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**SPAIN
and
COLOMBIA**

Convention on extradition. Signed at Bogotá on 23 July 1892

Authentic text: Spanish.

Filed and recorded at the request of Spain on 30 April 1993.

**ESPAGNE
et
COLOMBIE**

Convention d'extradition. Signée à Bogotá le 23 juillet 1892

Texte authentique : espagnol.

Classée et inscrite au répertoire à la demande de l'Espagne le 30 avril 1993.

[TRANSLATION — TRADUCTION]

CONVENTION¹ ON EXTRADITION. SIGNED AT BOGOTÁ ON
23 JULY 1892

Her Majesty the Queen Regent of Spain, on behalf of her august son Don Alfonso XIII, and His Excellency the President of the Republic of Colombia, desirous of promoting the proper administration of justice and preventing their respective countries from serving as a refuge for the evasion of prosecution and punishment by criminals or offenders, have deemed it appropriate to conclude the present Agreement and for that purpose have appointed as their plenipotentiaries:

Her Majesty the Queen Regent of Spain, Don Bernardo J. de Cólogan, her Resident Minister in Colombia, and His Excellency the President of the Republic of Colombia, Don Marco Fidel Suárez, Under-Secretary for Foreign Affairs, chargé d'affaires,

Who, having exchanged their full powers and finding them in good and due form, have agreed on the following articles:

Article I

The Government of Spain and the Government of Colombia undertake to surrender to each other any persons whom the courts or the competent authorities of either of the two Contracting States have convicted of or charged with committing or aiding in the commission of the offences or crimes set out in article III and who have taken refuge in the territory of the other State.

Article II

The Contracting Parties shall not be required to surrender their own citizens or nationals, including individuals who had become naturalized citizens before the commission of the crime.

Both Parties agree, however, to prosecute and to try, in accordance with their respective laws, crimes or offences committed by nationals of one of the Contracting Parties against the laws of the other, pursuant to a timely request from the latter and provided that said offences or crimes are included in the list in article III.

In such cases, the request shall be accompanied by the necessary articles, documents, records, statements and other reports.

Article III

Extradition shall be granted in respect of individuals convicted of or charged with committing or aiding in the commission of any of the following crimes:

1. Homicide, including murder, parricide, poisoning, infanticide and abortion;
2. Any attempt to commit the crimes specified in the preceding item;
3. Rape, assault, kidnapping and aggravated indecent assault;

¹ Came into force on 17 June 1893 by the exchange of the instruments of ratification, which took place at Bogotá, in accordance with article XXI.

4. Bigamy;
5. Arson or wilful flooding of homes or fields;
6. Robbery or aggravated theft of money, funds, documents or any type of public or private property, and any fraudulent removal carried out by means of violence or intimidation, or by breaking and entering by night;
7. Kidnapping or holding of persons in order to extort money from the victim, his family or relatives, or for any other illicit purposes;
8. Falsification, sale and fraudulent circulation of public or private documents;
9. Falsification or forgery of official documents of the Government or the public authority, including the courts, or the sale and fraudulent use of such documents;
10. The manufacture of counterfeit coins or paper bills, bonds or coupons of the public Treasury, banknotes or other credits, seals, stamps, sealed paper, molds and marks of the State Administration, and the sale or fraudulent use thereof;
11. Embezzlement and theft or criminal misuse of public funds by employees or depositaries;
12. The defrauding or criminal misappropriation of private capital by a banker, agent, administrator, tutor, guardian, executor, depositary, receiver, trustee, director, member, teller or employee of an association, company or enterprise;
13. Abuse of trust and fraud by any employee against his directors or chiefs;
14. Bankruptcy or fraudulent insolvency, and fraud committed in connection with a bankruptcy;
15. Concealment, abduction, substitution or corruption of a minor; illegal use of an assumed name;
16. Damage to railways, telegraphs, sailing vessels or steamships which could endanger the lives of passengers or employees;
17. Wilful damage to dikes, aqueducts and public works by means of, *inter alia*, the exploding of mines, steam engines, and the criminal use of explosive substances, when such actions endanger life or property;
18. Piracy, under international law;
19. Wilful destruction or loss of a vessel; conspiring and attempting to cause such loss by anyone on the high seas;
20. Mutiny fomented by crew members or other persons on board a vessel on the high seas, for the purpose of rebelling against the authority of the captain or commander of that vessel for any illicit purpose, or, by means of deception or violence, seizure or attempted seizure of the vessel.

Article IV

Extradition shall not be granted:

1. When it is requested in respect of a crime or offence for which the person sought is serving or has already served the sentence, or has been tried and acquitted in the territory of the other Contracting Party;

2. If proceedings or penalties are barred by reason of time limitation, in accordance with the laws of the country from which the offender is being requested.

Article V

Extradition shall not be granted for political or related offences, and it is expressly stipulated that the person whose extradition has been granted may in no case be prosecuted for a political offence prior to his extradition.

However, any attempt against the life of the Sovereign or Head of State of one of the Contracting Parties or of a legally or institutionally appointed successor thereto which constitutes the crime of murder or poisoning shall not be considered a political offence.

Article VI

Extradition shall not be granted in respect of crimes or offences committed prior to ratification of this Convention.

