

No. 10806

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
AUSTRIA**

**Extradition Treaty. Signed at Vienna on 9 January 1963
Protocol amending the above-mentioned Treaty. Signed at
Vienna on 15 January 1969**

Authentic texts: English and German.

*Registered by the United Kingdom of Great Britain and Northern Ireland on 27 October
1970.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
AUTRICHE**

**Traité d'extradition. Signé à Vienne le 9 janvier 1963
Protocole modifiant le Traité susmentionné. Signé à Vienne
le 15 janvier 1969**

Textes authentiques: anglais et allemand.

*Enregistrés par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 27 octobre
1970.*

EXTRADITION TREATY¹ BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE REPUBLIC OF AUSTRIA

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, and the Federal President of the Republic of Austria;

Desiring to make provision for the reciprocal extradition of offenders;

Have resolved to conclude a Treaty for that purpose, and to that end have appointed as their plenipotentiaries:

Her Britannic Majesty

For the United Kingdom of Great Britain and Northern Ireland:

His Excellency Sir Malcolm Siborne Henderson, K.C.M.G., Her Majesty's Ambassador Extraordinary and Plenipotentiary at Vienna;

The Federal President of the Republic of Austria

For the Republic of Austria:

Herrn Dr. Bruno Kreisky, Federal Minister for Foreign Affairs,

Herrn Dr. Christian Broda, Federal Minister for Justice,

who, having communicated to each other their respective Full Powers, found in good and due form, have agreed as follows:

Article 1

The High Contracting Parties undertake to extradite to each other, in the circumstances and subject to the conditions specified in the present Treaty, those persons who, being accused or convicted of any of the offences specified in Article 3, 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.

¹ Came into force on 12 August 1970, i.e., three months after the exchange of the instruments of ratification, which took place at London on 12 May 1970, in accordance with article 20 (1).

*Article 2 **

(1) The territories to which the present Treaty shall apply are, on the one hand:

- (a) the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as “the United Kingdom”), the Channel Islands and the Isle of Man;
- (b) the following territories (and their dependencies), for the international relations of which Her Britannic Majesty’s Government in the United Kingdom are responsible, that is to say:

Aden (Colony), Antigua, Bahamas, Barbados, Basutoland, Bechuanaland Protectorate, Bermuda, British Antarctic Territory, British Guiana, British Honduras, British Solomon Islands Protectorate, Brunei, Cayman Islands, Dominica, Falkland Islands, the Federation of Rhodesia and Nyasaland consisting of Southern Rhodesia, Northern Rhodesia and Nyasaland, Fiji, Gambia (Colony and Protectorate), Gibraltar, Gilbert and Ellice Islands, Grenada, Hong Kong, Kenya (Colony and Protectorate), Malta, Mauritius, Montserrat, North Borneo, Pitcairn, St. Christopher, Nevis and Anguilla, St. Helena, St. Lucia, St. Vincent, Sarawak, Seychelles, the State of Singapore, the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus, Swaziland, Turks and Caicos Islands, Virgin Islands and Zanzibar Protectorate;

- (c) any other territory for the international relations of which Her Britannic Majesty’s Government in the United Kingdom are responsible and to which the High Contracting Parties may agree that the present Treaty should be applied;

and, on the other hand,

the Republic of Austria.

(2) Modifications of the territorial extent of the present Treaty may be made by common agreement between the High Contracting Parties embodied in an Exchange of Notes.

Article 3

(1) Extradition shall be granted for the following offences, provided that the offence constitutes an extraditable offence according to the laws of both Parties:

* This article was amended by the Protocol of 15 January 1969 (see p. 128 of this volume).

1. Murder or attempt or conspiracy to murder.
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Maliciously wounding or inflicting grievous bodily harm.
5. Assault occasioning actual bodily harm.
6. Rape.
7. Unlawful sexual intercourse, or any attempt to have unlawful sexual intercourse, with a girl under sixteen years of age.
8. Indecent assault.

9. Procuration.
10. Bigamy.
11. Kidnapping, abduction or false imprisonment.

12. Stealing, abandoning, exposing or unlawfully detaining a child.

13. Bribery.
14. Perjury or subornation of perjury.
15. Arson.
16. (a) Counterfeiting or altering money, or uttering counterfeited or altered money;
(b) knowingly and without lawful authority making or having in possession any instrument, tool or engine adapted and intended for the counterfeiting of money;
(c) attempting to commit any offence mentioned in (a) or (b) above.
17. Forgery, or uttering what is forged.

18. Obtaining money, valuable security or goods by false pretences.
19. Fraud by a bailee, banker, agent, factor or trustee, or by a director, member or public officer of any company; or fraudulent conversion.
20. Burglary or housebreaking, robbery or robbery with violence, larceny or embezzlement.
21. Receiving money, valuable security or goods knowing them to have been stolen or unlawfully obtained.

