

No. 24263

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

Extradition Treaty. Signed at London on 22 July 1985

Authentic texts: Spanish and English.

Registered by Spain on 24 July 1986.

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

Traité d'extradition. Signé à Londres le 22 juillet 1985

Textes authentiques : espagnol et anglais.

Enregistré par l'Espagne le 24 juillet 1986.

EXTRADITION TREATY¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF SPAIN AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The Government of the Kingdom of Spain and the Government of the United Kingdom of Great Britain and Northern Ireland,

Desiring to make provision for the reciprocal extradition of offenders;

Have agreed as follows:

Article 1. For the purposes of this Treaty:

(a) “Detention order” shall mean any order involving deprivation of liberty which has been made by a criminal court in addition to or instead of a prison sentence.

(b) “Nationals” shall mean:

- i) In relation to Spain: persons of Spanish nationality;
- ii) In relation to the United Kingdom:
 - British citizens,
 - British Dependent Territories citizens,
 - British Overseas citizens,
 - British subjects,
 - British protected persons.

Article 2. The Contracting Parties undertake to surrender to each other, subject to the provisions laid down in the following Articles, any persons against whom the competent authorities of the requesting Party are proceeding for any offence or who are wanted by the said authorities for the carrying out of a sentence or detention order.

Article 3. (1) Extradition shall be granted in respect of offences punishable under the laws of both Contracting Parties by deprivation of liberty, whether for a term of imprisonment or under a detention order, for a maximum period of at least one year or by a more severe penalty, provided that extradition would not be excluded by the law of either Party.

(2) Where extradition is requested for the purpose of carrying out a sentence, a further requirement shall be that the period of imprisonment or detention which remains to be served shall be at least four months.

(3) When the requesting Party requests the extradition of a person for the purpose of carrying out a sentence or detention order imposed by a decision rendered against him *in absentia*, the requested Party may refuse to extradite for this purpose if, in its opinion, the proceedings leading to the judgment did not satisfy the minimum rights of defence recognised as due to everyone charged with a criminal offence. However, extradition shall be granted if the requesting Party gives an assurance considered sufficient to guarantee to the person claimed the right to a retrial which safeguards the rights of the defence. The decision to extradite in these circumstances will authorise the requesting Party either to enforce the judgment in question if the convicted person does not object or, if he does, to take proceedings against the person extradited.

¹ Came into force on 1 July 1986, i.e., the first day of the fourth month following the date of the exchange of instruments of ratification, which took place at Madrid on 24 March 1986, in accordance with article 22 (1).

Article 4. (1) Extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested Party as a political offence or as an offence connected with a political offence.

(2) The same rule shall apply if the requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.

(3) Nothing in this Treaty shall affect the application of the European Convention on the Suppression of Terrorism¹ or the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.²

Article 5. Extradition for offences under military law which are not offences under ordinary criminal law is excluded from the application of this Treaty.

Article 6. For offences in connection with taxes, duties, customs and exchange, extradition shall take place between the Contracting Parties in accordance with the provisions of this Treaty, provided that extradition would not be excluded by the law of either Party.

Article 7. (1) The requested Party shall have the right to refuse extradition of its own nationals. For this purpose, nationality shall be determined at the time of the decision concerning extradition.

(2) If the requested Party does not agree to extradite a national, it shall at the request of the requesting Party submit the case to the competent authorities in order that proceedings may be taken against him if they are considered appropriate. For this purpose, the documents, information and exhibits relating to the offence shall be transmitted without charge through the diplomatic channel. The requesting Party shall be informed of the result of its request.

Article 8. The requested Party may refuse to extradite a person claimed for an offence which is regarded by its law as having been committed within the jurisdiction of its courts.

Article 9. (1) The requested Party may refuse to extradite the person claimed if the competent authorities of that Party are proceeding against him in respect of the offence or offences for which extradition is requested.

(2) Extradition shall not be granted if final judgment has been passed by the competent authorities of the requested Party upon the person claimed in respect of the offence or offences for which extradition is requested. Extradition may be refused if the competent authorities of the requested Party have decided either not to institute or to terminate proceedings in respect of the same offence or offences.