Any person surrendered may be tried only for the crime which gave rise to the extradition request, unless:

1. The crime or offence is among those specified in article III and has been committed after the exchange of ratifications. The Government holding the offender in custody shall so inform those to whom it surrenders the offender in a timely fashion;

2. After extradition has been granted, the offender commits another crime or offence in the territory or jurisdiction of the other Party.

Article VII

The provisions of this Agreement shall be applicable to all of the territories, possessions or provinces to which the sovereignty of the Contracting States shall extend.

Article VIII

The request for extradition shall be transmitted through the diplomatic channel along with the following supporting documentation:

1. In the case of a convicted criminal who has escaped, a certified copy of the sentence;

2. In the case of a person who has been charged or who is being tried, a certified copy of the arrest warrant or order to proceed, or any other document having the same effect, along with the particulars of the offence and the corresponding penalty;

3. A physical description of the offender or accused, whenever possible, in order to facilitate the search and arrest.

Article IX

The provisions of this Convention shall be fulfilled even in the event of the absence of the respective diplomatic representatives, or when the application for extradition is made to the Governors-General of the overseas Spanish provinces of Cuba or Puerto Rico. In such cases, the request or claim may be transmitted by the appropriate consular officers. The Governors-General of Cuba or Puerto Rico may

likewise issue a request for extradition in respect of offences or offenders under their jurisdiction, which shall be processed in accordance with the same procedures and under the terms stipulated in this Convention.

Article X

If the extradition of an accused or convicted person is also requested by one or more other Governments because of crimes or offences committed in their respective territory, the offender shall preferably be surrendered to the Government submitting the earliest extradition request.

The Governments of the Contracting Parties shall agree between themselves, or through their agents, on extradition matters and shall themselves take the relevant governmental or administrative decisions.

Article XI

The expenses occasioned by the capture and transport of the person sought shall be borne by the Government requesting extradition.

Article XII

If the person sought has been convicted or accused of or tried for a crime or offence committed in the country to which he has fled, his extradition shall be delayed until the criminal proceedings have been completed or the sentence served.

Responsibility for civil obligations contracted with individuals shall not prevent extradition. Such individuals shall retain their rights to have such obligations enforced by the competent authorities.

Article XIII

In urgent cases, and especially when a risk of flight exists, either Government may, basing itself on any of the documents mentioned in article VIII, request, through the diplomatic channel, using the most rapid means available, including telegraph, the provisional arrest of the person charged or convicted, on condition that the document in question be produced as soon as possible.

Article XIV

If documentation of the type described in article VIII sufficient to warrant extradition has not been received within three months of the date on which the person charged or convicted is taken into custody and brought before the diplomatic or consular representative, the person shall be released and may not be detained again on the same grounds unless irrefutable evidence is produced.

Article XV

When the death penalty is applicable to the offender, the State granting extradition may request its commutation, which, if granted, shall be undertaken in accordance with the laws of the country in which the sentence was imposed.

Article XVI

The ordinary offence of desertion shall not be grounds for extradition unless it is accompanied by one of the crimes and offences listed in article III.

The High Contracting Parties shall, however, follow internationally accepted practices with regard to deserters from the crews of warships or merchant vessels.

Article XVII

When, in the course of criminal proceedings, either Government finds it necessary to hear witnesses residing in the territory of the other, it shall make a request to that effect, and the receiving Government shall respond to the request and ensure that it is fulfilled in accordance with its own legislation.

Article XVIII

If, in the course of criminal proceedings, it should become necessary for a witness to appear in person, the Government of the country of which he is a national or resident shall invite the witness to accede to the request. If he so agrees, the expenses of his travel to and from his home or place of residence and his stay shall be paid.

No witness of any nationality who, having been invited to appear in either country and appearing voluntarily before the courts of the other, may be prosecuted or detained for prior acts or convictions, whether civil or criminal, or for complicity in events associated with the case in which he is testifying.

Article XIX

Stolen articles or articles found in the possession of the convicted or accused person, the instruments or tools used in the commission of the crime and any other pieces of evidence shall be handed over at the time the extradition of the prisoner is verified, even if the extradition cannot be carried out by reason of his death or escape.

However, third parties shall retain their rights to the aforementioned property, which, if necessary, shall be returned without charge after the case has been closed.

Article XX

The extradition in transit through the territory of one Contracting State of an offender who is surrendered to the other Contracting State by a third State shall be granted upon production of any of the documents mentioned in article VIII or the extradition order or document issued by the authorities of the third State, provided that political prisoners are not involved and that the offence for which extradition is sought is covered by this Agreement.

The Governor of the Department of Panama shall be authorized to examine the documentation mentioned in the previous paragraph which is produced by the Consul of Spain or the official responsible for the custody of the prisoner, and shall, if it is found to be in conformity with the requirements, permit transit across the Isthmus.

Article XXI

This Agreement shall remain in force from the day of the exchange of the instruments of ratification; however, either party may denounce it and terminate it with one year's advance notice.

Article XXII

This Agreement shall be ratified in accordance with the laws of each State, and the instruments of ratification shall be exchanged as soon as possible in the city of Bogotá.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Agreement and fixed their seals thereto in the city of Bogotá, on 23 July 1892.

BERNARDO J. DE CÓLOGAN

MARCO F. SUÁREZ
