

EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The Government of the Republic of the Philippines and the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the "Contracting States");

DESIRING to provide for more effective cooperation between the Contracting States in the combating of crime;

HAVING DUE REGARD for human rights and the rule of law;

MINDFUL of the guarantees under their respective legal systems which provide an accused person with the right to a fair trial, including the right to adjudication by an impartial tribunal established pursuant to law;

HAVE agreed as follows:

ARTICLE 1 OBLIGATION TO EXTRADITE

The Contracting States agree to extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with or convicted of an extraditable offence.

ARTICLE 2 EXTRADITABLE OFFENCES

1. For the purposes of this Article, an offence shall be an extraditable offence if:

a) the conduct on which the offence is based is punishable under the laws of both States by a maximum sentence of at least twelve (12) months imprisonment or another form of detention, or by a greater punishment; or

b) the person whose extradition has been requested has been convicted by a competent court of the Requesting State, a sentence of imprisonment or another form of detention of a term of four (4) months or more has been imposed and the conduct is punishable under the laws of the Requested State by a maximum sentence of at least twelve (12) months imprisonment or another form of detention, or by a greater punishment.

2. An offence shall be an extraditable offence whether or not the laws of **the** Contracting States place the offence within the same category or describe the offence by a different terminology.

ARTICLE 3 GROUNDS FOR REFUSAL

1. Extradition under this Treaty shall be refused in any of the following cases:

- a) if the offence for which extradition is requested is regarded by the Requested State as an offence of a political nature;
- b) if the Requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons;
- c) if the person sought has been tried and convicted or acquitted by a final judgment in either State or in a third State of the offence for which extradition is requested;
- d) if the prosecution of the person sought would be barred by lapse of time under the domestic law of the Requested State;
- e) if the offence for which extradition has been requested is a military offence and not also an offence under ordinary domestic criminal law;
- f) if extradition would breach the human rights of the person involved in the criminal proceedings;
- g) if the person sought has been convicted *in absentia*, unless:
 - (i) an assurance is provided that the person will be entitled to a retrial or an appeal amounting to retrial under the domestic law of the Requesting State; or
 - (ii) the person was convicted under the following conditions:
 - (aa) the accused appeared before the court, was informed of the charges and entered a plea;
 - (bb) the accused was duly notified of the trial; and
 - (cc) the failure of the accused to appear was unjustifiable;
- (h) if extradition is barred for any other reason under the domestic law of the Requested State.

2. Extradition may be refused under this Treaty:

- a) if the person sought has been granted asylum by the Requested State;
- b) if the person sought is under investigation, is being prosecuted or is serving a sentence in the Requested State. If extradition is requested for conduct other than that for which the person is under investigation, is being prosecuted or is serving a sentence in the Requested State, that State may instead defer consideration of extradition until the sentence is completed or the person is discharged; or
- c) if the Requested State, while also taking into account the nature of the offence and the interests of the Requesting State, considers that, in the circumstances of the case, including the age or health of the person

whose extradition is requested, the extradition of that person would be unjust or incompatible with humanitarian considerations.

ARTICLE 4

CAPITAL PUNISHMENT

When the offence for which 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 offence, extradition may be refused unless the Requesting State gives such assurances as the Requested State considers sufficient, that the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

ARTICLE 5

EXTRADITION OF NATIONALS

Extradition shall not be refused on the ground that the person sought is a citizen of the Requested State.

ARTICLE 6

EXTRADITION PROCEDURES AND REQUIRED DOCUMENTS

1. All requests for extradition shall be submitted through the diplomatic channel.
2. All requests for extradition shall be supported by:
 - a) as accurate a description as possible of the person sought, together with any other information that would help to establish identity and probable location;
 - b) a statement of the facts of the offence(s);
 - c) the relevant text of the law(s) describing the essential elements of the offence for which extradition is requested;
 - d) the relevant text of the law(s) prescribing the punishment for the offence for which extradition is requested; and
 - e) documents, statements, or other types of information specified in paragraphs 3 or 4 of this Article, as applicable.
3. In addition to the requirements in paragraph 2 of this Article, a request for extradition of a person who is sought for prosecution shall be supported by:
 - a) such evidence as would justify committal for trial under the laws of the Requested State;
 - b) a copy of the warrant or order of arrest issued by a judge; and
 - c) a copy of the charging document.
4. In addition to the requirements in paragraph 2 of this Article, a request for extradition relating to a person who has been convicted of the offence for

which extradition is sought shall be supported by:

- a) information that the person sought is the person to whom the finding of guilt refers;
 - b) a copy of the judgment or memorandum of conviction or, if a copy is not available, a statement by a judicial authority that the person has been convicted;
 - c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and
 - d) in the case of a person who has been convicted *in absentia*, the assurances or information as to the conditions specified in Article 3(1)(g).
5. The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if:
- a) they are certified by the principal diplomatic or consular officer of the Requesting State resident in the Requested State; or
 - b) they are certified or authenticated in any other manner accepted by the law of the Requested State.

ARTICLE 7 ADDITIONAL INFORMATION

If the Requested State considers that the information furnished in support of a request for extradition is not sufficient in accordance with this Treaty and the laws of the Requested State to enable extradition to be granted, that State may request that additional information be furnished within such time as it specifies. Failure to comply with such requests within such time limits may result in the person's discharge. The fact that the person sought has been discharged from custody pursuant to this Article shall not prejudice the subsequent re-arrest and extradition of that person.

ARTICLE 8 LANGUAGE

All documents submitted by either Contracting State shall be in the English language.

ARTICLE 9 PROVISIONAL ARREST

1. In an urgent situation, the Requesting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic or other appropriate channels.

2. The application for provisional arrest shall contain:

- (a) a description of the person sought;
- (b) the location of the person sought, if known;
- (c) a brief statement of the facts of the case including, if possible, the date and location of the offence(s);
- (d) a description of the law(s) violated;
- (e) the original or copy of the warrant or order of arrest or of the finding of guilt or judgment of conviction against the person sought; and
- (f) a statement that the supporting documents for the person sought will follow within the time specified in this Treaty.

3. The Requesting State shall be notified without delay of the decision on its request for provisional arrest and the reasons for any inability to proceed with the request.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the formal request for extradition and the documents supporting the extradition request as required in Article 6 of this Treaty.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent re-arrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

ARTICLE 10

DECISION AND SURRENDER

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel of its decision on the request for extradition.

2. If the request is refused in whole or in part, the Requested State shall provide information as to the reasons for the refusal. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.

4. At the conclusion of the extradition proceedings, the person must be extradited within twenty-eight (28) days. If circumstances beyond its control prevent the Requested State from surrendering the person to be extradited, it shall notify the other State. The Contracting States shall agree upon a new period of time for surrender, and the provisions of paragraph 3 Of this Article shall apply.