the extradited person is not convicted under military law.

Article 12

Iceland reserves the right to require the requesting Party to produce evidence establishing that the person claimed has committed the offence for which extradition is requested. Extradition may be refused if the evidence is found to be insufficient.

Declarations

Article 6

Within the meaning of the Convention the term “nationals” means a national of Iceland and a national of Denmark, Finland, Norway or Sweden or a person domiciled in Iceland or other aforementioned countries.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Notification

Article 28, paragraph 3

The Convention shall not apply to extradition to Denmark, Finland, Norway or Sweden as extradition between the Nordic countries is governed by a uniform law.

PART 17

REPUBLIC OF IRELAND

Declarations

A decision of the Irish Supreme Court has made it impossible for Ireland to comply with its international obligations under the European Convention on Extradition.

The Court ruled that Ireland was not bound by its ratification of a similar extradition Treaty as the approval of Dail Eireann of the terms of that Treaty had not been obtained prior to ratification as is required by the Constitution of Ireland. The said Supreme Court Decision serves as a binding precedent in all future extradition cases.

The same circumstance applies in the case of the European Convention on Extradition. Dail approval of the terms thereof was not obtained prior to ratification of the said Convention on behalf of the Government of Ireland in 1966. Consequently, in the event of a court challenge, Ireland's ratification in 1966 is likely to be declared invalid under domestic law.

In order to rectify this position, Dail Eireann approved the terms of the European Convention on Extradition on 29 June 1988. It is now necessary, for the purposes of domestic requirements, for the Government of Ireland to confirm the earlier ratification by way of deposit of a new instrument of ratification.

Article 6

I have the honour to declare, in accordance with Article 6 of the Convention, that the term "national" in the Convention is hereby defined as meaning "citizens of Ireland" as far as my Government is concerned.

Reservation

Article 9

The Irish authorities will not grant extradition if final judgment in respect of the offence for which extradition is requested has been passed in a third State on the person claimed.

Notification

Article 28

The Government of Ireland, in accordance with Article 28, paragraph 3, of the European Convention on Extradition, 1957, hereby notifies the Secretary-General of the Council of Europe that the relations of the Government of Ireland with the Government of the United Kingdom in respect of Extradition will continue to be regulated exclusively on the basis of laws in force in their respective territories providing for the execution in the territory of either Party of warrants of arrest issued in the territory of the other Party.

PART 18

ISRAEL

Declarations

Article 21

Israel will only grant transit of a person if, were the receiving State requesting the extradition of the wanted person from Israel, there would be no legal bar to declaring him subject to extradition and extraditing him.

Article 22

The evidence in writing, or the declarations given on oath or not, or certified copies of such evidence or declarations, and the warrant of arrest and the other legal documents establishing the fact of the conviction, shall be admitted as valid evidence in examining the request for extradition, if they have been signed by a judge or official of the requesting State or if they are accompanied by a certificate issued by such a judge or official or if they have been authenticated by the seal of the Ministry of Justice.

Article 23

In regard to Article 23 of the Convention, the Government of the State of Israel requests that the documents to be produced by the requesting Party be translated into English or Hebrew.

Reservations

Articles 2 and 4

Israel will not grant extradition of any person unless he is accused or has been convicted in the requesting State of an offence which, had it been committed in Israel, would be one of the following offences:

- (a) Any offence for which the death penalty or imprisonment for a period exceeding three years may be imposed (even if the penalty is lighter where the sentence is passed by a magistrate's court), except:
 1. an offence with which a person can only be charged if at the time of committing it he is a soldier within the meaning of the Military Justice Law, 5715–1955;
 2. offences under Section 85 of the Criminal Code Ordinance, 1936 (preventing by force or obstructing notification or presence of a competent police officer in the event of a riotous assembly or riot) or under the Penal Law Amendment (Bigamy) Law, 5719–1959 (bigamy);
 3. offences under the Penal Law Amendment (Assault on Police Officers) Law 5712–1952, or under any of the laws specified in the Schedule to the Prevention of Profiteering and Speculation (Jurisdiction) Law, 5711–1951 (various laws, regulations and bye-laws regulating sub-leasing and accommodation of guests, and the distribution, prices and control of the sale of foodstuffs).
- (b) An offence the penalty for which is lighter than above specified and which is an offence under the Penal Law Amendment (Bribery) Law, 5712–1952, or under any of the following sections of the Criminal Code Ordinance, 1936: 88 (riotously preventing the sailing of a ship), 109B, 110–115 (various offences relating to abuse of office by public servants),

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

120–122, 124 (false swearing, deceiving witnesses, destroying evidence, conspiracy to defeat justice and interference with witnesses), 140 (fraud by public officers), 146 (insult to religion), 156, 158, 159 (intercourse by husband with girl under 15 years, indecency without force and indecent act upon person under 16 years), 161d. (sodomy), 185, 186 (neglect in the supply of food etc., and desertion of children), 195 (spread of dangerous infection or disease), 218 (homicide by carelessness), 242, 250 (assault causing bodily harm), 261, 262 (compulsory labour and false imprisonment), 270 (theft), 304b. and c. (defrauding of creditors), 305 (conspiracy to defraud the public), 310 (receiving property fraudulently obtained), 350 (imitation of bank-notes), 359, 360, 363–366 (counterfeiting), or under the Penal Law Amendment (Deceit, Blackmail and Extortion) Law, 5723–1963 (deceit and forgery).

