
STATUTORY INSTRUMENTS

1997 No. 1767

EXTRADITION

The Extradition (Taking of Hostages) Order 1997

Made - - - - *22nd July 1997*
Laid before Parliament *1st August 1997*
Coming into force - - *1st September 1997*

At the Court at Buckingham Palace, the 22nd day of July 1997

Present,

The Queen's Most Excellent Majesty in Council

Whereas the International Convention against the Taking of Hostages (referred to in this Order as "the Convention" and set out in Schedule 1 to this Order)⁽¹⁾ opened for signature at New York on 18th December 1979 entered into force for the United Kingdom on 3rd June 1983:

And whereas the States mentioned in Schedule 2 to this Order are foreign States in respect of which the Convention is for the time being in force and in relation to which Orders in Council under section 2 of the Extradition Act 1870⁽²⁾ are in force:

And whereas the States mentioned in Part 1 of Schedule 3 to this Order are foreign States in respect of which the Convention is for the time being in force but with which no general extradition arrangements have been made:

And whereas section 22(3) of the Extradition Act 1989⁽³⁾ provides that where general extradition arrangements have not been made with a State which is a Party to the Convention, and no Order in Council under section 2 of the Extradition Act 1870 is in force in relation to that State, an Order in Council applying the 1989 Act may be made under section 4 of that act as if the Convention constituted general extradition arrangements between the United Kingdom and the foreign State, or any foreign State, party to the Convention;

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 4(1), 22(3) and 37(3) and (6) of the Extradition Act 1989, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Extradition (Taking of Hostages) Order 1997, and shall come into force on 1st September 1997.

(1) Cmnd. 7893.

(2) 1870 c. 52. The Act was repealed by the Extradition Act 1989 with the savings mentioned in section 37 of that Act.

(3) 1989 c. 33.

2.—(1) Schedule 2 to this Order specifies in the first column foreign States which are Parties to the Convention and with which extradition treaties (and relevant Orders in Council under section 2 of the Extradition Act 1870) are for the time being in force, in the second column the dates of those treaties, and in the third column those Orders in Council; and

(2) Schedule 1 to the Extradition Act 1989⁽⁴⁾ shall apply in the case of a State specified in the first column in accordance with the extradition treaty whose date is specified in the corresponding entry in the second column, as supplemented by paragraphs 1 and 4 of Article 10 of the Convention; and the Order in Council which gives effect to that extradition treaty shall be construed accordingly.

3. The Extradition Act 1989, so far as it relates to extradition procedures under Part III of that Act, shall apply in the case of a State specified in Part I of Schedule 3 to this Order (being States in respect of which the Convention is into force but in relation to which no extradition treaties are in force) subject to the limitations, restrictions, exceptions and qualifications contained in Part II of that Schedule.

4. The following Orders are hereby revoked—

The Extradition (Taking of Hostages) Order 1985⁽⁵⁾;

The Extradition (Taking of Hostages) Order (Amendment) 1985⁽⁶⁾;

The Extradition (Taking of Hostages) (Amendment) Order 1986⁽⁷⁾

The Extradition (Taking of Hostages) (Amendment) Order 1987⁽⁸⁾.

The Extradition (Taking of Hostages) (Amendment) Order 1988⁽⁹⁾.

5. This Order extends only to the United Kingdom, the Channel Islands and the Isle of Man, and to those territories which are specified in Schedule 4 to this Order.

N. H. Nicholls
Clerk of the Privy Council

(4) 1989 c. 33.
(5) S.I.1985/751.
(6) S.I. 1985/1992.
(7) S.I. 1986/2015.
(8) S.I. 1987/2044.
(9) S.I. 1988/2246.

SCHEDULE 1

THE CONVENTION

INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and co-operation among States,

Recognizing in particular that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

Reaffirming the principle of equal rights and self-determination of peoples as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, as well as in other relevant resolutions of the General Assembly,

Considering that the taking of hostages is an offence of grave concern to the international community and that, in accordance with the provisions of this Convention, any person committing an act of hostage taking shall either be prosecuted or extradited,

Being convinced that it is urgently necessary to develop international co-operation between States in devising and adopting effective measures for the prevention, prosecution and punishment of all acts of taking hostages as manifestations of international terrorism,

Have agreed as follows:

Article 1

1. Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the “hostage”) in order to compel a third party, namely, a State, an international governmental organisation, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages (“hostage-taking”) within the meaning of this Convention.

