
STATUTORY INSTRUMENTS

1979 No. 453**FUGITIVE CRIMINAL****The Extradition (Internationally Protected Persons)
Order 1979***Made - - - - - 11th April 1979*** To be laid before Parliament**Coming into Operation 24th May 1979*

At the Court at Windsor Castle, the 11th day of April 1979

Present,

The Queen's Most Excellent Majesty in Council.

Whereas the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (hereinafter referred to as the "the Convention") signed at New York on 14th December 1973, the terms of which are set out in Schedule 1 to this Order, will enter into force for the United Kingdom on 24th May 1979.

And whereas the States mentioned in Schedule 2 to this Order are foreign States in respect of which the Convention is for the time being in force and with which extradition arrangements are in force:

And whereas the States mentioned in Part I of Schedule 3 to this Order are foreign States in respect of which the Convention is for the time being in force but with which no extradition arrangements are in force:

And whereas section 3 (2) of the Internationally Protected Persons Act 1978(a) provides that where no such arrangement as is mentioned in section 2 of the Extradition Act 1870(b) has been made with a State which is a party to the Convention, an Order in Council applying that Act may be made under that section as if the Convention were such an arrangement with that State:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 2 and 17 of the Extradition Act 1870 and sections 3(2) and 4(1) of the Internationally Protected Persons Act 1978, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Extradition (Internationally Protected Persons) Order 1979 and shall come into operation on 24th May 1979.

(a) 1978 c. 17.

(b) 1870 c. 52.

* This instrument was laid before Parliament on 24th May 1979.

2. In this Order any references to the Extradition Acts and to the Act of 1870 are, respectively, references to the Extradition Acts 1870 to 1895(a) and to the Extradition Act 1870.

3. The Extradition Acts shall apply in the case of a State mentioned in Schedule 2 to this Order under and in accordance with the extradition treaties described in the second column of that Schedule as supplemented by paragraph 1 and 4 of Article 8 of the Convention (set out in Schedule 1 to this Order) which entered into force for those States on the dates specified in the third column of the said Schedule 2.

4. The Extradition Acts shall apply in the case of the States mentioned in Part I of Schedule 3 to this Order (being States in respect of which the Convention entered into force on the dates specified in the second column of that Schedule) subject to the conditions contained in, and in accordance with, Part II of that Schedule.

5. The operation of this Order is limited to the United Kingdom, the Channel Islands, the Isle of Man and the territories specified in Schedule 4 to this Order.

N. E. Leigh,
Clerk of the Privy Council.

SCHEDULE 1

The Convention

CONVENTION

ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS, INCLUDING DIPLOMATIC AGENTS

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and the promotion of friendly relations and co-operation among States,

Considering that crimes against diplomatic agents and other internationally protected persons jeopardizing the safety of these persons create a serious threat to the maintenance of normal international relations which are necessary for co-operation among States,

Believing that the commission of such crimes is a matter of grave concern to the international community,

Convinced that there is an urgent need to adopt appropriate and effective measures for the prevention and punishment of such crimes.

Have agreed as follows:

(a) 1870 c. 52; 1873 c. 60; 1895 c. 33.

ARTICLE 1

For the purposes of this Convention :

1. "internationally protected person" means :
 - (a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;
 - (b) any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household;
2. "alleged offender" means a person as to whom there is sufficient evidence to determine *prima facie* that he has committed or participated in one or more of the crimes set forth in article 2.

ARTICLE 2

1. The intentional commission of :
 - (a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;
 - (b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;
 - (c) a threat to commit any such attack;
 - (d) an attempt to commit any such attack; and
 - (e) an act constituting participation as an accomplice in any such attack shall be made by each State Party a crime under its internal law.
2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.
3. Paragraphs 1 and 2 of this article in no way derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of an internationally protected person.

ARTICLE 3

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set forth in article 2 in the following cases:
 - (a) when the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;
 - (b) when the alleged offender is a national of that State;
 - (c) when the crime is committed against an internationally protected person as defined in article 1 who enjoys his status as such by virtue of functions which he exercises on behalf of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

ARTICLE 4

States Parties shall co-operate in the prevention of the crimes set forth in article 2, particularly by:

- (a) taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories;
- (b) exchanging information and co-ordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

ARTICLE 5

1. The State Party in which any of the crimes set forth in article 2 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to all other States concerned, directly or through the Secretary-General of the United Nations, all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

2. Whenever any of the crimes set forth in article 2 has been committed against an internationally protected person, any State Party which has information concerning the victim and the circumstances of the crime shall endeavour to transmit it, under the conditions provided for in its internal law, fully and promptly to the State Party on whose behalf he was exercising his functions.

