
STATUTORY INSTRUMENTS

1997 No. 1764

EXTRADITION

The Extradition (Internationally Protected Persons) Order 1997

Made - - - - 22nd July 1997
Laid before Parliament 1st August 1997
Coming into force - - 1st September 1997

At the Court at Buckingham Palace, the 22nd day of July 1997

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 (referred to in this Order as "the Convention", and set out in Schedule 1 to this Order) signed at New York on 14th December 1973, entered 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 in relation to which Orders in Council under section 2 of the Extradition Act 1870(1) 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 general extradition arrangements have been made:

And whereas section 22(3) of the Extradition Act 1989(2) provides that where general extradition arrangements have not been made with a State which is a Party to the convention, and no Order in Council under section 2 of the Extradition Act 1870 is in force in relation to that State, an Order in Council applying the 1989 Act may be made under section 4 of that Act as if the Convention constituted general extradition arrangements between the United Kingdom and the foreign State, or any foreign State, party to the Convention;

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 4(1), 22(3) and 37(3) and (6) of the Extradition Act 1989, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

(1) 1870 c. 52; the Act was repealed by the Extradition Act 1989 with the savings set out in section 37 of that Act. For the purpose of those savings the Act has to be read with section 22(1) of the Criminal Justice (International Co-operation) Act 1990 (c. 5).
(2) 1989 c. 33. The Orders revoked by article 4 of this Order were made under sections 3 and 4(1) of the Internationally Protected Persons Act 1978 (c. 17) which were themselves revoked by section 37(1) of, and Schedule 2 to, the 1989 Act.

1. This Order may be cited as the Extradition (Internationally Protected Persons) Order 1997, and shall come into force on 1st September 1997.

2.—(1) Schedule 2 to this Order specifies in the first column foreign States which are Parties to the Convention and with which extradition treaties (and relevant Orders in Council under section 2 of the Extradition Act 1870) are for the time being in force, in the second column the dates of those treaties and in the third column those Orders in Council; and

(2) Schedule 1 to the Extradition Act 1989(3) shall apply in the case of a State specified in the first column in accordance with the extradition treaty whose date is specified in the corresponding entry in the second column, as supplemented by paragraphs 1 and 4 of Article 8 of the Convention; and the Order in Council which gives effect to that extradition treaty shall be construed accordingly.

3. The Extradition Act 1989, so far as it relates to extradition procedures under Part III of that Act, shall apply in the case of a State specified in Part I of Schedule 3 to this Order (being States in respect of which the Convention is in force) subject to the limitations, restrictions, exceptions and qualifications contained in Part II of that Schedule.

4. The following Orders are hereby revoked—

The Extradition (Internationally Protected Persons) Order 1979(4);

The Extradition (Internationally Protected Persons) (Amendment) Order 1982(5);

The Extradition (Internationally Protected Persons) (Amendment) Order 1985(6);

The Extradition (Internationally Protected Persons) (Amendment) Order 1986(7);

The Extradition (Internationally Protected Persons) (Amendment) Order 1987(8).

5. This Order extends only to the United Kingdom, the Channel Islands and the Isle of Man, and to those territories specified in Schedule 4 to this Order.

N. H. Nicholls
Clerk of the Privy Council

(3) Paragraph 15 of Schedule 1 was amended by section 22 of the Criminal Justice (International Co-operation) Act 1990 (c. 5).

(4) S.I. 1979/453.

(5) S.I. 1982/147.

(6) S.I. 1985/1990.

(7) S.I. 1986/2013.

(8) S.I. 1987/2042.

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 measures for the prevention and punishment of such crimes.

Have agreed as follows:

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 an 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 international 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

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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 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 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.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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 States 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.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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.

SCHEDULE 2

Article 2

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION
AND IN RELATION TO WHICH ORDERS IN COUNCIL UNDER
SECTION 2 OF THE EXTRADITION ACT 1870 ARE IN FORCE

State	Date of Extradition Treaty	Order in Council
Argentina	22 May 1889	1894/76
Chile	26 January 1897	1898/597
Colombia	27 October 1888	28 November 1889
Ecuador	20 September 1880	26 June 1886
Guatemala	4 July 1885	26 November 1886
Haiti	7 December 1874	5 February 1876
Iraq	2 May 1932	1933/357
Liberia	16 December 1892	1894/14
Mexico	7 September 1886	6 April 1889
Nicaragua	19 April 1905	1906/382
Panama	25 August 1906	1907/648

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

State	Date of Extradition Treaty	Order in Council
Paraguay	12 September 1908	1911/662
Peru	26 January 1904	1907/383
Romania	21 March 1893	1894/119
Russian Federation	24 November 1886	7 March 1887
United States of America	8 June 1972	1976/2144
Uruguay	26 March 1884	5 March 1885
Yugoslavia	6 December 1900	1901/586

SCHEDULE 3

Article 3

PART I

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

<i>State</i>
Armenia
Belarus
Bhutan
Bosnia and Herzegovina
Burundi
China, People's Republic of
Congo (Democratic Republic)
Costa Rica
Egypt
Estonia
Gabon
Iran
Japan
Jordan
Kazakhstan
Korea, Democratic People's Republic of
Korea, Republic of
Kuwait
Latvia

<i>State</i>
Mongolia
Nepal
Niger
Oman
Philippines
Rwanda
Sudan
Syria
Togo
Tunisia
Ukraine
Yemen

PART II

APPLICATION OF THE EXTRADITION ACT 1989 IN THE CASE OF A STATE MENTIONED IN PART I

1. The Extradition Act 1989(9) shall have effect in relation to a State specified in Part I of this Schedule only in respect of—

- (a) a relevant offence specified in section 22(4)(d) of that Act;
- (b) an attempt to commit such an offence;
- (c) counselling, procuring, commanding, aiding or abetting such an offence;
- (d) being accessory before or after the fact to such an offence.

2. The Extradition Act 1989 shall have such effect only where paragraphs 2 and 4 of Article 8 of the Convention apply.

3. No proceeding shall be taken on an application for a provisional warrant to be issued under section 8(1)(b) of the 1989 Act, 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 except as aforesaid the signification of consent shall not affect the provisions of the said section 8.

PART III

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

(9) 1989 c. 33.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Whereas AB, a person recognised by the Secretary of State as a diplomatic or consular 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] [has been 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 the United Kingdom would be an offence under the Internationally Protected Persons Act 1978;

By this Order the Secretary of State signifies to you his consent to the said application being made.

Given under the hand of the undersigned, [one of Her Majesty's Principal Secretaries of State] [Minister of State at] [Under-Secretary of State at] this day of .

SCHEDULE 4

Article 5

TERRITORIES TO WHICH THIS ORDER EXTENDS

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
British Virgin Islands
Cayman Islands
Falkland Islands and Dependencies
Gibraltar
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St. Helena 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 Act 1989 so as to make extraditable offences within the meaning of the Internationally Protected Persons Act 1978, attempts to commit such offences and participation in such offences. It applies to certain States, Parties to the Convention on the Prevention of Crimes Against Internationally Protected Persons, including Diplomatic Agents, signed at New York on 14th December 1973.