2. Any person who:

- (a) attempts to commit an act of hostage-taking, or
- (b) participates as an accomplice of anyone who commits or attempts to commit an act of hostage-taking

likewise commits an offence for the purposes of this Convention.

Article 2

Each State Party shall make the offences set forth in Article 1 punishable by appropriate penalties which take into account the grave nature of those offences.

Article 3

1. The State Party in the territory of which the hostage is held by the offender shall take all measures it considers appropriate to ease the situation of the hostage, in particular, to secure his release and, after his release, to facilitate, when relevant, his departure.

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2. If any object which the offender has obtained as a result of the taking of hostages comes into the custody of a State Party, that State Party shall return it as soon as possible to the hostage or the third party referred to in Article 1, as the case may be, or to the appropriate authorities thereof.

Article 4

States Parties shall co-operate in the prevention of the offences set forth in article 1, particularly by:

- (a) taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organisations that encourage, instigate, organise or engage in the perpetration of acts of taking hostages;
- (b) exchanging information and co-ordinating the taking of administrative and other measures as appropriate to prevent the commission of those offences.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over any of the offences set forth in article 1 which are committed:

- (a) in its territory or on board a ship or aircraft registered in that State;
- (b) by any of its nationals or, if that State considers it appropriate, by those stateless persons who have their habitual residence in its territory;
- (c) in order to compel that State to do or abstain from doing any act; or
- (d) with respect to a hostage who is a national of that State, if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the alleged offender is present shall, in accordance with its laws, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted. That State Party shall immediately make a preliminary inquiry into the facts.

2. The custody or other measures referred to in paragraph 1 of this article shall be notified without delay directly or through the Secretary-General of the United Nations to:

- (a) the State where the offence was committed;
- (b) the State against which compulsion has been directed or attempted;
- (c) the State of which the natural or juridical person against whom compulsion has been directed or attempted is a national;
- (d) the State of which the hostage is a national or in the territory of which he has his habitual residence;
- (e) the State of which the alleged offender is a national or, if he is a stateless person, in the territory of which he has his habitual residence;

- (f) the international intergovernmental organization against which compulsion has been directed or attempted;
 - (g) all other States concerned.
3. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:
- (a) to communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;
 - (b) to be visited by a representative of that State.
4. The rights referred to in paragraph 3 of this article shall be exercised in conformity with the laws and regulations of the State in the territory of which the alleged offender is present subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 of this article are intended.
5. The provisions of paragraphs 3 and 4 of this article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with paragraph 1(b) of Article 5 to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.
6. The State which makes the preliminary inquiry contemplated in paragraph 1 of this article shall promptly report its findings to the States or organization referred to in paragraph 2 of this article and indicate whether it intends to exercise jurisdiction.

Article 7

The State Party where the alleged offender is prosecuted shall in accordance with its laws communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States concerned and the international intergovernmental organizations concerned.

Article 8

1. The State Party in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.
2. Any person regarding whom proceedings are being carried out in connexion with any of the offences set forth in Article 1 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the law of the State in the territory of which he is present.

Article 9

1. A request for the extradition of an alleged offender, pursuant to this Convention, shall not be granted if the requested State Party has substantial grounds for believing:
- (a) that the request for extradition for an offence set forth in Article 1 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality, ethnic origin or political opinion; or
 - (b) that the person's position may be prejudiced:

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- (i) for any of the reasons mentioned in subparagraph (a) of this paragraph; or,
- (ii) for the reason that communication with him by the appropriate authorities of the State entitled to exercise rights of protection cannot be effected.

2. With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties are modified as between States Parties to the extent that they are incompatible with this Convention.

Article 10

1. The offences set forth in Article 1 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State may at its option consider this Convention as the legal basis for extradition in respect of the offences set forth in Article 1. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in Article 1 as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. The offences set forth in article 1 shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of Article 5.

Article 11

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the offences set forth in Article 1, including the supply of all evidence at their disposal necessary for the proceedings.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

Article 12

In so far as the Geneva Conventions of 1949 for the protection of war victims or the Additional Protocols to those Conventions are applicable to a particular act of hostage-taking, and in so far as States Parties to this Convention are bound under those conventions to prosecute or hand over the hostage-taker, the present Convention shall not apply to an act of hostage-taking committed in the course of armed conflicts as defined in the Geneva Conventions of 1949 and the Protocols thereto, including armed conflicts mentioned in Article 1, paragraph 4, of Additional Protocol I of 1977, in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

Article 13

This Convention shall not apply where the offence is committed within a single State, the hostage and the alleged offender are nationals of that State and the alleged offender is found in the territory of that State.

