



STATUTORY INSTRUMENTS.

S.I. No. 389 of 2019

EXTRADITION (CONVENTION ON THE PREVENTION AND
PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY
PROTECTED PERSONS, INCLUDING DIPLOMATIC AGENTS) ORDER
2019

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EXTRADITION (CONVENTION ON THE PREVENTION AND
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2019

WHEREAS, by the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (the terms of which are set out in Schedule 1 to the following Order) done at New York on 14 December 1973 (referred to subsequently in these recitals as "the Convention") to which the State is a party, an arrangement was made with other countries that are parties to that Convention for the surrender of persons wanted for prosecution or punishment for the offences specified therein;

AND WHEREAS the Convention was acceded to on behalf of the State on 30 June 2005;

AND WHEREAS the Convention has also been ratified, or acceded to, by the countries specified in Part A of Schedule 2 to the following Order, subject to the reservations entered and the declarations made by certain countries concerned specified in Part B of that Schedule;

NOW I, SIMON COVENEY, Minister for Foreign Affairs and Trade, in exercise of powers conferred on me by section 8 (amended by section 57(3) of the Criminal Justice (Terrorist Offences) Act 2005 (No. 2 of 2005)) of the Extradition Act 1965 (No. 17 of 1965) (as adapted by the Foreign Affairs (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 246 of 2011)), and after consultation with the Minister for Justice and Equality, hereby order as follows:

1. (1) This Order may be cited as the Extradition (Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents) Order 2019.
- (2) This Order shall come into operation on 22 July 2019.
2. Part II of the Extradition Act 1965 (No. 17 of 1965) shall apply in relation to the countries set out in Part A of Schedule 2, subject to the reservations and declarations specified in Part B of that Schedule.

SCHEDULE 1**CONVENTION ON THE PREVENTION AND PUNISHMENT OF
CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS,
INCLUDING DIPLOMATIC AGENTS****done at New York on 14 December 1973**

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:

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 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;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 coordinating 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 or 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 opened 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.

SCHEDULE 2
PART A

Afghanistan	Dominican Republic
Albania	Ecuador
Algeria	Egypt
Andorra	El Salvador
Antigua and Barbuda	Equatorial Guinea
Argentina	Eswatini
Armenia	Ethiopia
Australia	Fiji
Azerbaijan	Gabon
Bahamas	Georgia
Bahrain	Ghana
Bangladesh	Grenada
Barbados	Guatemala
Belarus	Guinea
Belize	Guinea-Bissau
Benin	Guyana
Bhutan	Haiti
Bolivia (Plurinational State of)	Holy See
Bosnia and Herzegovina	Honduras
Botswana	Iceland
Brazil	India
Brunei Darussalam	Iran (Islamic Republic of)
Burkina Faso	Iraq
Burundi	Israel
Cabo Verde	Jamaica
Cambodia	Japan
Cameroon	Jordan
Canada	Kazakhstan
Central African Republic	Kenya
Chile	Kiribati
China	Kuwait
Colombia	Kyrgyzstan
Comoros	Lao People's Democratic Republic
Costa Rica	Lebanon
Côte d'Ivoire	Lesotho
Cuba	Liberia
Democratic People's Republic of Korea	Libya
Democratic Republic of the Congo	Liechtenstein
Djibouti	Madagascar
Dominica	Malawi

Malaysia	Russian Federation
Maldives	Rwanda
Mali	Saint Kitts and Nevis
Marshall Islands	Saint Lucia
Mauritania	Saint Vincent and the Grenadines
Mauritius	San Marino
Mexico	Sao Tome and Principe
Micronesia (Federated States of)	Saudi Arabia
Monaco	Senegal
Mongolia	Serbia
Montenegro	Seychelles
Morocco	Sierra Leone
Mozambique	Singapore
Myanmar	South Africa
Namibia	Sri Lanka
Nauru	Sudan
Nepal	Switzerland
New Zealand	Syrian Arab Republic
Nicaragua	Tajikistan
Niger	Thailand
Nigeria	Togo
Niue	Tonga
Norway	Trinidad and Tobago
Oman	Tunisia
Pakistan	Turkey
Palau	Turkmenistan
Palestine	Uganda
Panama	Ukraine
Papua New Guinea	United Arab Emirates
Paraguay	United States of America
Peru	Uruguay
Philippines	Uzbekistan
Qatar	Venezuela (Bolivarian Republic of)
Republic of Korea	Viet Nam
Republic of Moldova	Yemen
Republic of North Macedonia	Zambia

PART B

Declarations and Reservations made by States Parties with respect to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents

(Unless otherwise indicated, the declarations and reservations were made upon ratification, acceptance, approval, formal confirmation, succession or accession.)

Holy See

"[...]

Pursuant to articles 8.2 and 8.3 of the Convention, the Holy See declares that it takes the Convention as the legal basis for cooperation on extradition with other Parties to the Convention, subject to the limitations to the extradition of persons provided for by its domestic law.

With regard to articles 8 and 10 of the Convention, the Holy See declares that, in light of its legal doctrine and the sources of its law (Vatican City State Law LXXI, 1 October 2008), nothing in the Convention shall be interpreted as imposing an obligation to extradite or provide mutual legal assistance if there are substantial grounds for believing that the request is made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion; that compliance with the request would cause prejudice to that person's position for any of these reasons; or that the person would be subject to the death penalty or to torture.

[...]"

Mozambique

"[...]

Furthermore, the Republic of Mozambique declares that: The Republic of Mozambique, in accordance with its Constitution and domestic laws, cannot extradite Mozambique citizens.

Therefore, Mozambique citizens will be tried and sentenced in national courts."

Thailand

"1. In applying the provision of article 8, paragraph 3 of the Convention, extraditable offences shall be restricted to offences which, under Thai law, are punishable with imprisonment of not less than one year and are subject to the

procedural provisions and other conditions of the Thai legislation for extradition.[...]"



GIVEN under my Official Seal,
18 July, 2019.

SIMON COVENEY,
Minister for Foreign Affairs and Trade.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The effect of this Order is to apply the provisions of Part II of the Extradition Act 1965 to the countries listed in Part A of Schedule 2 to the Order in respect of offences under the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. The Convention was acceded to on behalf of the State on 30 June 2005. The countries listed in Part A of Schedule 2 are those states parties to the Convention other than Member States of the European Union because extradition to and from those Member States is regulated by the European Arrest Warrant system. Part B of Schedule 2 lists the reservations and declarations, or parts thereof, made by certain states parties which relate to extradition under the Convention.

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