Article 2

Israel will not grant extradition of a person charged with an offence unless it is proved in a court in Israel that there is evidence which would be sufficient for committing him to trial for such an offence in Israel.

Article 9

Israel will not accede to a request for extradition if the wanted person has been pardoned, or has had his punishment remitted, in the requesting State in respect of the criminal act in question.

Article 14

Israel will not grant extradition in departure from the rule of speciality except:

- (a) if the wanted person has in his absence been declared subject to extradition also in respect of the other offence after he was given an opportunity to be represented in the proceedings aimed at such declaration;
- (b) upon condition that the wanted person will not be proceeded against, sentenced or detained with a view to carrying out sentence unless, having left the requesting State after his extradition, he voluntarily returned to it, or unless he failed to leave the requesting State within 60 days after being given an opportunity to do so.

Article 15

Article 15 shall be read as if the words “60 days” replaced the words “45 days” in Article 14, paragraph 1b.

PART 19

ITALY

Declaration and Reservation

Article 11

Italy declares that it will not, under any circumstances, grant extradition in respect of offences punishable by death under the law of the requesting Party.

Article 25

Italy makes the express reservation that it will not grant the extradition of persons wanted for the carrying out of a detention order unless:

- (a) all the criteria laid down in Article 25 are fulfilled in each case;
- (b) the said detention order is expressly provided for under the criminal law of the requesting Party as being a necessary consequence of an offence.

PART 20

LATVIA

Declaration

Article 6

In pursuance of paragraph 1 of Article 6 of the Convention on Extradition of 1957, the Republic of Latvia defines that within the meaning of the Convention, the term “nationals” relates to citizens of the Republic of Latvia and non-citizens who are subjects of the law on the status of former USSR citizens who are not citizens of Latvia or any other State.

PART 21

LIECHTENSTEIN

Declarations and Reservations

Article 1

Extradition is on principle granted by the Principality of Liechtenstein only on the condition that the person against whom proceedings are being taken for an offence be tried by the ordinary courts of the requesting State. It therefore reserves the right to grant extradition only on condition that the requesting State gives adequate assurances in that respect.

Article 6

The Government of the Principality of Liechtenstein law does not permit extradition of Liechtenstein nationals. Once they have entered the territory of the Principality, they will be tried by the Liechtenstein authorities under Liechtenstein criminal law (paragraph 36 of the Penal Code) for offences committed abroad, whatever the laws of the country where the offence was committed. “Nationals” within the meaning of the Convention are persons possessing Liechtenstein nationality.

Article 11

The Principality of Liechtenstein reserves the right to apply Article 11 by analogy where the requesting State does not give the Liechtenstein authorities adequate assurances that it will not impose any penalty or measure contrary to Liechtenstein law or which offend against the principle of inviolability of the person in a way which is incompatible with Liechtenstein law.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 21

The Principality of Liechtenstein reserves the right to refuse transit through its territory even where the offence with which the accused person is charged is covered by Article 5 of the Convention.

Article 23

The Principality of Liechtenstein requires that requests and the documents to be produced which are written in a language other than German must be accompanied by a translation into that language.

PART 22

LITHUANIA

Reservations

Article 1

Extradition shall be granted only under the condition that any person suspected of having committed a crime will not be tried in a special court of the requesting Party.

The Republic of Lithuania reserves the right not to grant extradition if the said person, on the grounds of his/her health, age or personal motivation, would be adversely affected by this extradition.

Article 3

The Republic of Lithuania reserves its right referred to in Article 3 of the Convention to decide in each particular case whether acts referred to in Article 3, paragraph 3, of the Convention are regarded as being a political offence.

Declarations

Article 6

The term “nationals” means persons having Lithuanian nationality under the Law of the Lithuanian nationality (Citizenship Law). According to Article 6 of the Law on Lithuanian nationality (Citizenship Law), the Republic of Lithuania does not extradite its nationals to foreign countries. All requests for extradition of Lithuanian nationals shall be refused.

Article 12

Written requests for extradition can be exchanged between the Ministry of Justice or the Prosecutor General’s Office of the requesting Party and the Lithuanian Ministry of Justice or Prosecutor General’s Office. The use of diplomatic channels is not excluded.

Article 21

In no case shall the Republic of Lithuania grant transit in respect of Lithuanian nationals.

Article 23

Requests for extradition (including documents in support of the request) have to be accompanied by proper translations in Lithuanian, English, French, Russian or German if these documents are not produced in one of these languages.

PART 23

LUXEMBOURG

Reservations

Article 1

The Government of the Grand Duchy of Luxembourg reserves the right not to grant extradition requested for the purpose of executing a judgment pronounced by default against which no remedy remains open, if such extradition might have the effect of subjecting the person claimed to a penalty without his having been enabled to exercise the rights of defence prescribed in Article 6.3c. of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The Government of the Grand Duchy of Luxembourg reserves the right to refuse extradition on humanitarian grounds if it would cause particular hardship to the person claimed, for example, because of his youth, advanced age or state of health.

Articles 6 and 21

The Government of the Grand Duchy of Luxembourg will not grant extradition or transit of its own nationals.

Article 7

The Government of the Grand Duchy of Luxembourg reserves the right not to grant extradition when, in accordance with Article 7(2), the requesting State would be authorised to refuse extradition in like cases.

