

No. 21275

**NETHERLANDS
and
SURINAME**

**Agreement concerning extradition and legal assistance in
criminal matters. Signed at The Hague on 27 August
1976**

Authentic text: Dutch.

Registered by the Netherlands on 21 October 1982.

**PAYS-BAS
et
SURINAME**

**Accord relatif à l'extradition et à l'entraide judiciaire en
matière pénale. Signé à La Haye le 27 août 1976**

Texte authentique : néerlandais.

Enregistré par les Pays-Bas le 21 octobre 1982.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF SURINAME CONCERNING EXTRADITION AND LEGAL ASSISTANCE IN CRIMINAL MATTERS

The Government of the Kingdom of the Netherlands and the Government of the Republic of Suriname,

Bearing in mind the close links between the Kingdom of the Netherlands and the Republic of Suriname;

Considering that it is necessary, in connection with the accession of Suriname to independence, to establish measures relating to extradition, the formalities pertaining thereto and legal assistance;

Have agreed as follows:

CHAPTER I

EXTRADITION

Article 1. The Contracting Parties undertake, in accordance with the terms of this Agreement and the provisions in their national laws, to extradite, on a basis of reciprocity, persons who are being prosecuted by the judicial authorities of the requesting Party for a punishable crime or offence or are being sought for the purpose of enforcing a penalty or other measure.

Article 2. 1. An extradited person shall not be prosecuted, tried or detained with a view to enforcing a penalty or measure or be subjected to any other restriction on his personal liberty for any act committed prior to extradition other than that which constituted the reason for extradition, except in the following cases:

- a. If the Party which has extradited him consents thereto. For that purpose a requisition must be submitted together with the evidence specified in article 3. Consent shall be given if the punishable act, for which the requisition is made, entails by itself the obligation to extradite under this Agreement. Consent may be given if, given the severity of the prescribed penalty or measure, the punishable act does not entail this obligation;
- b. If the extradited person, although he had the opportunity to do so, has not left the territory of the Party, to which he was extradited, within 30 days from his definitive release or if, having departed from that territory, he returns thereto;
- c. If the extradited person, either prior to his being handed over to a judicial authority of the requested Party or after his being handed over to a judicial authority of the requesting Party, has expressly consented to be tried for any act whatsoever.

¹ Came into force on 19 June 1981, the date of the last of the written notifications by which the Contracting Parties informed each other of the completion of the relevant constitutional formalities, in accordance with article 25 (1).

2. The requesting Party may, however, take the necessary action for eviction from its territory or for the suspension of prescription in conformity with its law, including the institution of proceedings for adjudication by default.

REQUISITION AND RELEVANT EVIDENCE

Article 3. 1. Requisitions for extradition shall be sent in writing through the Minister of Justice of the requesting Party to the Minister of Justice of the requested Party.

2. The following shall be transmitted with the requisition:

- a. The original or an authenticated copy of a judgement authorizing enforcement or a warrant or any equally valid document, to be drawn up in the form prescribed by the law of the requesting Party;
- b. A summary of the facts on account of which extradition is requested. The time and place of commission of the acts, their legal description and references to the relevant legislative provisions shall be reported as precisely as possible;
- c. A copy of the relevant legislative provisions, together with as precise as possible a description of the person claimed and all further information of importance for establishing his identity and nationality.

SUPPLEMENTARY INFORMATION

Article 4. If the information provided through the requesting Party appears insufficient to enable the requested Party to reach a decision in accordance with this Agreement, the latter Party shall request the necessary supplementary information and may set a time-limit within which it must be provided.

PROVISIONAL DETENTION

Article 5. 1. In urgent cases the judicial authorities of the requesting Party may request the provisional detention of the person claimed with a view to his extradition.

2. Requisitions for provisional detention shall specify the punishable act committed, the term of the penalty or measure prescribed or imposed and the time and place of commission of the act, together with, so far as possible, the description of the person claimed.

3. Requisitions shall be transmitted to the judicial authorities of the requested Party. The judicial authorities of the requesting Party shall be informed without delay of the action taken on their requisitions.

4. If a requisition appears to have been made in due and proper form, the judicial authorities of the requested Party shall act thereon in accordance with its laws.

