
STATUTORY INSTRUMENTS

1998 No. 259

EXTRADITION

**The European Convention on Extradition
Order 1990 (Amendment) Order 1998**

<i>Made</i>	- - - -	<i>11th February 1998</i>
<i>Laid before Parliament</i>		<i>23rd February 1998</i>
<i>Coming into force</i>	- -	<i>17th March 1998</i>

At the Court at Buckingham Palace, the 11th day of February 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas the European Convention on Extradition ("the Convention")(1) opened for signature at Paris on 13th December 1957 entered into force for the UK on 14th May 1991:

And whereas the Convention entered into force in respect of Belgium on 27th November 1997 and Belgium made the reservations and declarations set out in article 2(b)(i) of this Order:

And whereas the Convention entered into force in respect of Moldova on 31st December 1997 and Moldova made the reservations and declarations set out in article 2(b)(iv) of this Order:

And whereas the Convention entered into force in respect of Romania on 9th December 1997 and Romania made the reservations and declarations set out in article 2(b)(v) of this Order:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by sections 4(1) and 37(3) of the Extradition Act 1989(2), 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 European Convention on Extradition Order 1990 (Amendment) Order 1998 and shall come into force on 17th March 1998.

2. The European Convention on Extradition Order 1990(3) ("the 1990 Order") shall be amended as follows:

(1) Cm. 1762.

(2) 1989 c. 33; to which there are amendments not relevant to this Order.

(3) S.I. 1990/1507 as amended by S.I. 1992/2663, 1993/2667, 1994/2796, 1994/3203, 1995/1624, 1995/1962, 1995/2703, 1996/2596, 1996/2875, 1997/1759 and 1997/2596.

- (a) in Part I of Schedule 2 (which names states parties to the Convention), at the appropriate places in the alphabetical order, there shall be inserted the following entries—
 - (i) “Belgium”;
 - (ii) “Moldova”; and
 - (iii) “Romania”;
- (b) in Schedule 3 (which sets out the reservations and declarations made by states parties to the Convention)—
 - (i) the following Part shall be inserted after Part 1—

“PART 1A

BELGIUM

Declarations

Article 1

The Belgian Government considers that the reservation made by Portugal regarding Article 1, item c, is not compatible with the object of the Convention. It takes the reservation to mean that extradition shall not be granted only if, in accordance with the legislation of the requesting State, the person sentenced to life imprisonment cannot be released after a certain time, following a legal or administrative procedure.

Article 14

Belgium considers that the rule of speciality is not applicable when the person claimed by Belgium has given, before the judicial authority of the requested State, his or her explicit consent to be prosecuted and punished on whatever count if this possibility is provided for in the legislation of the latter State. If, on the other hand, the extradition is requested from Belgium, it considers that, when the person to be claimed has formally renounced to the formalities and guarantees of extradition, the rule of speciality shall no longer apply.

Article 15

Belgium considers that the exception provided for by Article 15 is extended, in the event that the person surrendered to Belgium has renounced to the speciality of extradition according to the legislation of the requested Party.

Article 21

The Belgian Government will allow transit through its territory on the same conditions on which extradition is granted.

Article 23

If the request for extradition and the documents to be produced are in the language of the requesting Party and this language is neither Dutch, French nor German they must be accompanied by a translation into French.

Reservations

Article 1

Belgium reserves the right not to grant extradition if the person claimed could be brought before a court of special jurisdiction, or if the extradition is requested for the execution of a sentence rendered by such a court.

Extradition will not be granted when the surrendering might have consequences of an exceptional gravity for the person claimed, in particular on account of his or her age or health.

Article 18

The obligation to release after the expiry of 30 days provided for by Article 18, paragraph 4, will not be applicable in the event that the person claimed has introduced an appeal against the decision to extradite or concerning the legality of the detention.

Article 19

The Government of the Kingdom of Belgium will grant the temporary surrender provided for by Article 19, paragraph 2, only if it concerns a person who serves a sentence on its territory and if particular circumstances require it.

Article 28

By reason of the special arrangements between the Benelux countries, the Belgian Government does not accept Article 28, paragraphs 1 and 2, in respect of its relations with the Kingdom of the Netherlands and the Grand Duchy of Luxembourg.

The Belgian Government reserves the right to derogate from these provisions in respect of its relations with the other member States of the European Community”;

- (ii) in the heading to the Part relating to Bulgaria for the words “Part 1A” there shall be substituted the words “Part 1B”;
- (iii) in the heading to the Part relating to Croatia, for the words “Part 1B” there shall be substituted the words “Part 1C”;
- (iv) the following Part shall be inserted after Part 13A—

“PART 13B

MOLDOVA

Reservations and Declarations

Article 1

The Republic of Moldova will refuse to grant extradition in cases where the person claimed is to be tried on territory of the requesting Party by a special court (set up for a specific case) or where extradition is requested in order to carry out a sentence or detention order handed down by such a court.