Article 9

The Government of the Grand Duchy of Luxembourg will not grant extradition if it is satisfied that final judgment for the offence for which extradition is requested has been passed on the person claimed by the competent authorities of a third State and, in the event of conviction for that offence, the convicted person is serving his sentence, has already served it or has been dispensed from serving it.

The Government of the Grand Duchy of Luxembourg reserves the right to derogate from these provisions in respect of its relations with other Member States of the European Economic Community.

Declarations

Article 6

The Government of the Grand Duchy of Luxembourg declares that so far as the Grand Duchy of Luxembourg is concerned, “nationals” for the purposes of the Convention are to be understood as

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

meaning persons of Luxembourg nationality as well as foreigners integrated into the Luxembourg community in so far as they can be prosecuted within Luxembourg for the act in respect of which extradition is requested.

Article 19

The Government of the Grand Duchy of Luxembourg will not grant temporary extradition under Article 19.2 save of a person who is serving a sentence in its territory and if necessitated by special circumstances.

Article 21

The Government of the Grand Duchy of Luxembourg reserves the right not to grant transit except on the same conditions on which it grants extradition.

Notification

Article 28

By reason of the special arrangements between the Benelux countries, the Government of the Grand Duchy of Luxembourg does not accept Article 28.1 and 2 in respect of its relations with the Netherlands and Belgium.

PART 24

MACEDONIA, FORMER YUGOSLAV REPUBLIC OF

Declaration

Article 6

Taking into account Article 4 of the Constitution of the Republic of Macedonia, which does not allow the extradition of the citizens of the Republic of Macedonia, the provisions of this Convention shall only apply to the persons which are not citizens of the Republic of Macedonia.

Reservations

Article 1

The Republic of Macedonia shall not agree to surrender the person claimed, if this person is charged by an extraordinary court, or in cases where the surrender is requested for the purposes of executing a sentence, safety measure or correctional measure that was passed by such a court.

Article 12

Even in the cases where the final sentence or the arrest warrant are passed by the competent authorities in a country which is Party to this Convention, the Republic of Macedonia reserves the right to refuse the requested surrender, if an examination of the case in question shows that the said sentence or arrest warrant are manifestly ill-founded.

Article 18

In the event that the person claimed has not been taken over by the requesting Party, on the appointed date, the Republic of Macedonia reserves the right to annul the measure of restraint imposed on that person.

PART 25

MALTA

Reservations

Article 1

Malta reserves the right to grant a request for the extradition of a person accused of an offence only where the court of committal is satisfied, after hearing any evidence tendered in support of the request for the return of that person or on behalf of that person, that the evidence would be sufficient to warrant his trial for that offence if it had been committed within the jurisdiction of the Courts of Criminal Justice of Malta. A person convicted of an offence in his absence shall be treated as a person accused of that offence.

Malta reserves the right, when granting extradition, to stipulate that the extradited person shall not be prosecuted for the offence in question in a court which is only provisionally, or under exceptional circumstances, empowered to deal with such offences. Extradition requested for the execution of a sentence rendered by such special court may be refused.

Malta reserves the right to apply the Convention in accordance with Section 20 Chapter 276 of the Laws of Malta (The Extradition Act, 1978) which section reads as follows:

“On an appeal made to the Court of Criminal Appeal or an application for redress to the Constitutional Court under Section 46 of the Constitution of Malta, either of the said Courts may, without prejudice to any other jurisdiction, order the person committed to be discharged from custody if it appears to such Court that:

- (a) by reason of the trivial nature of the offence of which he is accused or was convicted; or
- (b) by reason of the passage of time since he is alleged to have committed it or to have become unlawfully at large, as the case may be; or
- (c) because the accusation against him is not made in good faith in the interests of justice,

it would, having regard to all circumstances, be unjust or oppressive to return him.”

Article 3

Malta reserves the right to apply paragraph 3 of this Article in accordance with Section 10(5) of the Extradition Act which reads as follows:

“For the purposes of this section, an offence against the life or person of a Head of State, or any related offence described in subsection (3) of Section 5 of this Act, shall not necessarily be deemed to be an offence of a political character.”

Article 9

Malta reserves the right to apply this Article in accordance with the rule of “*Non bis in idem*” as laid down in section 527 of the Criminal Code (Chapter 9 of the Laws of Malta) which reads as follows:

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“Where in a trial, judgment is given acquitting the person charged or accused, it shall not be lawful to subject such person to another trial for the same fact.”

Article 18

Malta reserves the right to apply the provisions set out in paragraphs 4 and 5 of this Article in accordance with Section 24 of the Extradition Act (Chapter 276 of the Laws of Malta) which reads as follows:

“(1) If any person committed to await his return is in custody in Malta under this Act after the expiration of the following period that is to say—

- (a) in any case, the period of two months beginning with the first day on which, having regard to subsection (2) of Section 21 of this Act, he could have been returned;
- (b) where a warrant for his return has been issued under Section 21 of this Act, the period of one month beginning with the day on which that warrant was issued—

he may apply to the Court of Criminal appeal, sitting as a court of appeal from judgments of the Court of Judicial Police, for his discharge.

(2) If upon any such application the court is satisfied that reasonable notice of the proposed application has been given to the Minister, the court may, unless sufficient cause is shown to the contrary, by order direct the applicant to be discharged from custody, and if a warrant for his return has been issued under the said section squash that warrant.”

Article 21

Malta reserves the right to grant such transit under this Article only if so far as transit is permissible under its own laws.

