

No. 13592

**DENMARK
and
UNITED STATES OF AMERICA**

Treaty on extradition. Signed at Copenhagen on 22 June 1972

Authentic texts: Danish and English.

Registered by Denmark on 24 October 1974.

**DANEMARK
et
ÉTATS-UNIS D'AMÉRIQUE**

Traité d'extradition. Signé à Copenhague le 22 juin 1972

Textes authentiques : danois et anglais.

Enregistré par le Danemark le 24 octobre 1974.

TREATY¹ ON EXTRADITION BETWEEN THE KINGDOM OF DENMARK AND THE UNITED STATES OF AMERICA

The Kingdom of Denmark and the United States of America, desiring to make more effective the cooperation of the two countries for the reciprocal extradition of offenders, agree as follows:

Article 1. Each Contracting State agrees to extradite to the other, in the circumstances and subject to the conditions described in this Treaty, persons found in its territory who have been charged with or convicted of any of the offenses mentioned in article 3 committed within the territory of the other or outside thereof under the conditions specified in article 4.

Article 2. The requested State shall, pursuant to the provisions of this Treaty, extradite a person charged with or convicted of any offense mentioned in article 3 only when both of the following conditions exist:

1. the law of the requesting State, in force when the offense was committed, provides a possible penalty of deprivation of liberty for a period of more than one year; and
2. the law in force in the requested State generally provides a possible penalty of deprivation of liberty for a period of more than one year which would be applicable if the offense were committed in the territory of the requested State.

When the person sought has been sentenced in the requesting State, the detention imposed must have been for a period of at least four months.

Article 3. Extradition shall be granted, subject to the provisions of article 2, for the following offenses:

1. Murder; voluntary manslaughter; assault with intent to commit murder.
2. Aggravated injury or assault; injuring with intent to cause grievous bodily harm.
3. Unlawful throwing or application of any corrosive or injurious substances upon the person of another.
4. Rape; indecent assault; sodomy accompanied by use of force or threat; sexual intercourse and other unlawful sexual relations with or upon children under the age specified by the laws of both the requesting and requested States.
5. Unlawful abortion.
6. Procuration; inciting or assisting a person under 21 years of age to carry on sexual immorality as a profession; contributing to the transportation out of the country of a person under 21 years of age or at the time ignorant of the purpose in order that such person shall carry on sexual immorality as a profession abroad or shall be used for such immoral purpose; promoting of sexual immorality by acting as an intermediary repeatedly or for the purpose of gain; profiting from the activities of any person carrying on sexual immorality as a profession.
7. Kidnapping; child stealing; abduction; false imprisonment.
8. Robbery; assault with intent to rob.

¹ Came into force on 31 July 1974, i.e., the thirtieth day after the date of the exchange of the instruments of ratification, which took place at Washington on 1 July 1974, in accordance with article 21.

9. Burglary.
10. Larceny.
11. Embezzlement.
12. Obtaining property, money or valuable securities; by false pretenses or by threat of force, by defrauding any governmental body, the public or any person by deceit, falsehood, use of the mails or other means of communication in connection with schemes intended to deceive or defraud, or by any other fraudulent means.
13. Bribery, including soliciting, offering and accepting.
14. Extortion.
15. Receiving or transporting any money, valuable securities or other property knowing the same to have been unlawfully obtained.
16. Fraud by a bailee, banker, agent, factor, trustee, executor, administrator or by a director or officer of any company.
17. An offense against the laws relating to counterfeiting or forgery.
18. False statements made before a court or to a government agency or official, including under United States law perjury and subornation of perjury.
19. Arson.
20. An offense against any law relating to the protection of the life or health of persons from: a shortage of drinking water; poisoned, contaminated, unsafe or unwholesome drinking water, substances or products.
21. Any act done with intent to endanger the safety of any person traveling upon a railway, or in any aircraft or vessel or bus or other means of transportation, or any act which impairs the safe operation of such means of transportation.
22. Piracy; mutiny or revolt on board an aircraft against the authority of the commander of such aircraft; any seizure or exercise of control, by force or violence or threat of force or violence, of an aircraft.
23. An offense against the laws relating to damage to property.
24. (a) Offenses against the laws relating to importation, exportation or transit of goods, articles, or merchandise.
(b) Offenses relating to willful evasion of taxes and duties.
(c) Offenses against the laws relating to international transfers of funds.
25. An offense relating to bankruptcy law.
26. An offense against the laws relating to narcotic drugs, *cannabis sativa* L, psychotropic drugs, cocaine and its derivatives, and other dangerous drugs and chemicals.
27. An offense relating to the:
 - (a) spreading of false intelligence likely to affect the prices of commodities, valuable securities or any other similar interests; or
 - (b) making of incorrect or misleading statements concerning the economic conditions of such commercial undertakings as joint-stock companies, corporations, co-operative societies or similar undertakings through channels of public communications, in reports, in statements of accounts or in declarations to the general meeting or any proper official of a company, in notifications to, or registration with, any commission, agency or officer having supervisory or regulatory authority over corporations, joint-stock companies, or other forms of commercial undertakings or in any invitation