5. Provisional detention shall be terminated if the requested Party has not received the requisition for extradition and the evidence specified in article 3 within 20 days from the detention, unless the detention has to be extended for some other reason. Provisional release shall be possible at any time on the understanding that the requested Party must take whatever action it may deem necessary to prevent the escape of the person claimed.

6. Release shall not preclude further detention and extradition if the requisition for extradition is meanwhile received.

SURRENDER OF EXTRADITED PERSONS

Article 6. 1. The requested Party shall advise the requesting Party of the decision concerning extradition in the manner specified in article 3, paragraph 1.

2. The reasons for any refusal shall be stated.

3. If a requisition is accepted, the requesting Party shall be advised of the place and date of surrender and of the period during which the person claimed was deprived of his liberty pending extradition.

4. If the transfer of taking over of the person to be extradited is delayed by *force majeure*, the Party concerned shall inform the other Party of the extent of the delay; the two Parties shall agree on a new date for the transfer.

DEFERRED OR CONDITIONAL EXTRADITION

Article 7. 1. The requested Party may, after taking a decision on the requisition for extradition, defer the surrender of the person claimed so that he can be tried by that Party or, if he has already been convicted in its territory, so that he can serve a sentence for an act other than that for which extradition is requested.

2. If the requisition for extradition concerns a person who is serving a sentence in the territory of the requested Party, that Party may, if special circumstances so require, surrender the person temporarily to the requesting Party on conditions to be established by consultation.

3. Any deprivation of liberty to which the person concerned has been subjected after this surrender in the territory of the requesting Party, shall be deducted from the term of the sentence which he has to serve in the territory of the requested Party.

ABBREVIATED PROCEDURE

Article 8. 1. The judicial authorities of the requesting Party may request the direct surrender of a person whose provisional detention or extradition is requested.

2. This surrender may take place immediately if the person concerned expressly consents thereto in the presence of an official of the State Council division of the requested Party and if this official also gives his consent.

A person whose direct extradition is requested shall have the right to be assisted by counsel. This surrender shall take place without further formalities.

3. This surrender entails for the person concerned the consequences arising from the affirmation referred to in article 2, paragraph 1, sub-paragraph *c*.

TRANSFER OF MATERIAL EVIDENCE

Article 9. 1. At the request of the requesting Party the requested Party shall, to the extent permitted by its laws, take possession of the materials:

a. Which may be used as evidence;

b. Which derive from the punishable act and were found either before or after the surrender of the detainee;

and shall transfer them.

2. Transfer shall be subject to compliance with the law in force in the place where the house search and seizure took place. This law shall determine whether the material evidence seized is to be transferred in whole or in part to the requesting Party. This Party may order the return of evidence not directly connected with the act with which the claimed person is charged and shall adjudicate, as appropriate, the claims of third parties, who were holders of the evidence, or of other rightful claimants.

3. The material evidence referred to in paragraph 1 of this article may also be transferred if extradition, although already authorized, has not taken place owing to the death or escape of the claimed person.

CHAPTER II

LEGAL ASSISTANCE IN CRIMINAL MATTERS

Article 10. 1. The Contracting Parties undertake, in accordance with the provisions of this Agreement and in conformity with their national laws, to afford each other, so far as possible, legal assistance in any proceedings pertaining to criminal acts, the punishment for which, during the period for which legal assistance is requested, is within the competence of the judicial authorities of the requesting Party.

2. Legal assistance may be refused:

- a. If the request concerns punishable acts which are deemed by the requested Party to be a political crime or offence or connected with such crime or offence;
- b. If the requested Party considers that compliance with the request may result in jeopardizing the security, public order or other essential interests of the country or if the person concerned has already been tried for the same acts or if the acts in question have become a *res judicata*.

LETTERS ROGATORY

Article 11. 1. The requested Party shall comply with letters rogatory concerning a criminal case which have been referred to it by the judicial authorities of the requesting Party for the purpose of instituting an inquiry or for the transmittal of material evidence, files or documents.

2. If the requesting Party deems it desirable that witnesses or experts should make their statements under oath, it shall make an express request to that effect and the requested Party shall comply therewith unless this is precluded by the law of the land.

3. It shall be sufficient for the requested Party to transmit copies or photocopies of the files or documents requested. If the requesting Party expressly requests transmittal of the original, the request shall be complied with so far as possible.