PART 26

MOLDOVA

Reservations and Declarations

Article 1

The Republic of Moldova will refuse to grant extradition in cases where the person claimed is to be tried on territory of the requesting Party by a special court (set up for a specific case) or where extradition is requested in order to carry out a sentence or detention order handed down by such a court.

Article 3

The Republic of Moldova reserves the right, where circumstances so dictate, to determine whether the taking or attempted taking of the life of a Head of State or a member of his or her family shall or shall not constitute a political offence.

Article 6

By virtue of Article 17, paragraph 3 of the Constitution of the Republic of Moldova, the citizens of the Republic of Moldova may not be extradited or expelled from the country.

The term “nationals” within the meaning of Article 6, paragraph 1(b), covers all individuals having the nationality of the Republic of Moldova in conformity with its legislation.

Article 7

The Republic of Moldova reserves the right not to grant extradition when, in accordance with Article 7, paragraph 2, the requesting Party would refuse extradition in similar cases.

Article 9

1. The Republic of Moldova will not grant extradition if a final judgment has been passed by a third State upon the person claimed in respect of the offence or offences for which extradition is requested.

2. In derogation of Article 9 (first sentence), the Republic of Moldova may grant extradition if the requesting State can show that new facts or evidence justify a reopening of the case.

Article 16

The Republic of Moldova asks that any request addressed to it in pursuance of Article 16, paragraph 2, contain a brief description of the offence alleged against the person claimed, including the essential particulars by which the nature of the offence can be appraised in accordance with the present Convention.

Article 21

The Republic of Moldova reserves the right to authorise transit only under the conditions provided for in respect of extradition.

Article 23

The Republic of Moldova declares that requests for extradition and documents appended thereto must be in Moldovan or in one of the official languages of the Council of Europe, or translated into one of these languages.

PART 27

NETHERLANDS

Declarations and Reservations

Having regard to the equality existing in public law between the Netherlands, Surinam and the Netherlands Antilles, the term “metropolitan territories” used in paragraph 1 of Article 27 of the present Convention, no longer has its original sense in relation to the Kingdom of the Netherlands and consequently shall be deemed to signify, so far as concerns the Kingdom, “European territory”.

Article 1

The Netherlands Government reserves the right not to grant extradition requested for the purpose of executing a judgment pronounced by default against which no remedy remains open, if such extradition might have the effect of subjecting the person claimed to a penalty without his having been enabled to exercise the rights of defence prescribed in Article 6(3)c. of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The Netherlands Government reserves the right to refuse extradition on humanitarian grounds if it would cause particular hardship to the person claimed, for example, because of his youth, advanced age or state of health.

Articles 6 and 21

The Government of the Kingdom of the Netherlands will not permit the transit of Netherlands nationals nor their extradition for the purposes of the enforcement of penalties or other measures.

However, Netherlands nationals may be extradited for the purposes of prosecution if the requesting state provides a guarantee that the person claimed may be returned to the Netherlands to serve his sentence there, if, following his extradition, a custodial sentence other than a suspended sentence or a measure depriving him of his liberty is imposed upon him.

As regards the Kingdom of the Netherlands, nationals for the purpose of the Convention are to be understood as meaning persons of Netherlands nationality, as well as foreigners integrated into the Netherlands community in so far as they can be prosecuted within the Kingdom of the Netherlands for the act in respect of which extradition is requested and in so far as such foreigners are not expected to lose their right of residence in the Kingdom as a result of the imposition of a penalty or measure subsequent to their extradition.

Article 7

The Netherlands Government reserves the right not to grant extradition when, in accordance with Article 7(2), the requesting State would be authorised to refuse extradition in like cases.

Article 9

The Netherlands Government will not grant extradition if it is satisfied that final judgment for the offence for which extradition is requested has been passed on the person claimed by the competent authorities of a third State and, in the event of conviction for that offence, the convicted person is serving his sentence, has already served it or has been dispensed from serving it.

Notification

Article 28

By reason of the special arrangements between the Benelux countries, the Netherlands Government does not accept Article 28(1) and (2) in respect of its relations with the Kingdom of Belgium and the Grand Duchy of Luxembourg.

The Netherlands Government reserves the right to derogate from these provisions in respect of its relations with other member states of the European Economic Community.

PART 28

NORWAY

Declarations and Reservations

Article 1

Extradition may be refused on humanitarian grounds if surrender is likely to have consequences of an exceptional gravity for the person claimed, particularly by reason of his age, state of health or other personal circumstances.

Article 2

Under the terms of the Norwegian Act No. 39 of 13 June 1975, relating to the Extradition of Offenders etc., paragraph 3, Norway is in a position to grant extradition only in respect of an offence, or a corresponding offence, which under Norwegian law is punishable, or would have been punishable with imprisonment for more than one year.

Article 3

Norway reserves the right, in light of individual circumstances, to consider the offence described in paragraph 3 of Article 3 as a political offence.

Article 4

When an offence under military law also comprises an offence in respect of which extradition otherwise is permissible, Norway reserves the right to stipulate that the extradited person shall not be punished under the military law of the requesting state.

Article 6

As far as Norway is concerned, the term “national” shall include both nationals and residents of Norway. The term shall also include nationals and residents of Denmark, Finland, Iceland or Sweden, if extradition is requested by States other than those mentioned.

Article 12

The Norwegian authorities reserve the right to require the requesting Party to produce *prima facie* evidence to the effect that the person claimed has committed the offence for which extradition is requested. The request may be refused if the evidence is found to be insufficient.

