

# **EXTRADITION**

## **UP-TO-DATE FULL TEXT TRANSLATIONS**

of the

EXTRADITION LAW 5714-1954

and the

## **EXTRADITION REGULATIONS (LAW PROCEDURES AND RULES OF EVIDENCE IN PETITIONS) 5731-1970**

### **1. Extradition only under this Law**

No person present in Israel shall be extradited to another country, except in compliance with this Law.

#### **1A. Restriction on the extradition of citizens**

(a) If a person committed an extradition offense according to this Law, and if - when the offense was committed - he was an Israel citizen and an Israel resident, then he shall not be extradited unless the following two conditions are met:

(1) the purpose of the request for extradition is to put him on trial in the requesting state;

(2) the state that requests his extradition assumed in advance the obligation to return him to Israel, to serve his sentence here if he is found guilty and is sentenced to imprisonment.

(b) The provisions of subsection (a) shall not prevent the Israel citizen from waiving his return to the State of Israel in order to serve his sentence there.

(c) The provisions of section 10 of the Penal Law 5737-1977 shall apply, mutatis mutandis, to imprisonment in Israel under the provisions of this section.

## 2. Reciprocity

(a) In this law, an extradition offense is any offense which - if a person had committed it in Israel - would have made him liable to one year imprisonment or to a more severe penalty.

(b) Notwithstanding the provisions of subsection (a), if a person was declared extraditable because of at least one extradition offense, then he may also be extradited for an offense that is not an extradition offense.

### 2A. Conditions for extradition

(a) It is permissible to extradite a person from the State of Israel to another state if all the following conditions have been met:

(1) there is an agreement between Israel and the requesting state on the extradition of offenders;

(2) the person was accused or found guilty of an extradition offense in the requesting state (hereafter: wanted person).

(b) The State of Israel shall maintain reciprocity on questions of extradition, unless the Minister of Justice decided otherwise.

(c) For purposes of this Law - "agreement" - a bilateral agreement or a multilateral convention, including any of the following:

(1) an agreement or convention that is not devoted to the extradition of offenders, but includes provisions on this matter;

(2) a special agreement conducted by the State of Israel and the requesting state on the extradition of a wanted person, in accordance with the provisions of this Law;

"the requesting state" - each of the following:

(1) a state that request that a person be extradited to it in order to put him on trial, in order to sentence him or so that he will serve a prison sentence imposed on him;

(2) an International Tribunal, as specified in Part One of the Schedule, which requests that a person be handed over to it in order to put him on trial, in order to sentence him or in order to decide where that person shall serve the penalty imposed on him by the Tribunal;

(3) another political body, as specified in Part Two of the Schedule;

"liable to punishment" - includes a person on whom judgment was pronounced, but who has not yet been sentenced.

## 2B. Restrictions on extradition

(a) A wanted person shall not be extradited to a requesting state in any of the following cases:

(1) the extradition request was submitted in respect of an offense that is political in nature, or it was submitted in order to accuse the wanted person for an offense that is political in nature or to punish him for it, even if his extradition is not requested because of the said offense;

- (2) there are reasons to suspect that the extradition request was submitted out of discrimination because of the wanted person's race or religion;
- (3) the extradition request was submitted because of a military offense that is one of the following:
- (i) an offense of which a person can be guilty only if he was a soldier when he committed it;
  - (ii) an offense in violation of security service statutes;
- (4) the wanted person was put on trial in Israel for the offense, in respect of which his extradition is requested, and he was found innocent or guilty;
- (5) the wanted person was found guilty in another state of the offense, in respect of which his extradition is requested, and he served his sentence or the remaining part thereof in Israel;
- (6) the extradition request was submitted in respect of an offense, on which the statute of limitations has run out or the statute of limitations has run out on the penalty imposed on him therefor under the laws of the State of Israel;
- (7) the extradition request was submitted in respect of an offense, in respect of which the wanted person was pardoned in the requesting state;
- (8) acceding to the extradition request is liable to violate the public order or a vital interest of the State of Israel.

