

BILATERAL EXTRADITION TREATIES

NORWAY

EXTRADITION TREATY WITH NORWAY

EXECUTIVE CC

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June 9, 1977, Date-Signed

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

TRANSMITTING THE TREATY OF EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND NORWAY, SIGNED AT OSLO ON JUNE 9, 1977

TEXT:

96TH CONGRESS

SENATE

LETTER OF TRANSMITTAL

THE WHITE HOUSE,

August 10, 1979.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty of Extradition Between the United States of America and Norway signed at Oslo on June 9, 1977.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the treaty.

The treaty is one of a series of modern extradition treaties being negotiated by the United States. It expands the list of extraditable offenses to include aircraft hijacking and obstruction of justice, as well as other offenses not now covered by our existing treaty with Norway. Upon entry into force, it will terminate and supersede the existing Treaty of Extradition of 1893, the [*2] Amendatory Extradition Treaty of 1904, and the Supplementary Extradition Treaty of 1938.

This treaty will make a significant contribution to international cooperation in law enforcement. I recommend that the Senate give early and favorable consideration to the treaty and give its advice and consent to ratification.

JIMMY CARTER.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,

Washington, May 30, 1979.

The PRESIDENT,

The White House.

THE PRESIDENT: I have the honor to submit to you the Extradition Treaty Between the United States of America and Norway, signed at Oslo on June 9, 1977. I recommend that the treaty be transmitted to the Senate for its advice and consent to ratification.

This treaty follows generally the form and content of extradition treaties recently concluded by this Government. The treaty provides for the extradition of fugitives who have been charged with or convicted of any of thirty-three offenses listed in the schedule annexed to the treaty. The most significant newly-listed offenses, which are not listed in our existing treaties with Norway, are those relating to aircraft hijacking and obstruction of justice.

Article 1 includes a new jurisdictional provision [*3] which, when read together with Article 3, allows for extradition when the offense has been committed outside the territory of the requesting State by a national of that State.

Article 2 authorizes extradition under certain conditions for an attempt to commit or a conspiracy to commit any extraditable offense. Article 2 also permits the Government of the United States to request the extradition of a person for any extraditable offense when Federal jurisdiction is based upon the use of the mails or other means of carrying out interstate commerce.

Article 3 defines the territorial application of the treaty. In addition to the normal scope of territorial jurisdiction, this Article extends jurisdiction to acts of aircraft piracy, whether or not they occur over the territory of either of the Parties.

Article 3 also permits extradition for an offense committed outside the territory of the requesting State if that offense would also be punishable under the law of the requested State in similar circumstances.

Article 4, dealing with the extradition of nationals, is similar to provisions found in several of our other recently-signed extradition treaties. It provides that the executive authority [*4] of a requested State shall, if not prevented by the laws of that State, have the discretionary power to extradite its own nationals. If extradition is denied on the basis of nationality, the requested State undertakes to submit the case to its competent authorities for the purpose of prosecution. Since the law of Norway prohibits the extradition of its nationals but allows for their prosecution in Norway for offenses committed abroad. Article 4 will enhance the potential for prosecution of Norwegians who commit crimes in the United States.

Article 5 limits extradition to cases where there is sufficient evidence, according to the laws of the requested State, either to bring the person sought to trial in the requested State had the offense been committed there or, in case of a convicted fugitive, to prove that the person sought is the person convicted by the requesting State.

Article 6 provides a mechanism for simplified extradition. The person whose extradition has been requested may waive an extradition hearing, provided that such a waiver is not prevented by the laws of the requested

State.

Article 7 lists circumstances in which extradition shall not be granted. Included is a prior [*5] jeopardy provision precluding extradition where the person requested is being proceeded against at the time of the request, or where the person has been tried and discharged or punished, for the offense for which extradition is requested.

Article 7 further precludes extradition where prosecution or enforcement of the penalty for the offense for which extradition is sought has become barred by lapse of time according to the laws of the requesting or requested State.

This Article in addition contains a political offense exception clause which prohibits extradition where the offense for which extradition is sought is regarded by the requested State as a political offense or where the person sought can prove that the request for extradition has in fact been made with a view towards trying or punishing that person for an offense of a political character.

