

No. 31223

**CHILE
and
MEXICO**

**Treaty concerning extradition and mutual legal assistance in
criminal matters. Signed at Mexico City on 2 October
1990**

Authentic text: Spanish.

Registered by Chile on 21 September 1994.

**CHILI
et
MEXIQUE**

**Traité d'extradition et d'assistance juridique mutuelle en
matière pénale. Signé à Mexico le 2 octobre 1990**

Texte authentique : espagnol.

Enregistré par le Chili le 21 septembre 1994.

[TRANSLATION — TRADUCTION]

TREATY¹ CONCERNING EXTRADITION AND MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CHILE AND THE GOVERNMENT OF THE UNITED MEXICAN STATES

The Government of the Republic of Chile and the Government of the United Mexican States, hereinafter referred to as “the Parties”,

Conscious of the close ties existing between the two countries,

Desiring to promote greater cooperation between the two countries in all areas of common interest and convinced of the need to assist each other in order to improve the administration of justice,

Have decided to conclude a treaty concerning extradition and mutual legal assistance in criminal matters.

TITLE I. EXTRADITION

Article 1

The Parties undertake reciprocally to extradite, under the terms and conditions specified in the following articles, persons against whom criminal proceedings have been instituted or who are required to serve a sentence involving deprivation of liberty imposed judicially as the result of an offence.

Article 2

1. Extradition shall be granted in respect of offences punishable under the laws of both Parties by deprivation of liberty for at least one year.

2. If extradition is requested for the enforcement of a sentence, at least six months of such sentence must remain to be served.

Article 3

Offences covered by multilateral conventions to which both countries are parties, and which are duly incorporated in their internal laws, shall also give rise to extradition in accordance with this Treaty.

Article 4

1. Extradition shall not be granted for offences considered by the requested Party to be of a political nature or connected with offences of that kind. For the purpose of the application of this Treaty, the murder, or other offence against the life, physical integrity or liberty of a Head of State or Government or of a member of his family shall not be considered a political offence.

2. Extradition shall likewise not be granted if the requested Party has grounds for believing that the request for extradition for an ordinary criminal offence has

¹ Came into force on 30 October 1991, the date on which the Parties notified each other of the completion of their respective constitutional procedures and requirements, in accordance with article 40 (1).

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.

Article 5

Extradition for offences that are strictly military shall be excluded from the scope of this Treaty.

Article 6

1. Neither Party shall be obliged to hand over its nationals.

2. If the requested Party refuses the extradition request on the grounds of nationality, it shall at the petition of the requesting Party submit the case to the competent authorities in order that proceedings may be taken against the person sought. In these circumstances, the law of the requested Party shall apply. That State shall be provided free of charge with such additional documents or other evidence as it may require. The requesting Party shall be informed of the result of its request.

Article 7

The requested Party may refuse the extradition request when, according to its own laws, the offence for which extradition is requested should be dealt with by its own courts.

Article 8

Extradition shall not be granted if judgement has already been passed by the authorities of the requested Party upon the person concerned in respect of the offences for which extradition is requested.

Article 9

Extradition shall not be granted when the person sought has, according to the law of either Party become immune by reason of lapse of time from prosecution or punishment.

Article 10

If the offence with which the person sought is charged is punishable under the law of the requesting Party by death or by deprivation of liberty for a period exceeding the maximum term established under the law of the requested Party, extradition shall not be granted unless the requested State receives sufficient assurances before hand that the person extradited will not be subject to the death penalty or sentenced to imprisonment for a period exceeding the maximum term provided for under the law of the requested Party.

Article 11

The person extradited may not be tried in the territory of the requesting Party by an extraordinary *ad hoc* court. Extradition shall not be granted for that purpose or for the execution of a penalty imposed by courts of that kind.

Article 12

The request for extradition shall be transmitted through the diplomatic channel.

Article 13

The request for extradition shall be accompanied by:

(a) A detailed description of the offences for which extradition is requested, indicating as precisely as possible the time and place of their perpetration and their legal classification.

(b) The original or a certified copy of a sentence, arrest warrant, detention order or any other judicial decision demonstrating the existence of the offence and reasonable proof of the involvement of the person sought.

(c) A certified copy of the legal provisions concerning the offence or offences in question, the corresponding penalties and lengths of periods of limitation.

(d) Information making it possible to establish the identity and nationality of the person sought and, if possible, information leading to the establishment of his whereabouts.

Article 14

If the information or documents sent with the request for extradition are incomplete or defective, the requested Party shall inform the requesting Party of the omissions or errors so that they may be corrected within the following two months.

Article 15

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 for an offence committed prior to and different from that for which he was extradited, except in the following cases:

(a) When the Party which surrendered him gives its consent in response to a request submitted to that effect, which shall be accompanied by the documents mentioned in article 13 and by a legal record of any statement made by the extradited person. Consent shall be given when the offence in respect of which it is requested is subject to extradition under this Treaty.

(b) When the extradited person, although free to leave the territory of the Party to which he has been surrendered, has remained in that territory for more than 45 days without taking advantage of that opportunity.

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

Article 16

Except as provided for in article 15, paragraph 1 (b), re-extradition to a third State shall not be granted without the consent of the Party which agreed to the extradition. The latter may require prior transmittal of the documentation mentioned in article 13, together with a document containing the statement of the person sought giving his reasons for agreeing or objecting to the re-extradition.

Article 17

1. In case of urgency the competent authorities of the requesting Party may apply for the provisional arrest of the person sought. The application for provisional

arrest shall contain a statement of the existence of one of the decisions mentioned in article 13 (b) and a statement of the intention to submit a formal request for extradition. It shall also specify the offence and the time and place of its commission, and shall give particulars making it possible to establish the identity and nationality of the person sought.

2. The application for provisional arrest shall be transmitted to the competent authorities of the requested Party by the fastest possible means; any method of communication may be used, provided that it affords a record in writing.

3. Upon receipt of the application referred to in paragraph 1, the requested Party shall take measures leading to the arrest of the person sought. The requesting Party shall be informed of the result of its application.

4. Provisional arrest shall be terminated if, within two months, the requesting Party has not made an official request for extradition by providing the documents mentioned in article 13.

5. The termination of provisional arrest shall not impede the normal course of the extradition process, if the request and the documents mentioned in article 13 are received subsequently.

Article 18

If extradition is requested concurrently by one of the Parties and by other States, either for the same offence or for different offences, the requested Party shall make its decision having regard especially to the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality of the person sought and the possibility of subsequent extradition. Preference shall always be given to requests submitted by a State with which the requested State has an extradition treaty.

Article 19

1. The requested Party shall communicate its decision concerning the request for extradition to the requesting Party through the diplomatic channel.

2. Reasons shall be given for any complete or partial refusal.

3. If extradition is granted, the Parties shall arrange for the surrender of the person sought; such surrender shall take place within 60 days of the date of receipt by the requesting Party of the communication referred to in paragraph 1.

4. The person sought shall be released if he has not been taken over within the period specified, and the requested Party may subsequently refuse extradition for the same offence.

Article 20

1. The requested Party may, after making its decision on the request for extradition, postpone the surrender of the person sought in order to proceed against him or, if he has already been convicted, in order that he may serve in its territory a sentence imposed for an offence other than that for which extradition has been granted.

2. The requested Party may, instead of postponing surrender, temporarily surrender the person sought, if its law so permits, in accordance with conditions to be determined, by mutual agreement between the Parties.