

No. 6592

**SOUTH AFRICA
and
FEDERATION OF RHODESIA AND NYASALAND**

Extradition Agreement. Signed at Salisbury, on 19 November 1962

Official texts: English and Afrikaans.

Registered by South Africa on 9 April 1963.

**AFRIQUE DU SUD
et
FÉDÉRATION DE RHODÉSIE ET DU NYASSALAND**

Accord d'extradition. Signé à Salisbury, le 19 novembre 1962

Textes officiels anglais et afrikaans.

Enregistré par l'Afrique du Sud le 9 avril 1963.

No. 6592. EXTRADITION AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE FEDERATION OF RHODESIA AND NYASALAND. SIGNED AT SALISBURY, ON 19 NOVEMBER 1962

Whereas the Government of the Republic of South Africa and the Government of the Federation of Rhodesia and Nyasaland desire to make reciprocal and expedient arrangements for the surrender of offenders, they have agreed as follows :

Article 1

The Contracting Parties undertake to surrender to each other, in the circumstances and subject to the conditions specified in the present Agreement, those persons who, being accused or convicted of offences referred to in Article 3 hereof committed within the territory of the one Party or on the high seas on board a vessel registered in the territory of that Party, shall be found within the territory of the other Party.

Article 2

The territories to which the present Agreement shall apply are the Republic of South Africa and any other territory falling under the jurisdiction of the Republic of South Africa on the one hand and the Federation of Rhodesia and Nyasaland on the other hand.

Article 3

Subject to the provisions of the present Agreement, surrender shall reciprocally be granted in respect of any offence which is punishable by the law of each Party by death or by imprisonment for a period exceeding six months (whether direct or as an alternative to any fine prescribed) :

Provided that, if the offence in respect of which the surrender of any person is requested may be punished by death under the law of the requesting Party but may not be so punished under the law of the requested Party, the surrender of that person in respect of that offence may be refused by the requested Party.

¹ Came into force on 16 March 1963, one month after the date of exchange of the instruments of ratification which took place at Pretoria, in accordance with article 18.

Article 4

A person claimed shall not be surrendered if the offence in respect of which his surrender is requested is regarded by the requested Party as one of a political character or if he satisfies the requested Party that the request for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

Article 5

Surrender shall not be granted if proceedings are pending against the person claimed or if that person has already been acquitted or otherwise discharged or found guilty in the territory of the requested Party for the offence in respect of which his surrender is requested.

Article 6

Surrender shall not be granted if the person claimed—

- (a) has, according to the law of the requesting Party, become immune by lapse of time from prosecution or punishment for the offence in respect of which the surrender is requested; or
- (b) would, according to the law of the requested Party, have become so immune had the offence been committed in its territory.

Article 7

If it appears that, by reason of the trivial nature of the offence or by reason of the surrender not being required in good faith or in the interests of justice or for any other reason, it would, having regard to the distance, the facilities for communication and to all the other circumstances of the case, be unjust or unreasonable or too severe a punishment to surrender the person claimed either at all or until the expiration of a certain period, the surrender of that person may be refused or may be delayed until the expiration of such period.

Article 8

(1) A person surrendered shall not be kept in custody or proceeded against in the territory of the requesting Party for any offence other than an offence (in respect of which surrender may be granted in terms of this Agreement) established by the facts in respect of which his surrender has been granted or on account of any other matters, nor shall he be surrendered by that Party to a third State until he has been restored or until the expiration of thirty days after he has had an opportunity of returning to the territory of the requested Party.

(2) The provisions of paragraph (1) shall not apply to offences committed or other matters arising after surrender.

Article 9

(1) The requesting Party shall submit to the requested Party a warrant of arrest issued by any judge, magistrate or justice of the peace in respect of the person claimed and—

- (a) a description of such person together with any other information which would help to establish his identity;
- (b) particulars of the offence in respect of which surrender is requested and of the law creating the offence together with a statement of the punishment which may be imposed therefor;
- (c) (if the person claimed is a person accused) such evidence as may be necessary for purposes of such person's surrender; and
- (d) (if the person claimed has already been convicted) the record of the conviction and sentence and a statement showing how much of the sentence has not yet been carried out.

(2) The documents referred to in paragraph (1) may be submitted direct to the police authorities or any magistrate in the territory of the requested Party.