(b) For the purposes of subsection (a) (1) any of the following shall not be deemed an offense that is political in nature:

(1) an offense, in respect of which the two states undertook, in a multilateral convention, to extradite;

(2) murder, manslaughter or causing severe injury;

(3) false imprisonment, kidnapping or taking hostages;

(4) sex offenses under sections 345, 347 or 348(a) and (b) of the Penal Law 5737-1977;

(5) preparing or keeping weapons, explosives or other destructive material, or using any weapon or material, all in order to endanger human lives or to cause severe property damage;

(6) causing property damage in order to endanger lives;

(7) conspiring to commit any of the offense specified in paragraphs (1) to (6).

### 3. Extradition request by the State of Israel and by another state

(a) In this Law, "District Court" - the District Court in Jerusalem.

(b) An extradition request on behalf of the requesting state shall be submitted to the Minister of Justice, and he may order the wanted person to be brought before the District Court, in order to determine whether he is extraditable; a said petition shall be submitted by the Attorney General or by his representative.

(c) An extradition request on behalf of the State of Israel shall be submitted to the state in which the wanted person is, by the Attorney General or by a person authorized by him for that purpose.

4.

Repealed

5. Arrest after petition

When a petition has been submitted, then the Court may - at any stage of the hearing - order the arrest of the wanted person; the order shall be in effect until a decision is made on that petition, if the Court did not cancel it earlier.

6. Arrest without order before the petition

The Attorney General or his representative or a police officer of the rank of Chief Superintendent or higher may, in writing, order the arrest of the wanted person before the petition is submitted, and also the arrest of a person for whom there are grounds to assume that he is extraditable and that a petition to extradite him will be submitted, and if the person who makes the order believes that the arrest is necessary to make sure of the extradition.

7. Arrest by order

(a) If a person was arrested under section 6, then within 48 hours he shall be brought before a judge of a Magistrates Court for the issue of an arrest order; however, if during that period a petition under section 3 was submitted to the District Court, then the arrestee shall be brought before a judge of the District Court.

(b) The effect of an order under subsection (a) shall not be for longer than twenty days, however a Magistrates Court may permit and again permit the detention under arrest for additional periods beyond the twenty days, if the Attorney General so requested on the basis of circumstances that delay submission of the petition under section 3.

(c) The periods of arrest under sections 6 and 7 together shall not exceed sixty days; however, if the Attorney General announced, after the requesting state submitted an extradition request in respect of the arrested wanted person, that there are a priori grounds for submitting a petition as said in section 3, then a judge may extend the period of arrest, for that reason, for an additional period of not more than ten days.

## 8.

Repealed

## 9. Declaring a wanted person extraditable

(a) If, in the hearing under section 3, it was proven that the wanted person was lawfully charged with an extradition offense in the requesting state, or that there is evidence which would have sufficed for putting him on trial for such an offense in Israel, and that the other conditions set in the Law for his extradition have been met, then the Court shall declare that the wanted person is extraditable.

(b) Notwithstanding the provisions of subsection (a), the Court may - without examining the evidence - declare the wanted person extraditable, if the wanted person so requested.

## 10.

Repealed

## 11. Hearing of the petition postponed

If the wanted person stands trial or bears a penalty in Israel for another offense, then the Court that hears the petition for his extradition may postpone hearing it for a period which the Court shall prescribe; if the hearing was postponed, then the period of postponement shall not be taken into account in calculating the period under the statute of limitations set in the Laws of Israel in connection with the matter said in section 2B(a)(6).

#### 11A. Temporary extradition from Israel

(a) If a wanted person is accused of an extradition offense in the requesting state and if in Israel he was found guilty of another offense, then the execution of his penalty in Israel may be delayed or interrupted and he may be extradited to the requesting state for the procedures required in order to place him on trial for the offense in respect of which his extradition was requested, on condition that - when that is requested - he will be returned to Israel in order to serve or to conclude serving his sentence in Israel and that at a time and in a manner to be prescribed in or under the terms of an agreement with the requesting state.