Article 7 also provides that in special circumstances (e.g., having regard to the age, health or other personal conditions of the person sought) the requested State may refuse extradition where it has reason to believe that the extradition is incompatible with humanitarian considerations. Similar provisions are found in the United States [*6] extradition treaties with Sweden and Finland.

Article 8 permits refusal of extradition in capital cases unless assurances are received that the death penalty will not be imposed or, if imposed, will not be carried out for an offense not punishable by death in the requested State. A similar provision has been included in most recent extradition treaties.

Article 9 provides that the requested State may defer the decision to extradite when the person sought is being proceeded against or is lawfully detained for an offense other than that for which the extradition has been requested. Such deferral may be extended until the conclusion of the proceedings or term of punishment that may be or have been awarded.

Articles 10-19 outline the specific procedures by which extradition shall be accomplished. They reflect the procedural requirements of United States and Norwegian law and are comparable to similar provisions in other modern extradition treaties. In particular, Article 19 provides that the requested State shall provide for the representation of the interests of the requesting State before the competent authorities of the requested State. This Article also provides that the requesting [*7] State shall pay the costs associated with the translation of extradition documents and the transportation of the person sought.

Article 20 provides that the treaty will be retroactive in its effect as to extraditable offenses committed before the date of its entry into force and which were punishable under the laws of both Parties when committed.

Article 20 also provides that the treaty will enter into force on the date of exchange of the instruments of ratification.

Upon entry into force, this treaty will terminate the Extradition Treaty of 1893, the Amendatory Extradition Treaty of 1904, and the Supplementary Extradition Treaty of 1938.

The Department of Justice joins the Department of State in favoring the ratification of the treaty at an early date.

EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF NORWAY

The Government of the United States of America and the Government of the Kingdom of Norway;

Desiring to make a new treaty for the reciprocal extradition of offenders;

Have agreed as follows:

Article 1

Each Contracting States agrees to extradite to the other, in the circumstances and subject to the conditions specified in this Treaty, any person found [*8] in its territory who has been charged with or convicted of any offense within Article 2, committed within the jurisdiction of the other State or outside thereof under the conditions specified in Article 3.

Article 2

1. Extradition shall be granted for any offense described in the Schedule annexed to this Treaty, which forms an integral part of the Treaty, only when both of the following conditions exist:

(a) The law of the requesting State, in force when the offense was committed, provides a possible penalty of deprivation of liberty for a period of more than one year, or by the death penalty; and

(b) The law in force in the requested State generally provides a possible penalty of deprivation of liberty for a period of more than one year, or by the death penalty, which would be applicable if the offense were committed in the territory of the requested State.

2. When the person sought has already been sentenced in the requesting State, extradition shall only be granted when the detention originally imposed is for a period of at least four months, and the amount of time remaining to be served is for a period of at least four months.

3. Extradition shall also be granted [*9] for preparation or attempts to commit, conspiracy to commit, or participation in any offenses within paragraph 1 of this Article. Preparation or attempts include conspiracy to commit such offenses according to the law in the United States. The provisions of this paragraph shall be qualified on the basis that the offense is punishable under the laws of both States by imprisonment or other form of detention or more than one year or by the death penalty.

4. An offense shall be extraditable whether or not the laws of both Contracting States would place that offense within the same category of offenses made extraditable by the first or third paragraph of this Article and whether or not the laws of the requested State denominate the offense by the same terminology.

5. Extradition shall also be granted for an offense when the use of the mails or means of interstate communication or transport may be required for the purpose of granting jurisdiction to a federal tribunal of the United States.

6. If the request for extradition includes several separate offenses each of which is punishable under the laws of the requesting and the requested State by deprivation of liberty, but of which some do [*10] not fulfill the condition with regard to the amount of punishment which may be awarded, the executive authority of the requested State shall have the power to grant extradition for the latter offenses.

Article 3

1. For the purpose of this Treaty, the territory of each Contracting State comprises all the territory over which it exercises jurisdiction, including air space and territorial waters as well as vessels and air craft registered in that Contracting State if any such aircraft or vessels are on the high seas or in flight when the offense is committed. An aircraft shall be considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for the persons and property on board.

2. The provisions of the preceding paragraph do not exclude the application of penal jurisdiction exercised in accord with the legislation of the requested State.

