

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. 1975

1 April 2022

EXTRADITION ACT, 1962 (ACT NO. 67 OF 1962)**EXTRADITION TREATY BETWEEN THE REPUBLIC OF SOUTH AFRICA
AND THE UNITED ARAB EMIRATES**

I, Ronald Lamola, Minister of Justice and Correctional Services, hereby give notice in terms of section 2(3) *ter* of the Extradition Act, 1962 (Act No. 67 of 1962), that the Parliament of the Republic of South Africa has on 27 November 2018 agreed to the ratification of the Extradition Treaty between the Republic of South Africa and the United Arab Emirates as set out in the Schedule. The said Treaty entered into force on 10 July 2021.

Mr R.O Lamola, MP

Minister of Justice and Correctional Services

SCHEDULE
EXTRADITION TREATY
BETWEEN
THE GOVERNMENT
OF THE REPUBLIC OF SOUTH AFRICA
AND
THE GOVERNMENT OF THE UNITED ARAB EMIRATES
AND

Preamble

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA and THE GOVERNMENT OF THE UNITED ARAB EMIRATES, hereinafter referred to as “the Parties”.

Recalling the friendly relations that exist between the two countries;

Desirous of strengthening and reinforcing cooperation between the two countries in combating crime; and

Deeply concerned about the magnitude of and rising trend in acts of international terrorism and organized crime.

HAVE AGREED as follows

Article 1

Obligation to Extradite

The Parties agree to extradite to each other, pursuant to the provisions of this Treaty and subject to their respective domestic laws relating to extradition, persons whom the authorities in the Requesting State have charged with or convicted of an extraditable offence.

Article 2

The Central Authorities

1. The Central Authority of each Party shall make and receive requests pursuant to this Treaty:
 - a) for the Government of The Republic of South Africa the Central Authority shall be the Director General of the Department of Justice and Constitutional Development.

- b) for the Government of the State of the United Arab Emirates the Central Authority shall be the Ministry of Justice; and
2. The Central Authorities shall communicate with one another through diplomatic channels for the purpose of this Treaty.

Article 3

Extraditable Offence

1. Extradition shall be granted under this Treaty if:
- a) the conduct, according to the laws of both Parties, constitutes an offence punishable pursuant to the laws of both Parties for deprivation of liberty for a period of at least one year or by more severe penalty; or
 - b) the request for extradition relates to a person convicted of an offence referred to in paragraph (a) of this Article who is sought for the enforcement of a sentence, and a period of at least six months of such penalty remains to be served.
2. An offence shall also be an extraditable offence if it consists of attempting, conspiring to commit or aiding, abetting, inducing, or procuring the commission of, or being an accessory before or after the fact to any offence set out in paragraph 1 of this Article.
3. For the purposes of this Article, an offence shall be an extraditable offence whether or not the laws of the Parties place the offence within the same category of offences or describe such offence by the same terminology.
4. If the extradition of a person is sought for an offence against a law relating to taxation, customs duties, exchange control or any other revenue matter, extradition may be granted despite the fact that the laws of the Requested Party do not impose the same kind of taxes or duties as imposed under the laws of the Requesting Party.
5. If the request for extradition includes several separate offences each of which is punishable under the laws of both Parties, but some of which do

not fulfill the other conditions set out in paragraph 1 of this Article, the Requested Party may grant extradition for the latter offences provided that the person is to be extradited for at least one extraditable offence.

6. If the legal characterization of the offence for which a person has been extradited is modified during the criminal proceedings against such person, that person may not be proceeded against unless the elements constituting the offence would have allowed extradition according to their modified characterization.

Article 4

Mandatory Refusal of Extradition

1. Extradition shall not be granted in any of the following circumstances:
 - a) if the offence for which extradition is requested is considered by the Requested Party as an offence of a political nature. In the application of the provisions of this Treaty the following offences shall not be considered as an offence of a political nature:
 - i) attempted assault, assault, attempted murder and murder against the President of the State or Deputy President or Head of the Government or any member of their families, or any member of the Supreme Council of the State of the United Arab Emirates or any member of their families; or
 - ii) any offence relating to terrorism; or
 - iii) any offence within the scope of a multilateral international convention to which both Parties are members and which obligates the Parties to extradite the person sought or submit the case to its competent authorities for the purposes of prosecution.
 - b) if there are 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 that person's race, religion, nationality or political beliefs;

- c) if the offence for which extradition is requested is an offence under military law, which is not an offence under other criminal laws of the Parties;
- d) if the person sought has been finally acquitted or convicted in the Requested Party for the same offence for which extradition is requested and, if convicted, the sentence imposed has been fully enforced or is no longer enforceable; or
- e) if the prosecution or enforcement of the sentence in connection with the offence specified in the request for extradition is barred by lapse of time or for any other reason in accordance with the national law of either Party.

Article 5

Discretionary Refusal of Extradition

1. Extradition may be refused in any of the following circumstances:
 - a) if the courts of the Requested Party have jurisdiction to prosecute the person for the offence for which extradition is requested, and the Requested Party shall prosecute that offence;
 - b) 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 offence the death penalty is not provided for by the law of the Requested Party, extradition shall be refused unless the Requesting Party gives assurances that the death penalty will not be carried out if it is imposed;
 - c) if the person sought has been finally acquitted or convicted in a third state for the same offence for which extradition is requested and, if convicted, the sentence imposed has been fully enforced or is no longer enforceable; or
 - d) if extradition will lead to humanitarian hardships for the person to be extradited.