(b) If a wanted person was declared extraditable, was temporarily extradited to the requesting state, was there found guilty and imprisonment was imposed on him, and was returned to Israel as said in subsection (a) before he had served his entire sentence in that country, then when he finishes serving his sentence in Israel he shall be returned to the requesting state in order to serve the sentence imposed on him there or the part thereof that he has not yet served, and all that if it was not agreed differently between the State of Israel and the requesting state.

#### 12. Evidence

The Court that hears a petition shall not disqualify as evidence:

1. testimony, because it was taken in a foreign state;
2. a document or testimony, which in the agreement between Israel and the requesting state was designated as acceptable evidence for purposes of extradition.

#### 13. Appeal

(a) The wanted person and the Attorney General have the right to appeal against the District Courts decision on the petition.



(b) The appeal shall be submitted to the Supreme Court as Court of Criminal Appeals within thirty days after the decision was handed down.

(c) The provisions of this sections shall add to and not derogate from the remedies and relief, which the Supreme Court as High Court of Justice may grant under any statute, either before the appeal or thereafter.

#### 14. Final effect of declaration

The declaration that a wanted person is extraditable shall be given final effect, if the period of appeal has passed and no appeal was submitted, or if an appeal was submitted and was rejected.

#### 15. Keeping in detention

When a wanted person has been declared extraditable, then the Court may order that he be kept in detention until he is extradited, if the declaration was not voided on appeal or under section 19.

#### 16. Death penalty

A wanted person shall not be extradited for an offense, for which the penalty in the requesting state is death, if that is not the penalty for it in Israel, unless the requesting state undertook that the death penalty will not be imposed on him and that - if it was or will be imposed - it will be changed to lighter punishment.

#### 17. Restriction on extradition

(a) A wanted person shall not be extradited, unless the agreement with the requesting state assures that in that state he will not be arrested, will not be tried and will not be punished for any other offense which he committed before he was extradited, and that he will not be extradited by that state to any other state for any offense which he committed before he was extradited; however, this provision shall not apply if the wanted person left the requesting state after his extradition and returned to it of his free will, or if the wanted person was given an opportunity to leave the requesting state after he was extradited and

did not leave it within thirty days after he was given that opportunity, or if the Minister of Justice gave his written consent to such an act against the wanted person.

(b) Notwithstanding the provisions of the opening passage of subsection (a), it is possible to extradite a wanted person under an agreement that includes provisions on extradition even if it is not a special agreement on extradition, if the State of Israel was in advance given the requesting state's undertaking that the wanted person will not be arrested, will not be put on trial and will not be punished in that state and that he will not be extradited to a third state, except in compliance with the provisions of subsection (a).

(c) The Minister of Justice shall give his consent under subsection (a) if he believes - after the wanted person was given an opportunity to present his arguments in writing - that there is no reason not to consent thereto under the provisions of this Law, after he has received from the requesting state the undertakings specified in this Law on the extradition of a citizen and resident and that the death penalty will not be carried out.

#### 18. Implementing the extradition

The Minister of Justice may order that the extradition of the wanted person, for whom the declaration that he is extraditable received final effect, be carried out, and when he has so ordered it is permitted to hand the wanted person over to the state that requested his extradition and to move him beyond the borders of the State of Israel.

#### 19. Cancellation of declaration

(a) If a wanted person was not extradited or was not moved beyond the borders of the State of Israel within sixty days after the day on which the declaration that he is extraditable received final effect, then the declaration is void, unless its effect was extended under section 20.

(b) If a wanted person was, for another offense, put on trial in Israel or serves a sentence in Israel, then the period during which he serves his sentence or stands trial shall not be taken into account of the sixty days said in subsection (a).

## 20. Extending effect of declaration

If, before a declaration becomes void, an application to extend its effect is submitted by the Attorney General or by the State Attorney, then - if there are special circumstances that delay implementation of the extradition - the Court, the decision of which gave the declaration final effect, may extend the effect of the declaration for an additional period that the Court shall prescribe in the light of the circumstances that were proven.