3. When the offense for which the extradition has been requested has been committed outside the territory of the requesting [*11] State, the executive authority of the requested State shall have the power to grant extradition provided that its jurisdiction would extend to such an offense in similar circumstances.

Article 4

1. Neither Contracting State shall be bound to deliver up its own nationals, but the executive authority of the requested State shall, if not prevented by the laws of that State, have the power to deliver them up if, in its discretion, it be deemed proper to do so.

2. If extradition is not granted in pursuance of paragraph 1 of this Article, the requested State shall submit the case to its competent authorities for the purpose of prosecution.

Article 5

1. Extradition shall be granted only if the evidence be found sufficient according to the law of the requested State either to justify the committal for trial of the person sought if the offense of which he is accused had been committed in the territory of the requested State or to prove that he is the identical person convicted by the courts of the requesting State.

2. In the case of a request made to the Government of Norway, the Norwegian authorities shall, in accordance with Norwegian extradition law, have the right in exceptional [*12] cases to request evidence to establish a presumption of guilt of a person previously convicted. Extradition may be refused if such additional evidence is found to be insufficient.

Article 6

The person whose extradition has been requested may advise the appropriate authority of the requested State, if not prevented by the laws of that State, that he waives the necessity for a hearing on his extraditability. The requested State may thereupon cause the issuance of an order authorizing surrender of the person sought to agents of the government of the requesting State.

Article 7

1. Extradition shall not be granted in any of the following circumstances:

(a) When the person whose surrender is sought is being proceeded against or has been tried and discharged or punished in the territory of the requested State for the offense for which extradition is requested. If the charge against the person sought has been waived in Norway, or the proceedings discontinued due to lack of evidence, extradition may be granted only if the conditions of applicable Norwegian law permit.

(b) When the prosecution or the enforcement of the penalty for the offense for which extradition is sought [*13] has become barred by lapse of time according to the laws of the requesting or requested State.

(c) If the offense for which extradition is requested is regarded by the requested State as a political offense or if the person sought proves that the request for his extradition has in fact been made with a view to try or punish him for an offense of a political character.

(d) In respect of a military offense, unless it is punishable in accordance with non-military penal legislation as prescribed in Article 2.

2. Extradition may be refused in any of the following circumstances:

(a) When the person whose surrender is sought has been tried and acquitted, or has undergone punishment, or has been pardoned, in a third State.

(b) If, in special circumstances, having particular regard to the age, health or other personal conditions of the person concerned, the requested State has reason to believe that extradition will be incompatible with humanitarian considerations.

3. Extradition may be refused on any other grounds provided for by the law of the requested State.

Article 8

If the offense for which extradition is requested is punishable by death under the laws of the [*14] requesting State and the laws of the requested State do not provide for the death penalty for that offense, extradition may be refused unless the requesting State provides assurances satisfactory to the requested State that the death penalty shall not be imposed, or, if imposed, shall not be carried out.

Article 9

When the person whose extradition is requested is being proceeded against or is lawfully detained in the territory of the requested State for an offense other than that for which extradition has been requested, the decision whether or not to extradite him may be deferred until the conclusion of the proceedings and the full execution of any punishment he may be or may have been awarded.

Article 10

The determination that extradition based upon the request therefore should or should not be granted shall be made in accordance with the law of the requested State and the person whose extradition is sought shall have the right to use such remedies and recourses as are provided by such law.

Article 11

1. The request for extradition shall be made through the diplomatic channel.

2. The request shall be accompanied by:

(a) The data necessary to prove the identity [*15] of the person sought, including, when possible, photographs and fingerprints or copies thereof, and information as to his nationality and residence, if available;

(b) A statement of the facts of the case for which extradition is requested;

(c) The text of the laws defining the offense, the law prescribing the punishment for the offense, and the law relating to the limitation of the legal proceedings or the enforcement of the penalty for that offense.

3. If the request relates to a person charged but not yet convicted, it must also be accompanied by a warrant of arrest issued by a judge or other competent authority in the territory of the requesting State and by such evidence as, according to the law of the requested State, would justify his committal for trial if the offense had been committed in the territory of the requested State.

4. If the request relates to a person who has been convicted but who has not served all of his or her sentence, it must also be accompanied by the judgment of conviction and sentence, if any, imposed in the territory of the requesting State, and by a certification indicating that the sentence has not been served or indicating the part of the [*16] sentence yet to be served.