to the establishment of those commercial undertakings or to the subscription of shares.

28. Unlawful abuse of official authority which results in grievous bodily injury or deprivation of the life, liberty or property of any person.

Extradition shall also be granted for attempts to commit, conspiracy to commit, or participation in, any of the offenses mentioned in this article.

Extradition shall also be granted for any offense of which one of the above-mentioned offenses is the substantial element, when, for purposes of granting Federal jurisdiction to the United States Government, such elements as transporting, transportation, the use of the mails or interstate facilities may also be elements of the specific offense.

Upon receipt of the request for extradition, such request may be denied by the appropriate executive authority in the requested State if that authority considers that the courts in the requested State would not impose a sentence of detention exceeding four months for the offense of which extradition has been requested.

Article 4. A reference in this Treaty to the territory of a Contracting State is a reference to all the territory under the jurisdiction of that Contracting State, including airspace and territorial waters and vessels and aircraft registered in that Contracting State if any such aircraft is in flight or if any such vessel is on the high seas when the offense is committed. For the purposes of this Treaty an aircraft shall be considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

When the offense for which extradition has been requested has been committed outside the territory of the requesting State, the competent authority of Denmark or the executive authority of the United States, as appropriate, shall have the power to grant extradition if the laws of the requested State provide for the punishment of such an offense committed in similar circumstances.

Article 5. Denmark shall not be bound to deliver up nationals of Denmark, Finland, Iceland, Norway or Sweden and the United States shall not be bound to deliver up its own nationals, but the executive authority of the requested State shall, if not prevented by the laws of that State, extradite such nationals if, in its discretion, it be deemed proper to do so.

If extradition is not granted pursuant to this article, the requested State shall submit the case to its competent authorities for the purpose of prosecution.

Article 6. Extradition shall be granted only if the evidence be found sufficient, according to the laws of the place where the person sought shall be found, either to justify his committal for trial if the offense of which he is accused had been committed in that place or to prove that he is the identical person convicted by the courts of the requesting State.

In the case of a request made to the Government of Denmark, the Danish authorities in accordance with Danish extradition law, shall have the right to request evidence to establish a presumption of guilt of a person previously convicted. Extradition may be refused if such additional evidence is found to be insufficient.

Article 7. Extradition shall be granted in any of the following circumstances:

1. When the person whose surrender is sought is being proceeded against or has been tried and discharged or punished in the territory of the requested State for the offense for which his extradition is requested. If the charge against a person

sought in Denmark has been waived, extradition may be granted only if the conditions of applicable Danish law permit.