## 20A. Return order

If a person was extradited to Israel, on condition that he be returned after completion of the proceedings for which he was extradited, then the Minister of Justice is authorized to order that he be returned in a manner and at a time to be determined in an agreement with the requesting state, notwithstanding any penalty imposed on the extradited person in Israel; returning a person to the state from which he was extradited to Israel does not constitute extradition under this Law,

## 20B. Voluntary return

- (a) A wanted person may, at any time, submit a written application to the Minister of Justice to return to the requesting state in order to stand trial there, to have his sentence pronounced or to serve his sentence (in this Law: request to return voluntarily).
- (b) When a request to return voluntarily has been submitted, the Minister of Justice shall inform the requesting state thereof without delay.
- (c) If a request to return voluntarily is submitted after the petition under section 3 was submitted to the Court, then the Attorney General shall so inform the Court and the Court shall stop hearing the petition.
- (d) The wanted person who requested to return voluntarily shall be kept in lawful detention while he is in Israel until he is returned to the requesting state, on condition that the period not be longer than fifteen days; the District Court may, on application by the Attorney General, extend that period by one additional period of up to fifteen days, if it believes that there are special circumstances that justify the delay in the wanted person's return to the requesting state.

## 20C. Extradition statutes do not apply to voluntary return

The provisions of this Law on the extradition of a person shall not apply to a wanted person who requested to return voluntarily to the requesting state.

## 21. Conditions of agreements

(a) If it was agreed in an extradition agreement between Israel and a foreign state –

(1) that only part of the extradition offenses be extradition offenses in respect of that state;

(2) that an arrestee be released from arrest if no request for his extradition was submitted or if evidence insufficient to declare him extraditable was submitted within a period set in the agreement;

(3) that documents and any other material seized from the wanted person, which can be used as evidence against him at his trial, be delivered to the requesting state;

(4) that the time for canceling the declaration of a wanted person who was not extradited be shorter than the time set in section 19,

then it shall be done as agreed, notwithstanding the provisions of this Law or of any other Law.

(b) Notwithstanding the provisions of subsection (a)(3) it is not permitted to hand over to the requesting state documents and any other material which the Minister of Justice determined - after consultation with the Prime Minister or with the Minister concerned - that they or part of them must not be handed over because of a vital interest of the State of Israel.

## 22. Release on bail

The Release on Bail Ordinance 1944 shall apply to every wanted person, as long as there is no declaration with final effect that he is extraditable; and for the purposes of the Ordinance –

- (1) every offense for which his extradition was requested shall be treated as if it had been committed in Israel;
- (2) a wanted person arrested under section 5 or 7 shall be treated like an arrestee, against whom an indictment has not yet been filed;
- (3) the declaration that he is extraditable - if he is wanted as a defendant - shall be treated like an indictment;
- (4) the declaration that he is extraditable - if he is wanted as a convict - shall be treated like the sentence that imposes the sentence he must serve in the requesting state.

## 23. Transitional provision

If, before this Law went into effect, an extradition request was submitted and an order was made by the Minister of Justice under section 9(2) of the Extradition Ordinance, then the provisions of the Extradition Ordinance shall apply to that request, as if this Law had not gone into effect; if a said order has not been made, then the provisions of this Law shall apply to that request.

## 24. Person extradited to Israel

If a person was extradited to Israel by a foreign state, then he shall not be arrested and shall not be put on trial for another offense which he committed before his extradition and he shall also not be extradited to another country for another offense which he committed before his extradition, unless that foreign state gave its written consent thereto

or if that person did not leave Israel after his extradition within thirty days after he was allowed to do so and if he returned to Israel of his free will.

#### 24A. Transit of extradited persons

(a)

(1) The Minister of Justice may approve a request for the transit through the State of Israel of a person extradited from one state to another state, if the following two conditions have been met:

(i) the requesting state has an extradition agreement with the State of Israel;

(ii) the receiving state, when that is not the requesting state, has diplomatic relations with the State of Israel.

(2) The Minister of Justice shall approve a request for the transit of an extradited person through the State of Israel only if the Attorney General stated that the undertakings said in section 1A and 16 have been received from the state concerned.

(3) In this subsection, the "requesting state" - the state that extradites the person or the state that receives him.

(b) The transit of an extradited person through Israel's airspace, without an interim landing in Israel, does not require approval.