5. The warrant of arrest and deposition or other evidence, given under oath, and the judicial documents establishing the existence of the conviction, as well as any supplementary evidence requested by the Norwegian authorities under Article 5, paragraph 2, or certified copies of these documents shall be admitted in evidence in the examination of the request for extradition when, in the case of a request emanating from Norway, they bear the signature or are accompanied by the attestation of a judge, magistrate or other official or are authenticated by the official seal of the Ministry of Justice and, in any case, are certified by the principal diplomatic or consular officer of the United States in Norway or when, in the case of a request emanating from the United States, they are sealed by the official seal of the Department of State. Any deposition or other evidence which has not been given under oath but which otherwise meets the requirement set forth in this paragraph shall be admitted in evidence as a deposition or evidence given under oath when there is an indication that the person, prior to deposing before the judicial authorities of the requesting [*17] State, was informed by those authorities of the penal sanctions to which he would be subject in the case of false or incomplete statements.

6. The documentation referred to in paragraph 5 of this Article shall also be received in evidence if it is authenticated in such other manner as may be permitted by the law of the requested State.

7. The requested State may require that the documentation be translated into the language of that State.

Article 12

1. In case of urgency, the Contracting States may request, through the diplomatic channel, the provisional arrest of an accused or convicted person. This request may be honored if the request includes identification of such a person, a description of the offense of which he is accused, an indication of the purpose for the request of extradition and a statement of the existence of an order of arrest or an outstanding conviction or sentence.

2. Upon the granting of the request for provisional arrest, the requesting State shall present to the Executive Authority of the other State the formal request for extradition within four weeks. The requesting State may request, specifying the reasons therefor, an extension of the period of detention [*18] for a period not to exceed thirty days, and the appropriate judicial authority of the requested State shall have the authority to extend the period of detention. The release from custody pursuant to this provision shall not prevent the institution of proceedings with a view of extraditing the person sought if the request is subsequently received.

Article 13

1. If the requested State requires additional evidence or information to enable it to decide on the request for extradition, it shall request the same of the requesting State, and the requesting State shall furnish it within such time as the requested State indicates.
2. If the requested evidence or information is not received within the specified period or if such evidence is insufficient, the person sought, if under arrest, shall be released immediately. This fact shall not bar the requesting State from renewing its request for extradition, with new documentation, with respect to the same person and for the same offense.

Article 14

1. The requested State shall promptly communicate to the requesting State, through the diplomatic channel, the decision on the request for extradition.
2. If the extradition has been granted, [*19] the authorities of the requesting and the requested States shall agree on the time and place of surrender of the person sought.
3. If a warrant or order for the extradition of a person sought has been issued by the competent authority and he is not removed from the territory of the requested State within such time as may be agreed, he shall be set at liberty and the requested State may subsequently refuse to extradite him for the same offense.

Article 15

1. A person extradited shall not be detained or proceeded against in the territory of the requesting State for any offense, other than an extraditable offense established by the facts in respect of which extradition has been granted, nor be extradited by that State to a third State unless:
 - (a) he has left the territory of the requesting State after his extradition and has voluntarily returned to it;
 - (b) he has remained in the territory of the requesting State for forty-five days after being free to depart; or
 - (c) the requested State has consented to his detention, trial, punishment, or to his extradition to a third State for an offense other than that for which extradition was granted.
2. The provisions of paragraph [*20] 1 of this Article shall not apply to offenses committed, or matters arising, after the extradition has been granted.

Article 16

If the extradition of a person is requested concurrently by one of the Contracting States and by another state or states, either for the same offense or for different offenses, the requested State shall make its decision having regard to all the circumstances, including the provisions in this regard in any Agreements in force between the requested State and the requesting states, the relative seriousness and place of commission of the offenses, the respective dates of the requests, the nationality of the person sought and the possibility of subsequent extradition to another state.

Article 17

To the extent permitted under the law of the requested State and subject to the rights of third parties, which shall be duly respected, all articles, instruments, objects of value or documents relating to the offense, whether or not used for its execution, or which in any other manner may be material evidence for the prosecution, shall be surrendered upon the granting of the extradition even when extradition cannot be

effected due to the death, disappearance, [*21] or escape of the accused.

