

No. 1/1987:

EXTRADITION (EUROPEAN CONVENTION ON THE SUPPRESSION OF TERRORISM)
ACT, 1987

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ACTS REFERRED TO

Criminal Law (Jurisdiction) Act, 1976	1976, No. 14
Explosive Substances Act, 1883	1883, c. 3
Extradition Act, 1870	1870, c. 52
Extradition Act, 1873	1873, c. 60
Extradition Act, 1965	1965, No. 17

No. 1/1987: EXTRADITION (EUROPEAN CONVENTION ON THE SUPPRESSION OF
TERRORISM) ACT, 1987

AN ACT TO GIVE EFFECT TO THE EUROPEAN CONVENTION ON THE SUPPRESSION
OF TERRORISM, DONE AT STRASBOURG ON THE 27th DAY OF JANUARY, 1977, AND
TO AMEND AND EXTEND THE EXTRADITION ACT, 1965.

[21st January, 1987]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.— (1) In this Act—

"the Act of 1965 means the Extradition Act, 1965;

"convention country" means a country other than the State for the time being standing designated
in an order under *section 2*;

"the Minister" means the Minister for Justice;

"serious offence" means an offence which, if the act constituting the offence took place in the
State, would be an offence for which a person aged 21 years or over, of full capacity and not
previously convicted may be punished by imprisonment for a term of 5 years or by a more severe
penalty.

(2) References in this Act to an act include references to an omission and references to the doing
of an act include references to the making of an omission.

(3) (a) A reference in this Act to a section is a reference to a section of this Act
unless it is indicated that reference to some other enactment is intended.

(b) A reference in this Act to a subsection, paragraph or subparagraph is a
reference to the subsection, paragraph or subparagraph of the provision in which
the reference occurs unless it is indicated that reference to some other provision is
intended.

(4) This Act applies, except where otherwise provided, in relation to an offence whether
committed or alleged to have been committed before or after the passing of this Act.

Convention countries.

2.— (1) The Minister for Foreign Affairs may by order designate the countries which are parties to the European Convention on the Suppression of Terrorism, done at Strasbourg on the 27th day of January, 1977.

(2) The Minister for Foreign Affairs may by order amend or revoke an order under this section including an order under this subsection.

(3) An order under this section shall, as soon as may be after it is made, be laid before each House of the Oireachtas.

Certain offences not to be regarded as political offences.

3.— (1) For the purposes mentioned in *subsection (2)*-

(a) no offence to which this section applies and of which a person is accused or has been convicted outside the State shall be regarded as a political offence or as an offence connected with a political offence, and

(b) no proceedings outside the State in respect of an offence to which this section applies shall be regarded as a criminal matter of a political character.

(2) The purposes referred to in *subsection (1)* are—

(a) the purposes of Part 11 of the Act of 1965 in relation to any request for the surrender of a person made after the commencement of this Act by any convention country in relation to which that Part applies;

(b) the purposes of Part III of the Act of 1965 in relation to any warrant for the arrest of a person issued after the commencement of this Act in a place in relation to which that Part applies;

(c) the purposes of section 24 of the Extradition Act, 1870, and section 5 of the Extradition Act, 1873, in relation to the obtaining of evidence in the State for use in criminal proceedings instituted in a convention country after the commencement of this Act.

(3) (a) This section applies to—

(i) an offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on the 16th day of December, 1970,

[See 1973 (No. 29) s. 11]

(ii) an offence within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on the 23rd day of September, 1971,

[See 1975 (No. 9) s. 3]

(iii) a serious offence involving an attack against the life, physical integrity or liberty of an internationally protected person,

(iv) an offence involving kidnapping, the taking of a hostage or serious false imprisonment,

(v) an offence involving the use of an explosive or an automatic firearm, if such use endangers persons, and

(vi) any offence of attempting to commit any of the foregoing offences.

(b) References in this subsection to an offence include references to participation as an accomplice of a person who commits the offence.

(4) For the purposes of *subsection (3)(a)*:

(a) in *subparagraph (iii)* thereof, "an internationally protected person" has the meaning assigned to it by *subsection (5)*,

(b) in *subparagraph (iv)* thereof—

"an offence involving", in relation to kidnapping, the taking of a hostage or serious false imprisonment, includes any offence committed in the course thereof or in conjunction therewith;

"serious false imprisonment means any false imprisonment involving danger, or prolonged or substantial hardship or inconvenience, for the person detained,

(c) in *subparagraph (v)* thereof—

"automatic firearm" means a firearm which is so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty;

"explosive" means any article manufactured for the purpose of producing a practical effect by explosion or intended by the person using it for that purpose;

"an offence involving", in relation to the use of an explosive or an automatic firearm, includes any offence committed by means of the explosive or firearm.