#### 24B. Implementation of return or transit

If an order under sections 20A or 24A applies to a person, then he may be held in detention in Israel for purposes of the return or transit, and he may be transferred beyond the borders of Israel and delivered to the receiving state, as if he had been declared extraditable under this Law and an order under section 18 was issued in his respect.

#### 24C. Adaptation of terms

For the purposes of this Law, the request of an international tribunal for the transfer of a wanted person shall be treated like an extradition request, and the transfer of a wanted person shall be treated like the extradition of a wanted person, for all intents and purposes; in this section, "international tribunal" - within its meaning in paragraph (2) of the definition of "requesting state" in section 2(a)(2).

#### 24D. Changing the Schedule

The Minister of Justice may - with the consent of the Minister of Foreign Affairs and with approval by the Knesset Constitution, Law and Justice Committee - change the Schedule.

#### 25. Repeals

(a) The Extradition Ordinance shall be amended as follows:

(1) the name of the Ordinance shall be changed to "Testimony Ordinance (Foreign Criminal Trials)";

(2) sections 3 to 20 and 23 are void.

(b) In order to remove all doubt, it is here stated that the Fugitive Criminals Law 1881 does not apply in the State of Israel since the day of its foundation.

#### 26. Implementation and regulations

The Minister of Justice is charged with the implementation of this Law and he may make regulations on everything that relates to its implementation, including regulations on law procedure for petitions, applications and appeals, and on rules of evidence in petitions.

## **SCHEDULE**

(Section 2A, paragraphs (2) and (3) of the definition of "requesting state")

### Part One

1. The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.
2. The International Tribunal for Rwanda

### Part Two

1. Hong Kong Special Administrative Region

[OTE: Section 24 of the Extradition Law (Amendment Nr. 7) 5761-2001 provides that, in respect of extradition requests submitted to Israel before May 24, 2001, section 1A(a) of the Law be read as follows: "If a person committed an extradition offense according to this Law, and if when the request for extradition is submitted - he is an Israel citizen and an Israel resident, then...]



## EXTRADITION REGULATIONS

### (LAW PROCEDURES AND RULES OF EVIDENCE IN PETITIONS)

5731-1970

By virtue of my powers under section 26 of the Extradition Law 5714-1954 I make these regulations:

#### 1. Definitions

In these regulations, "extradition treaty" - an agreement said in section 2(1) of the Extradition Law 5714-1954, by virtue of which a petition was submitted for the declaration of a wanted person as extraditable.

#### 2. Submitting a petition

A petition to declare that a wanted person is extraditable (hereafter: petition) shall be submitted to the Court, together with a number of additional copies equal to the number of wanted persons, in respect of whom the petition is submitted.

#### 3. Local jurisdiction

A petition may be submitted to any District Court in Israel.

#### 4. Contents of the petition

The petition shall include:

- (1) the name of the Court, to which it is submitted;
- (2) the name of the foreign state that requests the extradition;
- (3) the name of the wanted person;
- (4) the specific section of the schedule to the Extradition Law 5714-1954, according to which the offense specified in the petition is an extradition offense;
- (5) the specific sections of Israel Law, under which the wanted person could have been brought to trial, if the offenses specified in the petition had been committed in Israel;
- (6) the specific sections of the extradition agreement, under which the foreign state requests the wanted person's extradition;
- (7) if the petition is based on the wanted person having been found guilty - particulars of the wanted person's verdict and of the sentence in the requesting state in respect of the offense specified in the petition.

#### 5. Documents and exhibits to be attached to the petition

All the documents and exhibits submitted in support of the petition on behalf of the requesting state and the extradition request submitted on behalf of the requesting state by its diplomatic representation in Israel or in any other way shall be attached to the petition.

#### 6. Addition of wanted persons

It is permissible to submit a petition in respect of several wanted persons, if their extradition was requested in respect of the same offense, if they can be accused of the same offense, if they could have been accused in a single indictment in Israel, or if they were found guilty in a single trial in the requesting state.

#### 7. Time for hearing the petition

(a) When a petition has been submitted, the Court shall set the time for hearing it and it shall summon the petitioner and the wanted person to that hearing.