ARTICLE 6

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its internal law so as to ensure his presence for the purpose of prosecution or extradition. Such measures shall be notified without delay directly or through the Secretary-General of the United Nations to:

- (a) the State where the crime was committed;
- (b) the State or States of which the alleged offender is a national or, if he is a stateless person, in whose territory he permanently resides;
- (c) the State or States of which the internationally protected person concerned is a national or on whose behalf he was exercising his functions;
- (d) all other States concerned; and
- (e) the international organization of which the internationally protected person concerned is an official or an agent.

2. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

- (a) to communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or, if he is a stateless person, which he requests and which is willing to protect his rights; and
- (b) to be visited by a representative of that State.

ARTICLE 7

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

ARTICLE 8

1. To the extent that the crimes set forth in article 2 are not listed as extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may, if it decides to extradite, consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the procedural provisions and the other conditions of the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the procedural provisions and the other conditions of the law of the requested State.

4. Each of the crimes shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of article 3.

ARTICLE 9

Any person regarding whom proceedings are being carried out in connexion with any of the crimes set forth in article 2 shall be guaranteed fair treatment at all stages of the proceedings.

ARTICLE 10

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the crimes set forth in article 2, including the supply of all evidence at their disposal necessary for the proceedings.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

ARTICLE 11

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

ARTICLE 12

The provisions of this Convention shall not affect the application of the Treaties on Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties; but a State Party to this Convention may not invoke those Treaties with respect to another State Party to this Convention which is not a party to those Treaties.

ARTICLE 13

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

ARTICLE 14

This Convention shall be open for signature by all States, until 31 December 1974 at United Nations Headquarters in New York.

ARTICLE 15

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE 16

This Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE 17

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

ARTICLE 18

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect six months following the date on which notification is received by the Secretary-General of the United Nations.

ARTICLE 19

The Secretary-General of the United Nations shall inform all States, *inter alia*:

- (a) of signatures to this Convention, of the deposit of instruments of ratification or accession in accordance with articles 14, 15 and 16 and of notifications made under article 18;
- (b) of the date on which this Convention will enter into force in accordance with article 17.

ARTICLE 20

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 14 December 1973.

Article 3

SCHEDULE 2

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION AND WITH
WHICH EXTRADITION TREATIES ARE IN FORCE

State	Date of Extradition Treaty	Date of Entry into Force of Convention
Austria	9 January 1963	2 September 1977
Chile	26 January 1897	20 February 1977
Czechoslovakia	11 November 1924	20 February 1977
Denmark	31 March 1873	20 February 1977
Ecuador	20 September 1880	20 February 1977
Finland	29 October 1975	30 November 1978
Germany, Federal Republic of	14 May 1872 (reapplied and amended by the Agreement of 23 February 1960)	24 February 1977
Hungary	3 December 1873	20 February 1977
Iceland	31 March 1873	1 September 1977
Iraq	2 May 1932	30 March 1978
Liberia	16 December 1892	20 February 1977
Nicaragua	19 April 1905	20 February 1977
Paraguay	12 September 1908	20 February 1977
Peru	26 January 1904	25 May 1978
Romania	21 March 1893	14 September 1978
Sweden	26 April 1963	20 February 1977
United States of America	8 June 1972	20 February 1977
Uruguay	26 March 1884	13 July 1978
Yugoslavia	6 December 1900	20 February 1977

SCHEDULE 3

Article 4

PART I

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION AND WITH
WHICH NO EXTRADITION TREATIES ARE IN FORCE

State	Date of Entry into Force of Convention
Bulgaria	20 February 1977
Costa Rica	2 December 1977
Dominican Republic	7 August 1977
German Democratic Republic	20 February 1977
Iran	11 August 1978
Mongolia	20 February 1977
Pakistan	20 February 1977
Philippines	20 February 1977
Rwanda	29 December 1977
Union of Soviet Socialist Republics (including the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic)	20 February 1977
Tunisia	20 February 1977
Zaire	24 August 1977

PART II

APPLICATION OF THE EXTRADITION ACTS IN THE CASE OF THE STATES
MENTIONED IN PART I

1. The Extradition Acts shall hereby have effect as if the only extradition crimes within the meaning of the Act of 1870 were:

- (a) an offence mentioned in paragraph (a) of subsection (1) of the Internationally Protected Persons Act 1978 which is committed against a protected person within the meaning of that section;
- (b) an offence mentioned in paragraph (b) of that subsection which is committed in connection with such an attack as is so mentioned;
- (c) an attempt to commit an offence mentioned in the preceding paragraphs; and
- (d) an offence under section 1(3) of the Act of 1978.