Article 14

Nothing in this Convention shall be construed as justifying the violation of the territorial integrity or political independence of a State in contravention of the Charter of the United Nations.

Article 15

The provisions of this Convention shall not affect the application of the Treaties on Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties, but a State Party to this Convention may not invoke those Treaties with respect to another State Party to this Convention which is not a party to those Treaties.

Article 16

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 17

1. This Convention is open for signature by all States until 31 December 1980 at United Nations Headquarters in New York.

2. This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention is open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

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Article 19

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 20

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

In witness whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 18 December 1979.

SCHEDULE 2

Article 2

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION AND IN RELATION TO WHICH ORDERS IN COUNCIL UNDER SECTION 2 OF THE EXTRADITION ACT 1870 ARE IN FORCE

<i>State</i>	<i>Date of Extradition Treaty</i>	<i>Order in Council</i>
Argentina	22 May 1989	1894/76
Chile	26 January 1897	1898/597
Ecuador	20 September 1980	26 June 1886
El Salvador	23 June 1881	16 December 1882
Guatemala	4 July 1885	26 November 1886
Haiti	7 December 1874	5 February 1876
Mexico	7 September 1886	6 April 1889
Panama	25 August 1906	1907/648
Romania	21 March 1893	1894/119
Russian Federation	21 March 1887	7 March 1887
United States of America	8 June 1972	1976/2144
Yugoslavia	6 December 1900	1901/586

SCHEDULE 3

Article 3

PART I

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION
AND WITH WHICH NO EXTRADITION TREATIES ARE IN FORCE

State

Belarus

Bhutan

Bosnia and Herzegovina

Côte d'Ivoire

Egypt

Honduras

Japan

Jordan

Kazakhstan

Korea, Republic of

Kuwait

Mali

Mongolia

Nepal

Oman

Philippines

Senegal

Sudan

Surinam

Togo

Ukraine

Venezuela

PART II

APPLICATION OF THE EXTRADITION ACT 1989
IN THE CASE OF A STATE MENTIONED IN PART I

1. The Extradition Act 1989(10) shall have effect in relation to a State specified in Part I of this Schedule only in respect of—

(10) 1989 c. 33.

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- (a) an offence mentioned in section 22(4)(e) of the Extradition Act 1989;
- (b) an attempt to commit such an offence;
- (c) counselling, procuring, commanding, aiding or abetting such an offence;
- (d) being an accessory before or after the fact to such an offence.

2. No proceeding shall be taken on an application for a provisional warrant to be issued under section 8(1)(b) of the 1989 Act, and no such warrant shall be issued, unless the application is made with the consent of the Secretary of State signified by an Order in the form set out in Part III of this Schedule or in a form to the like effect; but except as aforesaid the signification of consent shall not affect the provisions of the said section 8.

PART III

FORM OF CONSENT OF SECRETARY OF STATE TO APPLICATION FOR A PROVISIONAL WARRANT

Whereas AB, a person recognised by the Secretary of State as a diplomatic or consular representative of , has requested consent to application being made for the issue of a provisional warrant for the arrest of CD, late of , who [is accused] [has been convicted] of the commission of an offence or attempt to commit an offence or counselling, procuring, commanding, aiding or abetting an offence or of being accessory before or after the fact to an offence, within the jurisdiction of the said State, being an offence which if committed in the United Kingdom would be an offence under section 1 of the Taking of Hostages Act 1982;

By this Order the Secretary of State signifies to you his consent to the said application being made.

Given under the hand of the undersigned, [one of Her Majesty's Principal Secretaries of State] [Minister of State at] [Under-Secretary of State at] this day of .

SCHEDULE 4

Article 5

TERRITORIES TO WHICH THIS ORDER EXTENDS

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
British Virgin Islands
Cayman Islands
Falkland Islands and Dependencies
Gibraltar
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena and Dependencies
Sovereign Base Areas of Akrotiri and Dhekelia
Turks and Caicos Islands

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies the Extradition Act 1989 (c. 33) so as to make extraditable offences under section 1 of the Taking of Hostages Act 1982 (c. 28) (hostage-taking), attempts to commit such offences and participation in the commission of such offences. It applies to certain States, Parties to the Convention against the Taking of Hostages, signed at New York on 18th December 1979.