(b) A copy of the petition shall be served on the wanted person together with the summons to the hearing.

(c) The hearing shall be set to begin at the earliest possible time.

#### 8. Study of evidentiary material

When a petition has been submitted, the wanted person or his defense attorney may study - at any reasonable time - all the evidentiary material related to the petition, which is in the petitioner's possession, and they may obtain the names of the witnesses - and the subjects of their testimony - which the petitioner intends to call when the petition is heard.

#### 9. Preserving evidence

The provisions of sections 106 to 112 of the Criminal Law Procedure Law 5725-1965 shall apply to the hearing of the petition, mutatis mutandis as the case may be.

#### 10. Continuity of hearings

(a) The Court may postpone hearing the petition, if it finds that the wanted person was not given receive sufficient notice in order to prepare his opposition.

(b) When the hearing of the petition has begun, the Court shall continue with it every day, until it is finished, unless it found - for reasons that shall be recorded - that it is not reasonably possible to do so.

#### 11. Preliminary arguments

(a) Before the hearing begins the wanted person may present preliminary arguments on which a decision to reject the petition may be based.

(b) If a preliminary argument was presented, then the Court shall give the petitioner an opportunity to respond to it, but it may also reject it without having done so; the Court shall decide on an argument after the end of the aforesaid arguments of the parties.

(c) If a preliminary argument was accepted, then the Court may - at its own initiative or at the request of one of the parties - amend the petition or reject it.

#### 12. Order of arguments

(a) If no preliminary argument was presented or if it was presented and the petition was not rejected as aforesaid, then the petitioner shall open and present his evidence and he may present evidence, written or oral, in addition to the evidence attached to the petition under regulation 5.

(b) The wanted person may respond in person or through his defense attorney and he may present his evidence, and the Court may allow each party argue further after the other party's arguments; however, the wanted person shall have the right to argue last, whether in person or through his attorney.

#### 13. Order of interrogating witnesses

The order of interrogating witnesses shall be the same as in a criminal trial under the Criminal Law Procedure Law 5725-1965, mutatis mutandis as the case may be.

#### 14. Verification of documents

Documents or exhibits presented in the hearing of a petition shall be lawfully verified, in accordance either with the provisions of the Testimony Ordinance or the verification rules prescribed in the extradition agreement.

#### 15. Affidavits and evidence

(a) When hearing a petition, the Court may admit as evidence - in addition to any other method of proof - a person's statement made under oath or affirmation before a judge or other authority competent to take it in the requesting state, it being signed by the authority that took it and the signature being verified as said in regulation 14, and that when there is no different provision in the extradition agreement.

(b) When a statement said in sub regulation (a) was submitted on behalf of the wanted person, then the petitioner or his representative abroad may cross examine the person who made it.

#### 16. Decision by the Court

(a) At the end of the hearing on the petition the Court shall hand down its reasoned written decision on the petition, read it in public, sign it and mark it with the date on which it was read.

(b) If the Court decided that the wanted person is extraditable, then in its decision it shall specify the law sections, under which the wanted person can be put on trial in Israel for the extradition offense, and the sections in the extradition agreement, in respect of which there is sufficient evidence to put the wanted person on trial.

#### 17. Appeal

(a) An appeal, either by the wanted person or by the petitioner, shall brought be by submitting a notice of appeal to the Supreme Court, sitting as Court of Criminal Appeals.

(b) The appeal shall be submitted within thirty days after the day on which the District Court handed down its decision.

(c) The appeal shall be heard in the presence of the parties.

(d) The provisions of sections 184, 185, 187, 188, 190, 193 and 195 of the Criminal Law Procedure Law 5725-1965 shall apply, mutatis mutandis as the case may be.

(e) The provisions of regulation 16 shall also apply to the decision of the Court of Appeal.

#### 18. Miscellaneous provisions

Sections 204, 205, 207, 210 and 211 of the Criminal Law Procedure Law 5725-1965 shall apply, mutatis mutandis as the case may be, to proceedings under these regulations.

#### 19. Name

These regulations shall be known as the Extradition Regulations (Law Procedures and Rules of Evidence in Petitions) 5731-1970.