Article 3, paragraph 3

The Republic of Moldova reserves the right, where circumstances so dictate, to determine whether the taking or attempted taking of the life of a Head of State or a member of his or her family shall or shall not constitute a political offence.

Article 6, paragraph 1

By virtue of Article 17, paragraph 3 of the Constitution of the Republic of Moldova, the citizens of the Republic of Moldova may not be extradited or expelled from the country.

The term “nationals” within the meaning of Article 6, paragraph 1(b) covers all individuals having the nationality of the Republic of Moldova in conformity with its legislation.

Article 7, paragraph 2

The Republic of Moldova reserves the right not to grant extradition when, in accordance with Article 7, paragraph 2, the requesting Party would refuse extradition in similar cases.

Article 9

1. The Republic of Moldova will not grant extradition if a final judgment has been passed by a third State upon the person claimed in respect of the offence or offences for which extradition is requested.

2. In derogation of Article 9 (first sentence), the Republic of Moldova may grant extradition if the requesting State can show that new facts or evidence justify a reopening of the case.

Article 16, paragraph 2

The Republic of Moldova asks that any request addressed to it in pursuance of Article 16, paragraph 2, contain a brief description of the offence alleged against the person claimed, including the essential particulars by which the nature of the offence can be appraised in accordance with the present Convention.

Article 21

The Republic of Moldova reserve the right to authorise transit only under the conditions provided for in respect of extradition.

Article 23

The Republic of Moldova declares that requests for extradition and documents appended thereto must be in Moldovan or in one of the official languages of the Council of Europe, or translated into one of these languages.”; and

(v) the following Part shall be inserted after Part 16—

“PART 16A

ROMANIA

Declarations

Concerning Article 6, paragraph 1.a: Romania will not extradite its citizens and persons to whom asylum has been granted in Romania.

Concerning Article 6, paragraph 1.b: the term “nationals”, in the sense of this Convention, designates Romanian citizens or persons to whom asylum has been granted in Romania.

Concerning Article 21, paragraph 5: Request for transit through Romania’s territory of a Romanian citizen or a person to whom asylum has been granted in Romania will be refused.

Reservations

Concerning Article 2, paragraph 1: Romania will request and grant extradition:

- for the prosecution or judgment solely of acts the performance of which results, under the laws of the requesting Party and of the requested Party, in a deprivation of liberty exceeding two years or in a more severe penalty;
- for the enforcement of a sentence only if the deprivation of liberty exceeds one year or is more severe.”; and

(c) in Schedule 5, at the end, there shall be added—

“PART 6

ORDERS REVOKED WITH EFFECT FROM 17th MARCH 1998

Order in Council dated 6th March 1902 directing that the Extradition Act shall apply in the case of Belgium (S.R. & O. 1902/208).

Order in Council of 1907 directing that the Extradition Acts shall apply in the case of Belgium, and of the Supplementary Convention of March 5th, 1907 (S.R. & O. 1907/544).

Order in Council dated 8th August 1911 directing that the Extradition Acts shall apply in the case of Belgium in accordance with a Treaty of October 1901, and supplementing Conventions of March 5th 1907 and March 3rd 1911 (S.R. & O. 1911/793).

The Belgium (Extradition) Order in Council 1924 (S.R. & O. [1924/81](#)).

The Belgium (Extradition) Order in Council 1928 (S.R. & O. 1928/574).

The Belgium (Extradition) (Amendment) Order 1975 ([S.I. 1975/1034](#)).

The Belgium (Extradition) (Amendment) Order 1985 ([S.I. 1985/1634](#)).

Order in Council directing that the Extradition Act, shall apply in the case of Romania and of the Treaty of March 21st, 1893 (S.R. & O. 1894/119).”.

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

N. H. Nicholls
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 17th March 1998, amends the European Convention on Extradition Order 1990 by adding Belgium, Moldova and Romania to the states parties to the European Convention on Extradition listed in Schedule 2 to the 1990 Order. It also adds the reservations and declarations made by Belgium, Moldova and Romania to the reservations and declarations set out in Schedule 3 to the 1990 Order, and has the effect of revoking the Orders in Council embodying extradition treaties between the United Kingdom and Belgium, and between the United Kingdom and Romania, to the extent that they apply to the United Kingdom, the Channel Islands and the Isle of Man.