(5) (a) In this section "an internationally protected person" means, in relation to any such offence as is mentioned in *subsection (3) (a) (iii)*, any of the following:—

(i) a person who at the time of the commission of the offence is a Head of State, a member of a body which performs the functions of Head of State under the constitution of a state, a head of government or a minister for foreign affairs and is outside the territory of the state in which he holds office,

(ii) a person who at the time of the commission of the offence is a representative or an official of a state or an official or agent of an international organisation of an inter-governmental character, is entitled under international law to special protection from attack on his person, freedom or dignity and does not fall within *subparagraph (i)*,

(iii) a person who at the time of the commission of the offence is a member of the family of a person mentioned in *subparagraph (i)* or *(ii)* and—

(I) if the other person is mentioned in *subparagraph (i)*, is accompanying him, or

(II) if the other person is mentioned in *subparagraph (ii)*, is a member of his household.

(b) (i) If in any proceedings a question arises as to whether a person was at the relevant time an internationally protected person, a certificate signed by,

or by a person authorised by, the Minister for Foreign Affairs and stating any fact relating to the question shall be evidence of that fact.

(ii) A document purporting to be a certificate described in *subparagraph (i)* shall be deemed to be such a certificate, and to be signed by the person purporting to have signed it (and, in the case of such a document purporting to have been signed by a person authorised by the Minister for Foreign Affairs, to have been signed in accordance with the authorisation), unless the contrary is shown.

Certain other offences not to be regarded as political offences in certain circumstances.

4.—(1) (a) For the purposes mentioned in *paragraphs (a) and (b) of section 3 (2)*, an offence to which this section applies and of which a person is accused or has been convicted outside the State shall not be regarded as a political offence or as an offence connected with a political offence if the court or the Minister, as the case may be, having taken into due consideration any particularly serious aspects of the offence, including—

(i) that it created a collective danger to the life, physical integrity or liberty of persons,

(ii) that it affected persons foreign to the motives behind it, or

(iii) that cruel or vicious means were used in the commission of the offence,

is of opinion that the offence cannot properly be regarded as a political offence or as an offence connected with a political offence.

(b) For the purposes mentioned in *section 3 (2)(c)*, proceedings outside the State in respect of an offence to which this section applies shall not be regarded as a criminal matter of a political character.

(2) (a) This section applies to—

(i) any serious offence (other than an offence to which section 3 applies) of which a person is accused or has been convicted outside the State—

(I) involving an act of violence against the life, physical integrity or liberty of a person, or

(II) involving an act against property if the act created a collective danger for persons,

and

(ii) any offence of attempting to commit any of the foregoing offences.

(b) References in this subsection to an offence include references to participation as an accomplice of a person who commits the offence.

Jurisdiction in respect of certain offences committed outside the State.

5.— (1) If a person, whether an Irish citizen or not, does in a convention country an act which—

(a) if he had done it in the State, would have constituted an offence, and

(b) falls within the description of any of the offences referred to in *subparagraph (iii), (iv) or (v) of section 3 (3) (a)*,

or attempts in a convention country to do any such act, he shall be guilty of the offence which the act or attempt would have constituted if he had done or made it in the State.

(2) If a person who is a national of a convention country but not an Irish citizen does outside the State and that convention country an act which—

- (a) constitutes an offence under the law of that convention country,
- (b) if he had been an Irish citizen, would have constituted the offence of murder or manslaughter or an offence under section 2 or 3 of the Explosive Substances Act, 1883 (as substituted by [section 4](#) of the [Criminal Law \(Jurisdiction\) Act, 1976](#)), and
- (c) falls within the description of any of the offences referred to in *subparagraph (iii), (iv) or (v) of section 3 (3) (a)*,

he shall be guilty of the offence which the act would have constituted if he had been an Irish citizen.

- (3) (a) For the purposes of this section, any act done on board a ship, aircraft or hovercraft, when it is in or over the territory of a convention country, shall be treated as done in that country and any act done on board a ship, aircraft or hovercraft registered in a convention country shall be treated as done in that country and in the convention country (if any) in or over whose territory it is done.
- (b) In *paragraph (a)* "territory" includes territorial seas.

(4) The provisions of the law of the State applied by virtue of this section to things done in any other country shall be read for the purposes of this Act with any necessary modifications.

(5) This section shall apply only to acts done after the commencement of this Act.

Proceedings by virtue of *section 5*.

6.— (1) Proceedings for an offence which is an offence by virtue of *section 5* may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.

(2) Where a person is charged with an offence referred to in *subsection (1)*, no further proceedings in the matter (other than any remand in custody or on bail) shall be taken except by or with the consent of the Director of Public Prosecutions.

(3) The Director of Public Prosecutions shall not take, or consent to the taking of, further proceedings such as are mentioned in *subsection (2)* in respect of an offence unless it appears to him that—

- (a) a convention country in relation to which Part II of the Act of 1965 applies has made a request under that Part for the surrender of the person concerned for the purpose of trying him for an offence in respect of the act in question and the request has been finally refused (whether as the result of a decision of a court or otherwise), or
- (b) a warrant has been issued by a judicial authority in a place in relation to which Part III of the Act of 1965 applies for the arrest of the person concerned for the purpose of trying him for an offence in respect of the act in question and it has been finally determined (whether as the result of a decision of a court or otherwise)

that the warrant should not be endorsed for execution in the State under that Part or that the person concerned should not be delivered up in accordance with the warrant, or

(*c*) because of special circumstances (which may include the likelihood of a refusal such as is mentioned in *paragraph (a)* or of a determination such as is mentioned in *paragraph (b)*) it is expedient that proceedings should be taken against the person concerned for an offence under the law of the State in respect of the act in question.