2. When the person whose surrender is sought has been tried and acquitted or has undergone his punishment in a third State for the offense for which his extradition is requested.
3. When the prosecution or the enforcement of the penalty for the offense has become barred by lapse of time according to the laws of either of the Contracting States.
4. If the offense for which his extradition is requested is a political offense or an offense connected with a political offense, for if the requested State has reason to assume that the requisition for his surrender has, in fact, been made with a view to try or punish him for a political offense or an offense connected with a political offense. If any question arises as to whether a case comes within the provisions of this subparagraph, it shall be decided by the authorities of the requested State.
5. If in special circumstances, having particular regard to the age, health or other personal conditions of the person concerned, the requested State has reason to believe that extradition will be incompatible with humanitarian considerations.
6. In respect of a military offense.

Extradition may be refused on any other ground which is specified by the law of the requested State.

Article 8. When the offense for which the extradition is requested is punishable by death under the laws of the requesting State and the laws of the requested State do not permit such punishment for that offense, extradition may be refused unless the requesting State provides such assurances as the requested State considers sufficient that the death penalty shall not be imposed, or if imposed, shall not be executed.

Article 9. When the person whose extradition is requested is being proceeded against or is lawfully detained in the territory of the requested State for an offense other than that for which extradition has been requested, the decision whether or not to extradite him may be deferred until the conclusion of the proceedings and the full execution of any punishment he may be or may have been awarded.

Article 10. The determination that extradition based upon the request therefor should or should not be granted shall be made in accordance with the law of the requested State and the person whose extradition is sought shall have the right to use such remedies and recourses as are provided by such law.

Article 11. The request for extradition shall be made through the diplomatic channel.

The request shall be accompanied by a description of the person sought, information as to his nationality and residence if available, a statement of the facts of the case, the text of the applicable laws of the requesting State including the law defining the offense, the law prescribing the punishment for the offense, and a statement that the legal proceedings or the enforcement of the penalty for the offense have not been barred by lapse of time.

When the request relates to a person who has not yet been convicted or has been convicted and not yet sentenced, it must also be accompanied by a warrant of arrest issued by a judge or other judicial officer of the requesting State and by such evidence as, according to the laws of the requested State, would justify his arrest and

committal for trial if the offense has been committed there, including evidence proving the person requested is the person to whom the warrant of arrest refers.

When the request relates to a person already convicted and sentenced, it must be accompanied by the judgment of conviction and sentence passed against him in the territory of the requesting State, by a statement showing how much of the sentence has not been served, and by evidence proving that the person requested is the person to whom the sentence refers.

The warrant of arrest and deposition or other evidence, given under oath, and the judicial documents establishing the existence of the conviction as well as any supplementary evidence demanded by the Danish authorities under article 6, paragraph 2, or certified copies of these documents, shall be admitted in evidence in the examination of the request for extradition when, in the case of a request emanating from Denmark, they bear the signature or are accompanied by the attestation of a judge, magistrate or other official or are authenticated by the official seal of the Ministry of Justice and, in any case, are certified by the principal diplomatic or consular officer of the United States in Denmark, or when, in the case of request emanating from the United States, they are signed by or certified by a judge, magistrate or officer of the United States and they are sealed by the official seal of the Department of State. Any deposition or other evidence which has not been given under oath but which otherwise meets the requirements set forth in this paragraph shall be admitted in evidence as a deposition or evidence given under oath when there is an indication that the person, prior to deposing before the judicial authorities of the requesting State, was informed by those authorities of the penal sanctions to which he would be subject in the case of false or incomplete statements.

The requested State may require that the documents in support of the request for extradition be translated into the language of the requested State.

Article 12. In case of urgency a Contracting State may apply for the provisional arrest of the person sought pending the presentation of the request for extradition through the diplomatic channel. This application may be made either through the diplomatic channel or directly between the Danish Ministry of Justice and the United States Department of Justice. The application shall contain a description of the person sought, an indication of intention to request the extradition of the person sought and a statement of the existence of a warrant of arrest or, if convicted and sentenced, 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 offense been committed, or the person sought been convicted, in the territory of the requested State.

On receipt of such an application the requested State shall take the necessary steps to secure the arrest of the person claimed.