22. Threats with intent to extort money or other things of value.
23. Offences against bankruptcy law.
24. Malicious damage to property.
25. Any malicious act done with intent to endanger the safety of persons travelling or being upon a railway.
26. Offences or attempted offences in connexion with the traffic in dangerous drugs.
27. Piracy.
28. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
29. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
30. Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.
31. Dealing in slaves.

(2) Extradition shall also be granted for participation in any of the afore-said offences, provided that the participation is punishable by the laws of both Parties.

(3) Extradition shall also be granted for any other offences for which it can be granted according to the laws of both Parties. This shall not apply to offences solely against military law.

(4) A person convicted of an offence shall not be extradited therefor unless he was sentenced to imprisonment or other form of detention or, subject to the provisions of paragraph (6), to the death penalty.

(5) A conviction for contumacy is not to be deemed a conviction, but a person so convicted may be dealt with as an accused person.

(6) If, under the law of the requesting Party, the person sought is liable to the death penalty for the offence on which the request for his extradition is based, but the law of the requested Party does not provide for the death penalty in a similar case, extradition may be refused.

Article 4

Her Britannic Majesty's Government in the United Kingdom shall not be obliged to extradite a British subject, British protected person or citizen of the

Irish Republic; and the Austrian Federal Government shall not be obliged to extradite a citizen of the Republic of Austria.

Article 5

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

Article 6

Extradition shall not be granted if the person sought has, according to the law of either the requesting or the requested Party, become immune by lapse of time from prosecution or punishment for the offence for which his extradition is requested.

Article 7

A person sought shall not be extradited if:

- (a) the offence for which his extradition is requested is regarded by the requested Party as one of a political character; or
- (b) he satisfies the requested Party that the request for his extradition has in fact been made with a view to try or punish him for an offence of a political character.

Article 8

(1) A person extradited shall in no case be kept in custody or proceeded against in the territory of the requesting Party for any offence other than an extraditable offence established by the facts in respect of which his extradition has been granted, or on account of any other matters, nor shall he be extradited by that Party to a third State, until he has returned, 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 matters arising, after the extradition.

Article 9

(1) Subject to the provisions of Article 19, the request for extradition shall be made through the diplomatic channel.

(2) The request shall be accompanied by:

- (a) as accurate a description as possible of the person sought, together with any other information which would help to establish his identity and nationality;
- (b) a statement and particulars of the offence for which his extradition is requested;
- (c) the text of the enactment, if any, creating the offence, and a statement of the punishment which can be imposed therefor;
- (d) a statement of the legal provisions which established the extraditable character of the offence according to the law of the requesting Party.

(3) If the request relates to a person accused, it shall also be accompanied by a warrant of arrest issued by a judge, magistrate or other competent authority in the territory of the requesting Party and by such evidence as, according to the law of the requested Party, would justify his committal for trial if the offence had been committed in the territory of the requested Party.

(4) If the request relates to a person already convicted, it shall be accompanied by evidence of the conviction and sentence and by a statement showing how much of the sentence has not yet been carried out; and, if the person sought was not present at his trial, the request shall also be accompanied by a statement whether he has a right to a new trial because of his absence and whether he has a right to appeal against his conviction.

Article 10

(1) In urgent cases the person sought 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 extradition of the person sought 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 sought been convicted, in the territory of the requested Party.

(2) The provisional arrest of the person sought shall be terminated upon the expiration of thirty days from the date of his arrest if the request for his extradition shall not have been received. However, this provision shall not prevent the rearrest or extradition of the person sought if the request for his extradition is received subsequently.

Article 11

(1) Extradition shall be granted only if the evidence be found sufficient, according to the law of the requested Party, either to justify the committal for trial of the person sought if the offence of which he is accused had been committed in the territory of the requested Party or to prove that he is the identical person convicted by the courts of the requesting Party.

(2) If the requested Party considers that the evidence produced or information supplied is not sufficient in order to enable a decision to be taken as to the request, additional evidence or information shall be submitted within such time as that Party shall require.

Article 12

The authorities of the requested Party shall admit as evidence, in any proceedings for extradition, a sworn deposition or affirmation taken in the territory of the requesting Party, any warrant, any copy of any such deposition, affirmation or warrant, and any certificate of, or judicial document stating the fact of, a conviction, if it is authenticated:

(a) in the case of a warrant by being signed, or in the case of any other original document by being certified, by a judge, magistrate or other competent authority of the requesting Party, or in the case of a copy by being so certified to be a true copy 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 extradition of a person is requested concurrently by one of the High Contracting Parties and by another State or States, either for the same offence or for different offences, the requested Party shall make its decision, in so far as its law allows, having regard to all the circumstances, including the provisions in this regard in any Agreements subsisting between the requested Party and the requesting States, the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality of the person sought and the possibility of subsequent extradition to another State.

Article 14

(1) A person sought shall not be extradited until he has been held judicially to be liable to extradition and until the expiration of any further period which may be required by the law of the requested Party.