Notification

Article 28

This Convention shall not apply to extradition to Denmark, Finland or Sweden, as extradition between the said States is governed by a uniform legislation.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART 29

POLAND

Reservation and Declaration

Article 6

The Republic of Poland declares, in accordance with paragraph 1(a) of Article 6, that it will under no circumstances extradite its own nationals.

The Republic of Poland declares that, for the purposes of this Convention, in accordance with paragraph 1(b) of Article 6, persons granted asylum in Poland will be treated as Polish nationals.

PART 30

PORTUGAL

Declaration and Reservations

Article 6

The term “nationals” within the meaning of the Convention shall apply to Portuguese citizens, regardless of how they acquired their nationality.

Article 1

Portugal shall not grant the extradition of persons:

- (a) who are to be tried by a special court or who are to serve a sentence passed by such a court;
- (b) who it has been proved will be subjected to a trial which affords no legal guarantees of criminal proceedings complying with the conditions internationally recognised as essential to the protection of human rights, or will serve their sentences in inhuman conditions;
- (c) who are being demanded in connection with an offence punishable by a life-long sentence or detention order.

Article 2

Portugal shall grant extradition only for offences punishable by deprivation of liberty for more than one year.

Article 6

Portugal shall not grant extradition in respect of Portuguese nationals.

Article 11

Portugal shall not grant extradition for offences punishable by the death penalty under the law of the requesting state.

Article 21

Portugal shall authorise transit through its national territory only in respect of persons whose circumstances are such that their extradition may be granted.

PART 31

ROMANIA

Declarations

Article 6

Concerning Article 6, paragraph 1.a: Romania will not extradite its citizens and persons to whom asylum has been granted in Romania.

Concerning Article 6, paragraph 1.b: the term “nationals”, in the sense of this Convention, designates Romanian citizens or persons to whom asylum has been granted in Romania.

Article 21

Concerning Article 21, paragraph 5: Request for transit through Romania’s territory of a Romanian citizen or a person to whom asylum has been granted in Romania will be refused.

Reservation

Article 2

Concerning Article 2, paragraph 1: Romania will request and grant extradition:

- for the prosecution or judgment solely of acts the performance of which results, under the laws of the requesting Party and of the requested Party, in a deprivation of liberty exceeding two years or in a more severe penalty;
- for the enforcement of a sentence only if the deprivation of liberty exceeds one year or is more severe.

PART 32

RUSSIAN FEDERATION

Declarations

The Prosecutor-General’s Office shall be a body appointed by the Russian Federation to hear extradition cases.

A decision of the competent authorities of the Russian Federation on extradition may be appealed by a person against whom a decision on extradition has been rendered, in the court of law in accordance with the legislation of the Russian Federation.

Article 1

The Russian Federation shares the opinions expressed by the Government of the Federal Republic of Germany in its declaration of February 4, 1991, by the Government of the Republic of Austria—in

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

its declaration of June 4, 1991 and by the Government of the Swiss Confederation—in its declaration of August 21, 1991, concerning the reservation by Portugal of February 12, 1990 to Article 1 of the Convention.

The Portuguese reservation to Article 1 of the Convention is compatible with the objective and purpose of the Convention unless the refusal to extradite a person who has committed the offence punishable by life imprisonment or whom the court has committed to custody as a preventive punishment is absolute. This allows to interpret the above-mentioned reservation in a manner that extradition will not be granted unless the law of the requesting State provides for the possibility to review the case of a person sentenced to life imprisonment who has served a part of his term or has been held in custody for some time, with a view to release him on parole.

Article 3

The Russian Federation proceeds from the understanding that the provisions of Article 3 of the Convention should be so applied as to ensure inevitable responsibility for offences under the provisions of the Convention.

The Russian Federation proceeds from the understanding that legislation of the Russian Federation does not provide for the notion “political offences”. In all cases when deciding on extradition, the Russian Federation will not consider as “political offences” or “offences connected with political offences” along with offences, specified in Article 1 of the 1975 Additional Protocol to the 1957 European Convention on Extradition, in particular, the following acts:

- (a) the crimes against humanity specified in Articles II and III of the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973) and in Articles 1 and 4 of Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
- (b) the crimes specified in Article 85 of Additional Protocol I to the Geneva Conventions of August 12, 1949 relating to the Protection of Victims of International Armed Conflicts (1977), and in Articles 1 and 4 of Additional Protocol II to the Geneva Conventions of August 12, 1949 relating to the Protection of Victims of Non-International Armed Conflicts (1977);
- (c) the offences specified in the Convention for the Suppression of Unlawful Seizure of Aircraft (1970), the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971) and the Protocol for the Suppression of Unlawful Acts of Violence in Airports Serving International Civil Aviation (1988) supplementary to the above-mentioned 1971 Convention;
- (d) the crimes specified in the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents (1973);
- (e) the crimes specified in the International Convention Against the Taking of Hostages (1979);
- (f) the offences specified in the Convention for Physical Protection of Nuclear Materials (1980);
- (g) the offences specified in the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988);
- (h) other comparable crimes specified in the multilateral international treaties which the Russian Federation is a party to.

Article 6

With respect to sub-paragraph a. of paragraph 1 of Article 6 of the Convention, the Russian Federation declares that in accordance with Article 61 (part I) of the Constitution of the Russian Federation, a citizen of the Russian Federation may not be extradited to another State.

