

No. 5314

**UNION OF SOUTH AFRICA
and
ISRAEL**

**Extradition Treaty. Signed at Pretoria, on 18 September
1959**

Official texts : Afrikaans, English and Hebrew.

Registered by the Union of South Africa on 19 August 1960.

**UNION SUD-AFRICAINE
et
ISRAËL**

Traité d'extradition. Signé à Prétoria, le 18 septembre 1959

Textes officiels afrikaans, anglais et hébreu.

Enregistré par l'Union sud-africaine le 19 août 1960.

No. 5314. EXTRADITION TREATY¹ BETWEEN THE UNION OF SOUTH AFRICA AND THE STATE OF ISRAEL. SIGNED AT PRETORIA, ON 18 SEPTEMBER 1959

The Government of the Union of South Africa and the Government of the State of Israel, being desirous to regulate by common consent the question of extradition of fugitive offenders in penal matters, have agreed as follows :

Article 1

For the purposes of the present Treaty—

- (a) the territory of the Union of South Africa shall be deemed to be the Union of South Africa and any other territory falling under the jurisdiction of the Union of South Africa at the date of signature of this Treaty ;
- (b) the territory of the State of Israel shall be deemed to be all territory falling under the jurisdiction of the State of Israel at the date of signature of this Treaty.

Article 2

The High Contracting Parties reciprocally undertake to deliver up to each other, under the circumstances and conditions stated in the present Treaty, but subject to their respective laws on extradition, those persons who, being accused or convicted of any of the offences enumerated in Article 3, committed within the territory of the one Party, shall be found within the territory of the other party : Provided that each High Contracting Party reserves the right of refuse to grant the surrender of its own citizens, unless the fugitive was not a citizen of the requested Party at the time of the commission of the offence.

Article 3

The offences referred to in Article 2 are the following :

1. Murder, including infanticide, or attempt or conspiracy to murder.
2. Culpable homicide or manslaughter, including the manslaughter of a child.
3. Assault occasioning actual bodily harm or causing grievous bodily harm.

¹ Came into force on 8 February 1960, thirty days after the exchange of the instruments of ratification, in accordance with article 16. The exchange of the instruments of ratification took place at Pretoria on 7 January 1960.

4. Abortion or attempted abortion.
5. Rape.
6. Indecent assault.
7. Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge, of a girl under sixteen years of age.
8. Abduction.
9. Procuration, i.e. the procuring even with her own consent of a woman or girl under age for immoral purposes or of a woman or girl to become a common prostitute, or the procuring by threats, intimidation or false pretences of a woman or girl to have unlawful carnal connection.
10. Child-stealing.
11. Neglect, exposure or abandonment or desertion of a child.
12. False imprisonment.
13. Robbery.
14. Extortion.
15. Arson.
16. Malicious injury to property.
17. Burglary or housebreaking with intent to commit an offence.
18. Larceny or theft, including embezzlement, obtaining goods or credit by false pretences or obtaining execution of a security by false pretences.
19. Receiving money, valuable security or other property, knowing the same to have been stolen, embezzled or obtained by false pretences.
20. Fraud.
21. Forgery or uttering what has been forged.
22. Counterfeiting or altering money, or uttering counterfeit or altered money.
23. Being in possession of any implement with intent to make counterfeit coin therewith or with the aid thereof.
24. Offences against the bankruptcy or insolvency laws, if such offences are punishable with imprisonment for a period exceeding three years.
25. Offences against any law relating to dangerous drugs or attempts to commit such offences, if such offences are punishable with imprisonment for a period exceeding three years.
26. Bribery, i.e. the offering, giving or receiving of bribes.

27. Perjury or subornation of perjury.

28. (a) Piracy.

(b) Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master ; wrongfully sinking or destroying a vessel at sea, or attempting to do so ; assaults on board a ship on the high seas, with intent to do grievous bodily harm.

29. Dealing in slaves.

Extradition is also to be granted for participation in any of the aforesaid offences.

Extradition may also be granted at the discretion of the requested High Contracting Party in respect of any other offence for which, according to the laws of such Party for the time being in force, extradition may be granted.

Article 4

Extradition shall not be granted—

- (1) if the wanted person has already been sentenced or acquitted for the same offence in the territory of the requested High Contracting Party ;
- (2) if the charge or sentence has become prescribed according to the laws of any of the High Contracting Parties ; or
- (3) if the wanted person has been pardoned or has had his punishment remitted by the requesting High Contracting Party in respect of the criminal act in question.

Article 5

Extradition may be refused if the requested High Contracting Party has jurisdiction to prosecute the wanted person for the offence in regard to which the request is made.

Article 6

The request for extradition shall be in writing and shall be transmitted through diplomatic channels.

Such request shall be accompanied either by the judgment of the court convicting the wanted person or by the warrant of arrest or any other document having the same force issued by a judge or magistrate.