Article 10. Extradition shall not be granted if criminal liability has been discharged for any reason provided for in the legislation of the requesting Party or of the requested Party.

Article 11. If the offence for which extradition is requested is punishable by death under the law of the requesting Party, and if in respect of such an offence the death penalty is not provided for by the law of the requested Party or is not normally carried out, extradition may be refused unless the requesting Party gives such assurances as the requested Party considers sufficient that the death penalty will not be carried out.

¹ United Nations, *Treaty Series*, vol. 1137, p. 93.

² *Ibid.*, vol. 78, p. 277.

Article 12. (1) The request for extradition shall be in writing and shall be communicated through the diplomatic channel.

(2) The request shall be accompanied by:

- (a) The text, if any, of the law defining the offence and prescribing the maximum punishment for that offence as well as the legal provision which establishes the extraditable character of the offence inasmuch as the case is not amongst the exceptions specified by the law of the requesting Party;
- (b) As accurate a description as possible of the person claimed, together with any information which will help to establish his identity, nationality and place of residence; and
- (c) A statement of the facts of the offence for which extradition is requested.

(3) If the request relates to an accused person, it must be accompanied, in addition to the documents required by paragraph (2) of this Article, by:

- (a) A warrant of arrest or other equivalent judicial document authorising arrest; and
- (b) Evidence which would be sufficient, according to the law of the requested Party, to justify, if the offence had been committed in its territory, submitting the case for trial or sentence to a superior court or to another judicial authority which would be competent in either case.

(4) If the request relates to a convicted person, it must be accompanied, in addition to the documents required by paragraph (2) of this Article, by a certificate or the judgment of the conviction and by a statement certifying that the sentence has not been served or has only been served in part.

(5) If the person is sought for the purpose of giving effect to a prison sentence or detention order imposed in his absence, the person shall be treated as an accused rather than as a convicted person.

(6) The authorities of the requested Party shall admit as evidence, in any proceedings for extradition, statements on oath or affirmation taken in the territory of the requesting Party, any warrant, any copy of such statement or warrant and any certificate of, or judicial document stating the fact of, a conviction, provided that original documents are signed by a judge, magistrate or other competent authority of the requesting Party and, in the case of a copy, are authenticated by being certified to be a true copy of the original; and, in every case, the documents must be authenticated by 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.

(7) Until such time as the person claimed is delivered up, he may avail himself of all the rights, appeals and judicial guarantees afforded by the law of the requested Party.

(8) If in a particular case the requested Party should so request, the requesting Party shall make available a translation of any document which has been submitted together with the request for extradition.

Article 13. If the information communicated by the requesting Party is found to be insufficient to allow the requested Party to make a decision in pursuance of this Treaty, the latter Party shall request the necessary supplementary information and may fix a time-limit for the receipt thereof.

Article 14. (1) A person who has been extradited shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or detention order for any offence committed prior to his surrender other than that for which he was extradited, nor be subjected to any other restriction on his personal freedom except when,

having had an opportunity to leave the territory of the Contracting Party to which he has been surrendered, he has not done so within forty days of his final discharge, or has returned to that territory after having left it.

(2) The requesting Party may, however, take any measures necessary to remove the person from its territory, or any measures necessary under its law, including proceedings by default, to prevent any legal effects of lapse of time.

(3) When the description of the offence charged is altered in the course of proceedings, the extradited person shall only be proceeded against or sentenced in so far as the offence under its new description is shown by its constituent elements to be an offence which would allow extradition.

Article 15. (1) In case of urgency the competent authorities of the requesting Party may request the provisional arrest of the person sought. The competent authorities of the requested Party shall decide the matter in accordance with its law.

(2) The request for provisional arrest shall state that one of the documents mentioned in paragraph (3) (a) or (4) of Article 12 of this Treaty exists and that it is intended to send a request for extradition. It shall also state for what offence extradition will be requested and when and where such offence was committed and shall, so far as possible, give a description of the person sought.

(3) A request for provisional arrest shall be sent to the competent authorities of the requested Party either through the diplomatic channel or direct by post or telegraph or through the International Criminal Police Organisation (INTERPOL) or by any other means affording evidence in writing or accepted by the requested Party. The requesting authority shall be informed without delay of the result of its request.