Article 16

The Russian Federation shall not be liable for claims for property and/or moral damage caused by the temporary arrest of the person in the Russian Federation in accordance with Article 16 of the Convention.

Article 18

In accordance with paragraphs 4 and 5 of Article 18 of the Convention, the Russian Federation shall not be liable for claims for property and/or moral damage caused by the delay or cancellation of the surrender of persons to be extradited.

Article 21

The Russian Federation declares that in accordance with Article 21 of the Convention, transit of an extradited person through the territory of the Russian Federation is allowed subject to the observance of the terms of extradition.

Article 23

The Russian Federation declares that in accordance with Article 23 of the Convention when producing the documents relating to extradition to the Russian Federation, their authenticated translation into the Russian language is required.

Reservations

Article 1

In accordance with Article 1 of the Convention, the Russian Federation shall reserve the right to refuse extradition:

- (a) if extradition is requested for the purpose of bringing to responsibility before an *ad hoc* tribunal or by summary proceedings or for the purposes of carrying out a sentence rendered by an *ad hoc* tribunal or by summary proceedings when there are grounds for supposing that in the course of these proceedings the person will not be or was not provided with minimum guarantees set forth in Article 14 of the International Covenant on Civil and Political Rights and Articles 2, 3 and 4 of Protocol 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms. The terms “*ad hoc* tribunal” and “summary proceedings” do not include any international criminal court with authorities and jurisdiction recognised by the Russian Federation;
- (b) if there are grounds for supposing that the person requested for extradition in the requesting State was or will be exposed to torture or other cruel, inhuman or degrading treatment or punishment in the course of the criminal proceedings, or the person was not or will not be provided with minimum guarantees set forth in Article 14 of the International Covenant on Civil and Political Rights and Articles 2, 3 and 4 of Protocol 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms;
- (c) based on the considerations of humanity, when there are grounds for supposing that the extradition of the person can seriously affect him due to his old age or state of health.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 2

In accordance with paragraphs 3 and 4 of Article 2 of the Convention, the Russian Federation shall reserve the right not to extradite the persons whose extradition can affect its sovereignty, security, public order or other essential interests. Offences that may not lead to extradition shall be stated by the federal law.

PART 33

SLOVAKIA

Declarations

Article 21

Under the terms of the Article 21.5, the transit of a person within the meaning of Article 21 will be granted only on conditions applied in cases of extradition.

Article 23

The Slovak Republic invites the other Contracting Parties to present their requests and supporting documents which are not drawn up in either Slovak or one of the official languages of the Council of Europe with a translation into one of these languages.

PART 34

SPAIN

Reservations

Article 1

The person claimed may not be brought to trial before a special court in the territory of the requesting State. Extradition shall not be granted for this purpose nor for the enforcement of a sentence or detention order imposed by courts of this nature.

Article 10

Spain will not grant extradition if liability to criminal prosecution has lapsed for any cause for which provision is made in the legislation of the requesting Party or the requested Party.

Article 21

Spain will grant transit only on the conditions specified for extradition in the present Convention.

Declarations

Article 2

Spain will apply the rule of reciprocity in respect of offences excluded from the application of the present Convention by virtue of Article 2 thereof.

Article 3

For the purposes of extradition, apart from the offences mentioned in Article 3(3) of the Convention, acts of terrorism will not be deemed to be political offences.

Article 6

For the purposes of the present Convention, Spain will consider as nationals the persons entitled to that quality by virtue of the provisions of Title I of Book I of the Spanish Civil Code.

Article 9

Final judgment shall be deemed to have been passed on a person when the judicial decision in question is no longer subject to any ordinary appeal either because all remedies have been exhausted, or because the decision has been accepted, or on account of its specific nature.

Article 11

If the offence for which extradition is requested is punishable by death under the law of the requesting Party, Spain will refuse extradition unless the requesting Party gives such guarantees as the requested Party considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out.

Article 23

Spain will require the requesting Party to supply a translation into Spanish, French or English of the request for extradition and the accompanying documents.

PART 35

SWEDEN

Declarations

Article 6

Within the meaning of this Convention the term “nationals” shall denote, in addition to Swedish nationals, aliens domiciled in Sweden, nationals of Denmark, Finland, Iceland and Norway, as well as aliens domiciled in these States.

Article 21

The transit requested will only be granted on the same conditions as extradition is granted, allowance being made for individual circumstances.

Reservations

Article 1

Sweden reserves the right, when granting extradition, to stipulate that the extradited person may not be summoned to appear before a court which is only provisionally, or under exceptional

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

circumstances, empowered to deal with such offences, as well as the right to refuse extradition for the execution of a sentence rendered by such special court.

Sweden reserves the right to refuse extradition in special cases, if that measure is manifestly incompatible with its humanitarian obligations, on account of the age, the state of health or any other condition affecting the individual in question, having regard also the nature of the offence and the interests of the requesting State.

Article 2

The extradition of an individual on whom final judgment has not yet been passed for the offence in respect of which extradition is requested shall be granted only if the said offence corresponds to an offence which is punishable under Swedish law by a sentence of imprisonment for more than one year.

Article 3

Sweden reserves the right, in the light of individual circumstances, to regard the offence mentioned in paragraph 3 of this Article as a political offence.

Article 4

Where an offence under military law also comprises an offence in respect of which extradition has been granted, Sweden reserves the right to stipulate that the extradited person may not be penalised in application of provisions relating to offences committed by members of the armed services.