(4) If a person would, but for this subsection, be required on conviction of an offence referred to in *subsection (1)* to be sentenced to death, he shall be sentenced to imprisonment for life.

(5) No proceedings shall be taken—

(*a*) under this section in respect of an act that constitutes an offence referred to in *subsection (1)* and also an offence under [section 2](#) of the [Criminal Law \(Jurisdiction\) Act, 1976](#) , or

(*b*) under section 38 of the Act of 1965 in respect of an act that constitutes an offence by virtue of that section and also an offence referred to in *subsection (1)*.

Amendment of section 4 of Act of 1965.

7.—The following section is hereby substituted for section 4 of the Act of 1965:

" Laying of orders in draft before Houses of Oireachtas.

4.—A draft of any order proposed to be made by the Government under this Act after the commencement of the [Extradition \(European Convention on the Suppression of Terrorism\) Act, 1987](#) , shall be laid before each House of the Oireachtas and the order shall not be made until a motion approving of the draft has been passed by each such House."

Amendment of section 44 of Act of 1965.

8.—Section 44 of the Act of 1965 (which specifies circumstances in which a warrant issued in a place in relation to which Part III of that Act applies shall not be endorsed for execution in the State) is hereby amended by the substitution in subsection (2) for the words from the end of paragraph (c) to the end of the subsection of:

"or that there are substantial grounds for believing that—

(i) the person named or described in the warrant will, if removed from the State under this Part, be prosecuted or detained for a political offence or an offence connected with a political offence or an offence under military law which is not an offence under ordinary criminal law, or

(ii) the warrant was in fact issued for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinion or that his position would be prejudiced for any of these reasons. "

Amendment of section 50 of Act of 1965.

9.—Section 50 of the Act of 1965 (which specifies circumstances in which a person arrested under Part III of that Act shall be released) is hereby amended by the insertion in subsection (2) after paragraph (b) of the following paragraph:

"(*bb*) there are substantial grounds for believing that the warrant was in fact issued for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinion or that his position would be prejudiced for any of these reasons, or".

Power to apply provision of Acts to non-convention countries.

10.—(1) The Government may by order direct that all or any of the provisions of this Act which would, apart from this section, apply only in relation to convention countries shall apply (subject to such exceptions, if any, as may be specified in the order) in relation to any country which is not a convention country and with which there is in force an extradition agreement (within the meaning of the Act of 1965) as they apply in relation to a convention country.

(2) The Government may by order amend or revoke an order under this section including an order under this subsection.

(3) A draft of any order proposed to be made under this section shall be laid before each House of the Oireachtas and the order shall not be made until a motion approving of the draft has been passed by each such House.

Saving.

11.—Nothing in this Act shall prevent—

(*a*) an offence from being regarded as not being a political offence or as an offence connected with a political offence, or

(*b*) proceedings for an offence from being regarded as not being a criminal matter of a political character,

for the purposes mentioned in *subsection (2) of section 3* in circumstances or by reason of considerations other than those referred to in that section or section 4.

Short title, collective citation and construction.

12.—(1) This Act may be cited as the [Extradition \(European Convention on the Suppression of Terrorism\) Act, 1987](#) .

(2) The Act of 1965 and this Act may be cited together as the Extradition Acts, 1965 and 1987.

(3) The Act of 1965 and this Act shall be construed together as one.

Commencement.

13.—(1) Subject to *subsections (2) and (3)*, this Act shall come into operation on the 1st day of December, 1987.

(2) If, after the passing of this Act but before the 1st day December, 1987, a resolution is passed by each House of the Oireachtas declaring that this Act should come into operation on a specified day before that date, the Minister shall make an order appointing the day so specified as the day on which this Act shall come into operation and this Act shall come into operation accordingly.

(3) (a) If, after the passing of this Act but before the 1st day of December, 1987, a resolution is passed by each House of the Oireachtas declaring that this Act should not come into operation on the 1st day of December, 1987, this Act shall not come into operation on the 1st day of December, 1987.

(b) If—

(i) a resolution passed by each House of the Oireachtas under *paragraph (a)* declares that this Act should come into operation on a specified day, or

(ii) a resolution is passed by each such House at any time after the passing of a resolution by each such House under *paragraph (a)* (being a resolution that does not contain such a declaration as is specified in *subparagraph (i)*) declaring that this Act should come into operation on a specified day ,

the Minister shall make an order appointing the day so specified as the day on which this Act shall come into operation and this Act shall come into operation accordingly.