Article 18

1. Transit through the territory of one of the Contracting States of a person whose extradition has been granted to the other Contracting Party by a third state shall be granted under the following conditions:

- (a) that the State of transit be given prior notice of the route said person will use;
- (b) that the agents escorting said person carry with them the original or an authenticated copy of the warrant or order of extradition; and
- (c) that such transit will not be in violation of the applicable laws of the State of transit.

2. The requesting State shall reimburse the State of transit for any expenses incurred in connection with such transportation.

Article 19

1. The requested State shall provide review of documentation in support of an extradition request for its legal sufficiency prior to presentation to the judicial authorities and shall provide for representation of the interests of the requesting State before the competent authorities of the requested State.

2. Expenses related to the translation of documents and to the transportation of the person sought shall be paid by the requesting State. No pecuniary claim, arising [*22] out of the arrest, detention, examination and surrender of persons sought under the terms of this Treaty, shall be made by the requested State against the requesting State.

Article 20

1. This Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged at Washington as soon as possible. It shall come into force on the date of the exchange of instruments of ratification.

2. This Treaty shall apply to any offense governed by this Treaty committed before or after this Treaty enters into force, provided that extradition shall not be granted for an offense committed before this Treaty enters into force, which was not an offense under the laws of both Contracting States at the time of its commission.

3. Either of the Contracting States may terminate this Treaty at any time by giving notice in writing to the other through the diplomatic channel. Termination shall become effective six months after the date of such notice.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

Done in duplicate at Oslo this ninth day of June 1977, in the English and Norwegian languages, both texts being [*23] equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE KINGDOM OF NORWAY:

SCHEDULE OF OFFENSES

1. Murder, including assault with intent to murder.
2. Manslaughter.
3. Malicious wounding or grievous bodily harm.
4. Assault upon a public official.
5. An offense against the laws relating to the use of any corrosive or injurious substance upon a person.
6. An offense against the laws relating to sexual offenses with or upon a minor or other person, including rape, unlawful intercourse, indecent assault, procuration, illegal abortion.
7. An offense against the laws relating to kidnapping, abduction and false imprisonment.
8. An offense against the laws relating to the abandonment of a dependent person which causes grave injury.
9. Extortion or threats.
10. An offense relating to prison mutiny; escape from confinement of a person charged, convicted, or sentenced, for an offense punishable by a term in excess of one year.
11. Larceny or theft.
12. Embezzlement.
13. Robbery.
14. Burglary.
15. Arson.
16. An offense against the laws relating to damage to property.
17. Offenses against the safety of a means of transportation or communication, especially [*24] when endangering persons making use of such means; piracy and any act of mutiny or revolt on board a vessel or aircraft against the authority of the captain or commander of such aircraft or vessel; any seizure or exercise of control or deviation of routes committed by force, violence, or threat of force or violence, of an aircraft or vessel; destruction or damage of aircraft in flight which renders it incapable of flight or which is likely to endanger its safety in flight; and any act which could endanger the life or physical integrity of the passengers or crew.
18. An offense against the laws relating to counterfeiting and forgery.
19. An offense against the laws relating to the obtaining, transporting, receiving and fraudulent use of property, money, commodities, securities or similar interests.
20. Fraud, including that by creditors, debtors, bankers, directors, company officials and others, whether or

not in a fiduciary relationship.

21. An offense against the laws relating to bankruptcy.
22. False statements to a government agency or official.
23. An offense against the laws relating to commodities, securities or similar interests, including their issuance, registration, marketing, [*25] trade, or sale.
24. An offense against the laws relating to international trade and transfers of funds.
25. An offense against the laws relating to importation, exportation or transit of goods, articles, or merchandise including violations of the customs laws.
26. An offense against the laws relating to narcotic drugs, cannabis, cocaine and its derivatives, psychotropic drugs, and other dangerous drugs, and chemicals.
27. An offense against the laws for protection of public health.
28. An offense against the laws relating to bribery, including soliciting, offering and accepting bribes.
29. An offense against the laws relating to the abuse of official authority.
30. An offense against the laws relating to perjury, subornation of perjury; false testimony.
31. An offense against the laws relating to obstruction of justice.
32. Offenses relating to willful evasion of taxes and duties.
33. Violation of financial laws when such violation is committed in furtherance of an enumerated offense.

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