Article 12

Even though the sentence rendered or the warrant of arrest issued by a court or a judge in a State which is a Party to the Convention be generally accepted, Sweden reserves the right to refuse the extradition requested if an examination of the case in question shows that the said sentence or warrant is manifestly ill-founded.

Article 18

If the individual whose extradition has been granted has not been taken over on the date appointed by the requesting State, Sweden reserves the right immediately to annul the measure of restraint imposed upon him.

PART 36

SWITZERLAND

Declarations and Reservations

Article 1

The Swiss Federal Council declares that extradition by Switzerland is in all cases subject to the condition that the person claimed is not brought before an extraordinary court (tribunal d'exception). It therefore reserves the right to refuse extradition:

- (a) if there is a possibility that the person claimed, if extradited, will be brought before an extraordinary court (tribunal d'exception) and if the requesting State does not give assurances deemed sufficient, that the judgment will be passed by a court which is

generally empowered under the rules of judicial administration to pronounce on criminal matters;

- (b) if extradition is requested for the purpose of carrying out a sentence passed by an extraordinary court (tribunal d'exception).

With reference to the reservation made by Portugal concerning Article 1(c) of the European Convention on Extradition, the Permanent Representative has the honour to inform the Secretariat General that the Swiss Government supports the declaration sent to the Secretariat General on this question by the German Government on 4 February 1991, and the declaration sent to the Secretariat General on 4 June 1991 by the Austrian Government in support of the German position.

In fact, the reservation in question is compatible with the object and purpose of the Convention only if refusal to grant extradition for offences punishable by a life-long prison sentence or detention order is not absolute. The Swiss Government also takes the reservation to mean that extradition will be refused only when there is no possibility under the law of the requesting state for the person sentenced to life imprisonment, having completed a certain part of his sentence or period of detention, to obtain a judicial review of his case with a view to having the remainder of the sentence commuted to probation.

Article 2

The Federal Council declares that if extradition is or has been granted in respect of an offence which is extraditable under Swiss law, Switzerland may extend the effects thereof to any other offence punishable under Swiss ordinary law.

Article 3

Notwithstanding Article 3, paragraph 3, of the Convention, Switzerland reserves the right to refuse extradition on the basis of Article 3, paragraph 1, when it is requested for the taking or attempted taking of the life of a Head of State or a member of his family.

Article 6

The Federal Council declares that Swiss law allows Swiss nationals to be extradited only on the conditions specified in Article 7 of the Federal Act of 20 March 1981 on International Mutual Assistance in Criminal Matters. Provided that the statutory requirements are satisfied, offences committed outside Switzerland which are punishable under Swiss law as felonies ("crimes") or misdemeanours ("delits") may be prosecuted and tried by the Swiss authorities in the following cases:

- where they were committed against Swiss nationals (Article 5 of the Swiss Criminal Code of 21 December 1937);
- where they are extraditable under Swiss law and were committed by a Swiss national (Article 6 of the Swiss Criminal Code);
- where they were committed on board a Swiss ship or Swiss aircraft (Article 4 of the Federal Act of 23 September 1953 on Shipping under the Swiss Flag; Article 97 of the Federal Act of 21 December 1948 on Air Navigation);
- where the special statutory provisions so stipulate in respect of certain offences (Articles 202 and 240 of the Swiss Criminal Code; Article 19 of the Federal Act of 3 October 1951 on Narcotics; Article 101 of the Federal Act of 19 December 1958 on Road Traffic; Article 16 of the Federal Act of 14 March 1958 on the Liability of the Confederation, Members of its Authorities and its Civil Servants; Article 12 of the Federal Act of 26 September 1958 on the Export Risk Guarantee).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

In accordance with the Act of 20 March 1981 on International Mutual Assistance in Criminal Matters, other offences committed abroad by a Swiss national may be prosecuted in Switzerland at the request of the state in which they were committed in cases where the person concerned is in Switzerland and is answerable there for offences of a more serious kind and where, if he is acquitted or punished in Switzerland, he is not liable to be prosecuted again for the same act in the requesting State.

Article 9

- (a) Switzerland reserves the right to refuse extradition, in derogation of Article 9, if the decisions motivating the refusal of extradition in accordance with that Article have been rendered in a third State in whose territory the offence was committed;
- (b) Switzerland reserves the right to grant extradition, notwithstanding the first sentence of Article 9, if it has granted extradition for other offences and the requesting state has shown that new facts or evidence which have come to its knowledge justify a review of the decision motivating the refusal for extradition in accordance with this Article, or if the person sought has not served all or part of the punishment imposed on him by that decision.

Article 11

Switzerland reserves the right to apply Article 11, *mutatis mutandis*, also in cases where the law of the requesting State provides that the person claimed may, in respect of the offence for which extradition is requested, be sentenced to corporal punishment or be subjected to such treatment against his will.

Article 14

The Swiss Federal Council declares that the Swiss authorities regard discharge as final within the meaning of Article 14 if it enables the person extradited to move about freely without breaking the rules of behaviour and other conditions laid down by the proper authority. For the Swiss authorities, an extradited person is in all cases deemed to be able to leave the territory of a State within the meaning of this Article if he is not in fact prevented from leaving by a disease or some other actual restriction of his freedom of movement.

Article 16

Switzerland asks that any request addressed to it in accordance with Article 16, paragraph 2, contain a brief description of the offence alleged against the person claimed, including the essential particulars by which the nature of the offence can be appraised with reference to the law of extradition.