2. The Extradition Acts shall hereby only apply where the case is such that paragraphs 2 and 4 of Article 8 of the Convention apply.

3. No proceedings shall be taken on an application by information or complaint, for a provisional warrant of arrest (that is to say, a warrant issued under section 8 of the Act of 1870 otherwise than in pursuance of subparagraph 1 of the first paragraph thereof), and no such warrant shall be issued, unless the application is made with the consent of the Secretary of State signified by an order in the form set out in Part III of this Schedule or in a form to the like effect; but, subject as aforesaid, the signification of consent shall not affect the provisions of the said section 8.

4. Without prejudice to sections 3, 9 and 11 of the Act of 1870, the fugitive criminal shall not be surrendered if—

- (a) it appears to the Secretary of State, to the magistrate hearing the case in pursuance of section 9 of that Act or to the High Court on an application for a writ of habeas corpus—
 - (i) that the request for his surrender (though purporting to be made on account of such an offence as is mentioned in paragraph 1 above) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions, or
 - (ii) that he might, if surrendered, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions, or
 - (iii) that if charged in England or Wales with the offence of which he is accused he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction; or
- (b) it appears to the Secretary of State or to the High Court on an application for a writ of habeas corpus that—
 - (i) by reason of the passage of time since the fugitive criminal is alleged to have committed the offence of which he is accused or to have become unlawfully at large, or
 - (ii) because the accusation against him is not made in good faith in the interests of justice, it would, having regard to all the circumstances, be unjust or oppressive to surrender him.

5.—(1) Without prejudice to his so deciding on other grounds, the Secretary of State may, in the circumstances mentioned in the following sub-paragraph, decide not to make an order or issue a warrant—

- (a) for the purposes of paragraph 3 above signifying his consent to an application for a provisional warrant of arrest, or
- (b) under section 7 of the Act of 1870 requiring the issue of a warrant of arrest, or
- (c) under section 11 of the Act of 1870 ordering the fugitive criminal to be surrendered.

(2) The circumstances referred to in the preceding sub-paragraph are—

- (a) that the Secretary of State is not satisfied that provision is made by the law of the State requesting surrender under which a person accused or convicted in the United Kingdom of the like offence as that with which the fugitive criminal is accused or convicted might be surrendered to the United Kingdom if found in that State, or
- (b) that under the law of the State requesting surrender the fugitive criminal is liable to the death penalty for the offence of which he is accused, or
- (c) that the fugitive criminal is a citizen of the United Kingdom and Colonies.

PART III

FORM OF CONSENT OF SECRETARY OF STATE TO APPLICATION FOR A PROVISIONAL WARRANT OF ARREST

Whereas AB, a person recognised by the Secretary of State as a diplomatic representative of _____, has requested consent to application being made for the issue of a provisional warrant for the arrest of CD, late of _____, who is [accused] [convicted] of the commission of an offence, or attempt to commit an offence, within the jurisdiction of the said State, being an offence which, if committed in England, would be an offence under the Internationally Protected Persons Act 1978.

Now I hereby, by this my Order under my hand and seal, signify to you my consent to the said application being made.

Given under the hand and seal of the undersigned, one of Her Majesty's
Principal Secretaries of State this _____ day of
19 _____

Article 5

SCHEDULE 4

TERRITORIES TO WHICH THIS ORDER EXTENDS

Belize
Bermuda
British Antarctic Territory
British Indian Ocean Territory
British Virgin Islands
Cayman Islands
Falkland Islands (Colony and Dependencies)
Gibraltar
Gilbert Islands
Hong Kong
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena (Colony and Dependencies)
Sovereign Base Areas of Akrotiri and Dhekelia
Turks and Caicos Islands

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order applies the Extradition Acts 1870 to 1895 so as to make extraditable offences against internationally protected persons mentioned in the Internationally Protected Persons Act 1978 and attempts to commit such offences, in the case of States Parties to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on 14 December 1973.

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