A person arrested upon such an application may be set at liberty upon the expiration of thirty days from the date of his arrest if a request for his extradition accompanied by the documents specified in article 11 shall not have been received. The requesting State may request, specifying the reasons therefor, an extension of the period of detention for a period not to exceed thirty days, and the appropriate judicial authority of the requested State shall have the authority to extend the period of detention. The release from custody pursuant to this provision shall not prevent the institution of proceedings with a view to extraditing the person sought if the request is subsequently received.

Article 13. If the requested State 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 such time as that State shall require.

If the person sought 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 by the requested State, he shall be discharged from custody. Such discharge shall not bar the requesting State from submitting another request in respect of the same offense.

Article 14. A person extradited under the present Treaty shall not be detained, tried or punished in the territory of the requesting State for an offense other than that for which extradition has been granted nor be extradited by that State to a third State unless:

1. he has left the territory of the requesting State after his extradition and has voluntarily returned to it;
2. he has not left the territory of the requesting State within forty-five days after being free to do so; or
3. the requested State has consented to his detention, trial, punishment or to his extradition to a third State for an offense other than that for which extradition was granted.

A person who has been set at liberty shall be informed of the consequences to which his stay in the territory of the requesting State may subject him.

These stipulations shall not apply to offenses committed after the extradition.

Article 15. A requested State upon receiving two or more requests for the extradition of the same person either for the same offense, or for different offenses, shall determine to which of the requesting States it will extradite the person sought, taking into consideration the circumstances and particularly the possibility of a later extradition between the requesting States, the seriousness of each offense, the place where the offense was committed, the nationality and residence of the person sought, the dates upon which the requests were received and the provisions of any extradition agreements between the requested State and the other requesting State or States.

Article 16. The requested State shall promptly communicate to the requesting State through the diplomatic channel the decision on the request for extradition, and, if granted, the period the person sought has been under detention pursuant to the request for extradition.

If the extradition has been granted, the authorities of the requesting and the requested States shall agree on the time and place of surrender of the person sought.

If the extradition has not been effected, the requested State may set the person sought at liberty within such time as required by the law of the requested State, and the requested State may subsequently refuse to extradite that person for the same offense.

Article 17. To the extent permitted under the law of the requested State and subject to the rights of third parties, which shall be duly respected, all articles acquired as a result of the offense or which may be required as evidence shall, if found, be surrendered if extradition is granted.

Subject to the qualifications of the first paragraph, the above-mentioned articles shall be returned to the requesting State even if the extradition, having been agreed to, cannot be effected owing to the death or escape of the person sought.

Article 18. The right to transport through the territory of one of the Contracting States a person surrendered to the other Contracting State by a third State shall

be granted on request made through the diplomatic channel, provided that conditions are present which would warrant extradition of such person by the State of transit and reasons of public order are not opposed to the transit.

The State to which the person has been extradited shall reimburse the State through whose territory such person is transported for any expenses incurred by the latter in connection with such transportation.

Article 19. Expenses related to the translation of documents and to the transportation of the person sought shall be paid by the requesting State. The appropriate legal officers of the requested State shall, by all legal means within their power, assist the officers of the requesting State before the respective judges and magistrates. No pecuniary claim, arising out of the arrest, detention, examination and surrender of persons sought under the terms of this Treaty, shall be made by the requested State against the requesting State.

Article 20. This Treaty shall apply to offenses mentioned in article 3 committed before as well as after the date this Treaty enters into force, provided that no extradition shall be granted for an offense committed before the date this Treaty enters into force which was not an offense under the laws of both States at the time of its commission.

Article 21. This Treaty shall be subject to ratification and the instruments of ratification shall be exchanged at Washington as soon as possible.

This Treaty shall enter into force on the thirtieth day after the date of the exchange of instruments of ratification. It may be terminated by either Contracting State giving notice of termination to the other Contracting State at any time and the termination shall be effective six months after the date of receipt of such notice.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

DONE in duplicate, in the Danish and English languages, both equally authentic, at Copenhagen this twenty-second day of June, 1972.

For the Kingdom of Denmark:
K. B. ANDERSEN

For the United States of America:
FRED J. RUSSELL