(2) The requested Party may, after taking the decision on the request for extradition, postpone the surrender of the person sought in order that he may be proceeded against for any offence other than that for which his extradition is requested, or in order that any sentence passed on him for any such offence may be carried out.

Article 15

(1) If extradition is granted, the person sought shall be sent by the authorities of the requested Party to the frontier or port of embarkation in the territory of that Party which the requesting Party shall indicate.

(2) The requesting Party shall remove the person sought from the territory of the requested Party within such reasonable period as the latter may specify. If he is not removed within that period, the requested Party may refuse to extradite him for the same offence.

Article 16

(1) When a request for extradition is granted, the requested Party shall, so far as its law allows, hand over to the requesting Party all articles (including sums of money):

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

(2) If the articles 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 or hand 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 sought. When these rights exist, the articles shall on request be returned to the requested Party without charge as soon as possible after the end of the proceedings.

Article 17

If in any particular case the requested Party so requires, the requesting Party shall supply a translation of any document submitted in accordance with the provisions of the present Treaty.

Article 18

Expenses incurred in the territory of the requested Party by reason of extradition shall be borne by that Party. However, the requesting Party shall bear any expenses occasioned by being legally represented before the courts of the requested Party.

*Article 19 **

A request on the part of the Austrian Federal Government for the extradition of an offender who is found in any of the territories mentioned in subparagraphs (b) and (c) of paragraph (1) of Article 2 may be made to the Governor or

* This article was amended by the Protocol of 15 January 1969 (see p. 128 of this volume).

other competent authority of that territory, who may take the decision himself or refer the matter to Her Britannic Majesty's Government in the United Kingdom for their decision.

Article 20

(1) The present Treaty shall be ratified, and the instruments of ratification shall be exchanged at London as soon as possible. It shall come into force three months after the date of the exchange of instruments of ratification.

(2) The present Treaty shall not apply to offences committed prior to its coming into force.

(3) Either of the High Contracting Parties may terminate the present Treaty at any time by giving notice to the other through the diplomatic channel. In that event the Treaty shall cease to have effect six months after the receipt of the notice.

IN WITNESS WHEREOF the above-named Plenipotentiaries have signed the present Treaty and affixed thereto their seals.

DONE in duplicate at Vienna this ninth day of January 1963, in the English and German languages, both texts being equally authoritative.

For Her Britannic Majesty:

M. S. HENDERSON

For the Federal President
of the Republic of Austria:

KREISKY

BRODA

PROTOCOL ¹ AMENDING THE EXTRADITION TREATY
BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND AND THE REPUBLIC OF
AUSTRIA SIGNED AT VIENNA ON 9 JANUARY, 1963 ²

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth (hereinafter referred to as “Her Britannic Majesty”), and the Federal President of the Republic of Austria;

Desiring to amend the Extradition Treaty between the United Kingdom of Great Britain and Northern Ireland and the Republic of Austria signed by the High Contracting Parties at Vienna on the 9th of January, 1963 ² (hereinafter referred to as “the Treaty”);

Have resolved to conclude a Protocol for that purpose, and to that end have appointed as their Plenipotentiaries:

Her Britannic Majesty

For the United Kingdom of Great Britain and Northern Ireland:

His Excellency Sir Anthony Rumbold Bt., K.C.M.G., C.B., Her Majesty’s
Ambassador Extraordinary and Plenipotentiary at Vienna;

The Federal President of the Republic of Austria

For the Republic of Austria:

Herrn Dr. Kurt Waldheim, Federal Minister for Foreign Affairs,

Herrn Dr. Hans Klecatsky, Federal Minister for Justice,

who, having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

Article 1

Article 2 of the Treaty shall be amended to read as follows:

¹ Came into force on 12 August 1970, the date of entry into force of the Treaty, in accordance with article 3. The instruments of ratification were exchanged on 12 May 1970.

² See p. 108 of this volume.

“Article 2

(1) The territories to which the present Treaty shall apply are, on the one hand

- (a) the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as ‘the United Kingdom’), the Channel Islands and the Isle of Man;
- (b) any other territory for the international relations of which Her Britannic Majesty’s Government in the United Kingdom are responsible and to which the application of the present Treaty may be extended by agreement between the High Contracting Parties embodied in an Exchange of Notes,

and on the other hand,
the Republic of Austria.

(2) Modifications of the territorial extent of the present Treaty may be made by agreement between the High Contracting Parties embodied in an Exchange of Notes.”

Article 2

The words “and (c)” shall be deleted from Article 19 of the Treaty.

Article 3

The present Protocol shall be ratified. It shall enter into force on the same date as the Treaty and shall have the same duration as the Treaty.

IN WITNESS WHEREOF the above-named Plenipotentiaries have signed the present Protocol and have affixed thereto their seals.

DONE in duplicate at Vienna, this fifteenth day of January 1969, in the English and German languages, both texts being equally authoritative.

For Her Britannic Majesty:

ANTHONY RUMBOLD

For the Federal President
of the Republic of Austria:

WALDHEIM
H. KLECATSKY