(4) Provisional arrest shall be terminated if, within a period of forty days after arrest, the requested Party has not received a request for extradition. The possibility of provisional release at any time is not excluded, but the requested Party shall take any measures which it considers necessary to prevent the escape of the person sought.

(5) Release shall not prejudice re-arrest or extradition if a request for extradition is received subsequently.

Article 16. If extradition is requested concurrently by more than one State, either for the same offence or for different offences, the requested Party shall make its decision having regard to all the circumstances and especially the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality of the person claimed and the possibility of subsequent extradition to another State.

Article 17. (1) The requested Party shall inform the requesting Party through the diplomatic channel of its decision with regard to the extradition.

(2) In the event that a request for extradition is refused because extradition cannot be granted under Article 3 of this Treaty, the requested Party shall give reasons for the refusal.

(3) If the request is agreed to, the requesting Party shall be informed of the place and date of surrender and of the length of time for which the person claimed was detained with a view to surrender.

(4) Subject to the provisions of paragraph (5) of this Article, if the person claimed has not been taken over on the appointed date, he shall be released after the expiry of thirty days. The requested Party may refuse to extradite him for the same offence.

(5) If circumstances beyond its control prevent a Contracting Party from surrendering or taking over the person to be extradited, it shall notify the other Party. In that

case, the two Parties shall agree a new date for surrender and the provisions of paragraph (4) of this Article shall apply.

Article 18. The requested Party may, after making its decision on the request for extradition, postpone the surrender of the person claimed in order that he may be proceeded against by that Party or, if he has already been convicted, in order that he may serve his sentence in the territory of that Party for an offence other than that for which extradition is requested.

Article 19. (1) (a) The requested Party shall, if asked by the requesting Party, make the necessary arrangements for that Party's legal representation and assistance in any proceedings arising out of a request for extradition.

(b) In the event that the requesting Party arranges its own legal representation and assistance, it shall bear any costs incurred.

(2) Subject to the provisions of paragraph (1) (b) of this Article, expenses incurred in the territory of the requested Party by reason of extradition shall be borne by that Party.

(3) In the event of extradition from a non-metropolitan territory of the requested Party, the expenses occasioned by travel between that territory and the metropolitan territory of the requesting Party shall be borne by the latter. The same rule shall apply to expenses occasioned by travel between the non-metropolitan territory of the requested Party and its metropolitan territory.

Article 20. (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 connection 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 person 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 21. (1) This Treaty shall apply:

(a) In relation to Spain: to the territory of Spain;

(b) In relation to the United Kingdom:

(i) To Great Britain and Northern Ireland, the Channel Islands and the Isle of Man;

(ii) To any territory for the international relations of which the United Kingdom is responsible and to which the Treaty shall have been extended by agreement between the Contracting Parties embodied in an Exchange of Notes.

(2) The application of this Treaty to any territory in accordance with paragraph (1)(b)(ii) of this Article may be terminated by either Party giving six months' written notice to the other through the diplomatic channel.

Article 22. (1) This Treaty shall be ratified and the instruments of ratification shall be exchanged at Madrid as soon as possible. It shall enter into force on the first day of the fourth month after the date of the exchange of instruments of ratification.

(2) This Treaty shall apply in respect of any person who enters the territory of the requested Party at any time after the Treaty enters into force, irrespective of the date of the commission of the offence for which extradition is sought.

(3) Either Contracting Party may terminate this Treaty at any time by giving six months' written notice to the other through the diplomatic channel.

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

DONE in duplicate at London this 22nd day of July 1985, in the Spanish and English languages, both texts being equally authoritative.

For the Government of the Kingdom of Spain:

[Signed — Signé]¹

[Signed — Signé]²

For the Government of the United Kingdom of Great Britain and Northern Ireland:

[Signed — Signé]³

[Signed — Signé]⁴

¹ Signed by Fernando Ledesma Bartret — Signé par Fernando Ledesma Bartret.

² Signed by José Joaquín Puig de la Bellacasa — Signé par José Joaquín Puig de la Bellacasa.

³ Signed by Leon Brittan — Signé par Leon Brittan.

⁴ Signed by Timothy Renton — Signé par Timothy Renton.