Article 12. Letters rogatory involving a house search or seizure, shall be complied with forthwith in respect of acts which may justify extradition under this Agreement subject to the proviso in article 9, paragraph 2.

Article 13. 1. The requested Party may defer the transfer of material evidence, files and documents, the transfer of which is requested, if it deems them necessary for criminal proceedings.

2. The material evidence and original files and documents transferred for the purpose of complying with a letter rogatory shall be returned as quickly as possible through the requesting Party to the requested Party unless the latter relinquishes them.

TRANSMITTAL OF WRITS AND JUDICIAL DECISIONS

Article 14. 1. Writs and judicial decisions to be transmitted to persons who are in the territory of one of the Parties shall be sent to them either directly in registered letters by the competent authorities or process-servers or through the authorized State Counsel in court (*parquet*) of the requested Party.

2. Where no request is made for transmittal to be effected by one of the procedures prescribed for such purposes in the laws of the requested Party, the requested State Counsel in court shall ensure that the writ or decision is served forthwith on the person for whom it is intended.

3. The requested State Counsel in court shall inform the requesting Party of the action taken on the requested transmittal.

REGISTER OF CRIMES AND OFFENCES

Article 15. 1. Extracts from the register of crimes and offences and all information relevant thereto which are requested by the judicial authorities of one of the Parties in connection with a criminal case, shall be provided to the authorities through the requested Party in so far as the latter's own judicial authorities are entitled to provide them in agreed cases.

2. In cases other than those specified in the preceding paragraph, such a request shall be complied with in accordance with the laws, regulations or general practice of the requested Party.

PROCEDURE

Article 16. 1. Except as otherwise provided in this chapter, requests for legal assistance must include the following information:

- a. The authority making the request;
- b. The text of and reason for the request;
- c. Where possible, the identity and nationality of the person concerned;
- d. Where necessary, the name and address of the person for whom the request is intended.

2. The letters rogatory referred to in articles 11 and 12 must also specify the charge and include a short summary of the facts.

Article 17. 1. Except as otherwise provided in this chapter, letters rogatory and other requests for legal assistance may be addressed through the judicial authorities of the requesting Party directly to the judicial authorities of the requested Party. They shall be returned, together with the documents pertaining to the extradition, either directly or through the Minister of Justice of the requested Party.

2. The requests specified in article 15, paragraph 1, may be addressed through the judicial authorities to the relevant service of the requested Party and replies may be sent back directly through this service. *The requests specified in*

article 15, paragraph 2, shall be addressed through the Minister of Justice of the requesting Party to the Minister of Justice of the requested Party.

Article 18. Writs and documents transferred under this Agreement shall be exempt from all authentication formalities.

Article 19. If an authority which has received a request for legal assistance is not competent to comply therewith, it shall transmit it *ex officio* to the competent authority of its country and inform the requesting Party accordingly.

Article 20. Every refusal to provide legal assistance shall be accompanied by a statement of the reasons.

CHAPTER III

GENERAL PROVISIONS

Article 21. Except as otherwise provided in this Agreement, only the law of the requested Party shall apply to extradition proceedings, provisional detention proceedings and the implementation of requests for legal assistance.

Article 22. The Contracting Parties undertake to keep each other informed of their laws concerning extradition and legal assistance in criminal proceedings and of any amendments thereto.

Article 23. The Contracting Parties shall, on a basis of reciprocity, waive all claims to repayment of any costs arising from the implementation of this Agreement.

Article 24. So far as the Kingdom of the Netherlands is concerned, this Agreement shall apply only to the Kingdom in Europe.

This Agreement, together with or without such amendments as may be deemed necessary, may be made applicable to the Netherlands Antilles by an exchange of notes.

Article 25. 1. The present Agreement shall enter into force after the Contracting Parties have notified each other in writing that the relevant constitutional formalities in their countries have been completed.

2. Either of the Parties may terminate this Agreement at any time. Termination shall be effected by notification thereof to the other Party. Termination shall take effect two months after such notification.

IN FAITH WHEREOF the undersigned plenipotentiaries, duly authorized for the purpose by their Governments, have signed this Agreement.

DONE at The Hague, on 27 August 1976 in duplicate in Dutch.

For the Government of the Kingdom of the Netherlands:
M. VAN DER STOEL

For the Government of the Republic of Suriname:
E. HOOST