There shall further be submitted a summary of the facts of the case together with a copy of the text of the law relative to the offence and the penalty applicable, and

also, as far as possible, a description of the wanted person and any other particulars which will assist in establishing the identity and nationality of such person.

In the case of a person who has not yet been convicted, there shall also be submitted the original record or copies, certified by a judge or magistrate, of the evidence of the witnesses and the declarations of the experts, whether taken under oath or not. Extradition in such a case shall only be granted if in the opinion of the authorities of the requested High Contracting Party sufficient proof exists to justify the committal of the wanted person for trial if the offence had been committed in the territory of that Party.

The warrant of arrest and evidence or declarations, given under oath or not, or certified copies of these documents, as also the judicial documents establishing the existence of the conviction shall be accepted as valid proof in the examination of the request for extradition, if they bear the signature or are accompanied by the attestation of a judge, magistrate or official of the requesting High Contracting Party or are authenticated by the official seal of the Minister of Justice or any other Minister of State.

Article 7

The requested High Contracting Party shall take the necessary steps, in accordance with its laws, with a view to giving effect to the request.

Article 8

If the requested High Contracting Party requires additional evidence or information to enable it to decide on the request for extradition, such evidence or information shall be submitted to it within sixty days from the date on which the diplomatic or consular agent of the requesting High Contracting Party has been asked to obtain such evidence or information.

If the wanted person is under arrest and the additional evidence or information submitted as aforesaid is not sufficient or if such evidence or information is not received within the period specified above, he shall be discharged from custody : Provided that such discharge shall not debar the requesting High Contracting Party from submitting a fresh request in respect of the person concerned.

Article 9

A requested High Contracting Party, upon receiving two or more requests for the extradition of the same person, either for the same offence or for different offences, shall determine to which of the requesting States it will extradite the wanted person, taking account of the circumstances and particularly the possibility of later extradi-

tion between the requesting states, the seriousness of each offence, the place where the offence was committed, the nationality of the wanted person and the dates on which the requests were received.

Article 10

In the event of extradition being granted, all the articles in connection with the offence which may be found in the possession of the wanted person at the time of his arrest or which are subsequently discovered, shall be seized and transmitted to the requesting High Contracting Party.

Such transmission may be effected even if the extradition cannot be accomplished owing to the evasion or death of the wanted person.

Transmission shall, however, be made under reservation of the rights of any third party which he may have acquired in the said articles, which must in that case be returned free of charge to the requested High Contracting Party at the conclusion of the proceedings.

The requested High Contracting Party may provisionally retain the articles seized if it considers them necessary for a criminal case. It may also, when transmitting them, reserve their restitution for the same reason, undertaking to send them back in its turn as soon as possible.

Article 11

The requested High Contracting Party shall promptly communicate to the requesting High Contracting Party through diplomatic channels its decision on the application for extradition.

A requested High Contracting Party refusing to grant extradition shall state the reasons for its refusal.

If extradition has been granted the wanted person shall be sent by the authorities of the requested High Contracting Party to its frontier or port of embarkation specified by the diplomatic or consular agent of the requesting High Contracting Party.

Article 12

If the wanted person is under trial or punishment in the territory of the requested High Contracting Party for an offence other than the one in respect of which extradition is requested, such Party may defer the examination of the request for extradition until the conclusion of the trial and the full execution of any punishment imposed.

Article 13

Expenses incurred in the territory of the requested High Contracting Party by reason of the arrest, detention and maintenance of the wanted person and any court proceedings arising from the request for extradition shall be borne by that Party.

The requested High Contracting Party shall bear the expenses occasioned by the conveyance of the wanted person to its frontier or port of embarkation while expenses occasioned by the transportation of such person from that frontier or port to the territory of the requesting High Contracting Party shall be borne by the latter Party.

Article 14

The documents referred to in Article 6 shall be submitted in Afrikaans or English if the Union of South Africa is the requesting Party and in Hebrew if the State of Israel is the requesting Party : Provided that if any such document is in either Afrikaans or Hebrew, it shall be accompanied by a certified translation into English.

Article 15

The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Pretoria.

Its application shall also extend to offences committed or convictions sustained before its coming into force.

Article 16

The present Treaty shall come into force thirty days after the exchange of the instruments of ratification and shall be published in conformity with the forms prescribed by the laws of the High Contracting Parties.

It may be terminated by either of the High Contracting Parties by a notice not exceeding one year and not less than six months.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed the present Treaty and have affixed their seals thereto.

DONE in duplicate in the Afrikaans, English and Hebrew languages at Pretoria on this eighteenth day of September, 1959, the three texts being of equal force and effect : Provided that if there is any uncertainty concerning the interpretation of the Afrikaans or Hebrew text, the English text shall prevail.

For the Union of South Africa :
(Signed) H. F. VERWOERD

For the State of Israel :
(Signed) I. BAVLY