(3) Any magistrate in the territory of the requested Party to whom is produced or who receives a warrant referred to in paragraph (1) may, having regard to Articles 3, 4, 5, 6 and 7 hereof, endorse it for execution, if he is satisfied that it was lawfully issued, whereupon it shall be executed in the manner prescribed in respect of warrants of arrest.

Article 10

(1) In urgent cases the person claimed may, in accordance with the law of the requested Party, be provisionally arrested on the application of the competent authorities of the requesting Party. The application shall contain an indication of intention to request the surrender of the person claimed and a statement of the existence of a warrant of arrest or a judgment of conviction against that person and such further information, if any, as would be necessary to justify the issue of a warrant of arrest had the offence been committed or the person claimed been convicted in the territory of the requested Party.

(2) The provisional arrest of the person claimed shall be terminated if the request for his surrender made in accordance with the provisions of this Agreement has not been received upon expiration of such reasonable time as may under

the circumstances seem requisite. However, this provision shall not prevent the re-arrest or surrender of the person claimed if the request for his surrender made in accordance with the provisions of this Agreement is received subsequently.

Article 11

No order for the surrender of a person shall be executed—

- (a) before the period allowed under the laws of the requested Party for any appeal in relation to such order has expired unless he has in writing waived his right of appeal;
- (b) before such an appeal has been disposed of;
- (c) if upon such an appeal his discharge from custody is ordered;
- (d) in the case of a person charged or convicted of an offence in the territory of the requested Party, until the charge has been disposed of and any sentence which may have been imposed in respect of such offence has been executed.

Article 12

The authorities of the requested Party shall admit as evidence in any proceedings for surrender any deposition, statement on oath or affirmation taken in the territory of the requesting Party, any record of a conviction, any warrant and a copy or translation of any of the aforesaid documents if it is authenticated—

- (a) in the case of a warrant, by being signed by a judge, magistrate or other competent officer of the requesting Party or, in the case of a copy or translation, by being certified to be a true copy or translation of the original; and
- (b) either by the oath of some witness or by being sealed with the official seal of the appropriate Minister of the requesting Party;

or in such other manner as may be permitted by the law of the requested Party.

Article 13

If the surrender of a person is requested concurrently by the requesting Party and by another State or States, either in respect of the same offence or in respect of different offences, surrender shall be granted to the State whose claim is earliest in date unless that claim is waived.

Article 14

(1) When a request for surrender is granted, the requested Party shall, so far as its law allows, hand over to the requesting Party, if required, all articles and sums of money—

- (a) which may serve as proof of the offence; or
- (b) which have been acquired as a result of the offence and which are in the possession of the person claimed.

(2) If the articles and sums of money in question are liable to seizure or confiscation in the territory of the requested Party, the latter may, in connexion with pending proceedings, temporarily retain them over on condition that they are returned.

(3) These provisions shall not prejudice the rights of the requested Party or of any persons, other than the person claimed. When these rights exist, the articles and sums of money shall on request be returned to the requested Party without charge as soon as possible after the end of the proceedings.

Article 15

(1) Expenses incurred in the territory of the requested Party by reason of the arrest, detention and maintenance of the person claimed and any court proceedings arising from the request for surrender shall be borne by that Party.

(2) The requested Party shall bear the expenses occasioned by the conveyance of the person claimed 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 Party shall be borne by the latter Party.

Article 16

The present Agreement shall apply to offences committed or convictions sustained before or after the date on which the Agreement comes into force.

Article 17

In the present Agreement any reference to the law of a Party thereto shall mean—

- (a) in relation to the requesting Party, any enactment or any other law in force in that constituent part or territory under its jurisdiction in which the offence for which surrender is sought was committed; and

- (b) in relation to the requested Party, any enactment or any other law in force in that constituent part or territory under its jurisdiction in which the person whose surrender is sought is first arrested.

Article 18

(1) The present Agreement shall be ratified and the instruments of ratification shall be exchanged at Pretoria as soon as possible. It shall become operative one month after the date of exchange of instruments of ratification.

(2) Either of the Contracting Parties may terminate the present Agreement at any time by giving six months' notice to the other through the diplomatic channel.

IN WITNESS whereof the undersigned, being duly authorized thereto by their respective Governments, have signed the present Agreement.

DONE in duplicate, in the English and Afrikaans languages at Salisbury, this 19th day of November, 1962.

For the Government of the Federation of Rhodesia and Nyasaland :

J. M. GREENFIELD

For the Government of the Republic of South Africa :

H. L. T. TASWELL