Article 21

Switzerland reserves the right not to authorise transit in cases where the offence alleged against the person claimed comes within the provisions of Article 5 of the Convention or constitutes an infringement of commodity trade, restrictions or market regulations.

Article 23

Switzerland asks that requests in connection with extradition addressed to its authorities and documents annexed thereto, be accompanied by a translation into French, German or Italian if they are not written in one of these languages.

PART 37

TURKEY

Declaration

Article 6

Concerning the reservations and declarations formulated by Poland at the time of ratification of the European Convention on Extradition, the Turkish Government shares the interpretation made by the Federal Republic of Germany and Austria, registered respectively on 13 October 1993 and 11 January 1994.

The Turkish Government considers that Poland's declaration concerning Article 6, paragraph 1.b, which assimilates persons who have been granted asylum in Poland to Polish nationals, is compatible with the aim and purpose of the Convention only if it does not apply to cases of extradition of the said persons to a third State other than that in respect of which asylum has been granted.

Reservation

Article 11

The assurance mentioned in Article 11 will be limited to the following procedure:

In the event of extradition to Turkey of an individual under sentence of death or accused of an offence punishable by death, any requested Party whose law does not provide for capital punishment shall be authorised to transmit a request for commutation of death sentence to life imprisonment. Such request shall be transmitted by the Turkish Government to the Grand National Assembly, which is the final instance for confirming a death sentence, insofar as the Assembly has not already pronounced on the matter.

PART 38

UKRAINE

Reservations and Declarations

Article 1

Ukraine reserves the right to refuse extradition if the person whose extradition is requested cannot, on account of his/her state of health, be extradited without damage to his/her health.

Article 2

Ukraine shall grant extradition only for offences which are punishable by imprisonment for a maximum period of not less than one year or by a more severe penalty.

Article 4

The extradition in respect of general criminal offences which are also military offences may only be granted provided that the person whose extradition is requested will not be subject to criminal prosecution in accordance with Martial Law.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 6

Ukraine will not extradite citizens of Ukraine to another State. For the purposes of this Convention, any person is considered to be a citizen who, in accordance with the laws of Ukraine at the time when the decision to extradite is taken, is a citizen of Ukraine.

Article 12

The Ministry of Justice of Ukraine (in case of requests by courts) and the Prosecutor-General's Office of Ukraine (in case of requests by bodies of pre-trial investigations) shall be the authorities to which reference is made in Article 12, paragraph 1 of the Convention, as amended by the Second Additional Protocol.

Article 21

Ukraine shall allow transit through its territory of persons who are extradited on the same conditions as those on which extradition is granted.

Article 23

Requests for extradition and documents appended thereto shall be sent to Ukraine together with a translation into Ukrainian or into one of the official languages of the Council of Europe unless they are drawn up in those languages.

SCHEDULE 5

PART I

ORDERS REVOKED BY ARTICLE 5(1)

- (a) Order in Council directing that the Extradition Acts shall apply in the case of Serbia (S.R. & O. 1901 No. 586), and
- (b) Order in Council directing that Extradition Acts shall apply in the cases of Cuba, Italy, Luxembourg, Switzerland and Yugoslavia in accordance with existing Treaties as supplemented by Convention of May 4, 1910, for the suppression of the White Slave Traffic (S.R. & O. 1931/718),

to the extent that each of the Orders in Council relates to extradition between the Former Yugoslav Republic of Macedonia and the United Kingdom, the Channel Islands, the Isle of Man or any colony.

PART II

ORDERS REVOKED BY ARTICLE 5(3)

The European Convention on Extradition Order 1990 ([S.I. 1990/1507](#))

The European Convention on Extradition (Czech and Slovak Federal Republic) (Amendment) Order 1992 ([S.I. 1992/2663](#))

The European Convention on Extradition (Hungary and Poland) (Amendment) Order 1993 ([S.I. 1993/2667](#))

The European Convention on Extradition (Bulgaria) (Amendment) Order 1994 ([S.I. 1994/2796](#))

The European Convention on Extradition (Amendment) Order 1994 ([S.I. 1994/3203](#))

The European Convention on Extradition Order 1990 (Amendment) (No. 2) Order 1995 ([S.I. 1995/1962](#))

The European Convention on Extradition Order 1990 (Amendment) (No. 3) Order 1995 ([S.I. 1995/2703](#))

The European Convention on Extradition Order 1990 (Amendment) Order 1997 ([S.I. 1997/1759](#))

The European Convention on Extradition Order 1990 (Amendment) (No. 2) Order 1997 ([S.I. 1997/2596](#))

The European Convention on Extradition Order 1990 (Amendment) Order 1998 ([S.I. 1998/259](#))

The European Convention on Extradition Order 1990 (Amendment) Order 1999 ([S.I. 1999/2035](#))

EXPLANATORY NOTE

(This note is not part of the Regulations)

This Order consolidates, with amendments, the European Convention on Extradition Order and the amending Orders listed in Part II of Schedule 5 to the Order. The main amendments are the addition of Andorra, the Former Yugoslav Republic of Macedonia and the Russian Federation to the list (in Schedule 3 to the Order) of States parties to the European Convention on Extradition (“Convention States”) together with the declarations and reservations made by those States, and the addition of certain reservations or declarations made by Austria, Germany, the Netherlands, Portugal, Hungary, Turkey, Slovakia and Israel (who are already parties to the Convention).