



Kuwait No. 1 (2018)

# Extradition Treaty

between the Government of the United Kingdom of Great Britain and  
Northern Ireland and the Government of the State of Kuwait

Kuwait City, 15 December 2016

[The Treaty is not in force]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
July 2018*



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**EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE  
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
AND THE GOVERNMENT OF THE STATE OF KUWAIT**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Kuwait (hereinafter referred to as the "Contracting Parties");

HAVING DUE REGARD for human rights and the rule of law;

MINDFUL of the guarantees under their respective legal systems which provide an accused person with the right to a fair trial, including the right to adjudication by an impartial tribunal established pursuant to law;

HAVE agreed as follows:

ARTICLE 1

**Obligation to Extradite**

The Contracting Parties agree to extradite to each other, pursuant to the provisions of this Treaty, any person who is wanted for trial or punishment in the Requesting State for an extraditable offence.

ARTICLE 2

**Extraditable Offences**

- 1) For the purposes of this Article, an offence shall be an extraditable offence if:
  - a) the conduct on which the offence is based is punishable under the laws of both Contracting Parties by a maximum sentence of at least 12 months imprisonment or another form of detention, or by a greater punishment; or
  - b) where the person whose extradition has been requested has been convicted by a competent court of the Requesting Party, a sentence of imprisonment or another form of detention of a term of 4 months or more has been imposed and the conduct is punishable under the laws of the Requested Party by a maximum sentence of at least 12 months' imprisonment or another form of detention, or by a greater punishment.
- 2) An offence shall be an extraditable offence irrespective of whether the laws of the Contracting Parties place the offence within the same category or describe the offence by different terminology.

## ARTICLE 3

### **Grounds for Refusal**

- 1) Extradition under this Treaty shall be refused in any of the following cases:
  - a) if the Requested Party has serious grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, sex or status, or political opinions, or that that person's position may be prejudiced or his or her liberty restricted for any of those reasons;
  - b) if the person sought has been tried and convicted or acquitted by a definitive judgment in the territory of either Contracted Party or in a third State of the offence(s) on the basis of which extradition for prosecution is requested;
  - c) if the prosecution of the person sought or the implementation of the sentence would be barred by lapse of time or prescription, under the domestic law of the Requested Party. Any action taken by the Requesting Party having the effect of interrupting or suspending the period of limitation shall be taken into account by the Requested Party insofar as its laws so permit;
  - d) if the offence for which extradition has been requested is a military offence and not also an offence under ordinary domestic criminal law;
  - e) if extradition would breach the human rights of the person sought;
  - f) if the person sought has been convicted in absentia, unless:
    - i. an assurance is provided that the person will be entitled to a retrial or an appeal amounting to retrial under the domestic law of the Requesting Party; or
    - ii. the person was convicted under the following conditions:
      - the accused appeared before the court, was informed of the charges and entered a plea;
      - the accused was duly notified of the trial; and
      - the failure of the accused to appear was unjustifiable;
  - g) the person whose extradition is sought could be, or has been sentenced to death;

- h) if extradition is barred for any other reason under the domestic law of the Requested Party.
- 2) Extradition may be refused under this Treaty:
- a) if the person sought is under investigation, is being prosecuted or is serving a sentence in the territory of the Requested Party. If extradition is requested for conduct other than that for which the person is under investigation, is being prosecuted or is serving a sentence in the territory of the Requested Party, that Party may instead defer consideration of extradition until the sentence is completed or the person is discharged; or
  - b) if the Requested Party, while also taking into account the nature of the offence and the interests of the Requesting Party, considers that, in the circumstances of the case, including the age or health of the person whose extradition is requested, the extradition of that person would be unjust or incompatible with humanitarian considerations.

#### ARTICLE 4

##### **Prosecution Instead of Extradition**

- 1) Requests for the extradition of nationals of the Requested Party shall be subject to the domestic laws of the Requested Party.
- 2) If the Requested Party refuses to extradite one of its nationals on the grounds of nationality, it undertakes, upon request, in accordance with its domestic law, to prosecute that person as if he or she had committed an offence which is defined by both Parties as a criminal offence. In such a case, the Requesting Party shall send a request for prosecution accompanied by the relevant files and documents in its possession, through the diplomatic channels.
- 3) The Requesting Party shall be informed by the results of its request.

## ARTICLE 5

### **Extradition Procedures and required Documents**

- 1) All requests for extradition and any subsequent correspondence shall be submitted through the diplomatic channel.
- 2) All requests for extradition shall be supported by:
  - a) as accurate a description as possible of the person sought, together with any other information that would help to establish identity and probable location;
  - b) a statement of the facts of the offence(s);
  - c) the relevant text of the law(s) describing the essential elements of the offence for which extradition is requested;
  - d) the relevant text of the law(s) prescribing the punishment for the offence for which extradition is requested; and
  - e) documents, statements, or other types of information specified in paragraphs 3 or 4 of this Article, as applicable.
- 3) In addition to the requirements in paragraph 2 of this Article, a request for extradition in an accusation case shall be supported by:
  - a) such evidence as would justify committal for trial under the laws of the Requested Party;
  - b) a copy of the warrant or order of arrest issued by a judicial authority; and
  - c) if any, a copy of the charging document.
- 4) In addition to the requirements in paragraph 2 of this Article, a request for extradition relating to a person who has been convicted of the offence for which extradition is sought shall be supported by:
  - a) information that the person sought is the person to whom the finding of guilt refers;
  - b) a copy of the judgment or memorandum of conviction or, if a copy is not available, a statement by a judicial authority that the person has been convicted;

- c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and
  - d) in the case of a person who has been convicted in absentia, the information or assurances as required by Article 3 (1) (f).
- 5) The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if they are authenticated in a manner accepted by the law of the Requested Party.
- 6) If the Requested Party considers that further information is needed in support of a request for extradition, that Party may request that additional information be furnished within such time as it specifies.

## ARTICLE 6

### **Language**

All requested and supporting documents provided by the Contracting Parties shall be accompanied by a translation into the official language of the Requested Party.

## ARTICLE 7

### **Provisional Arrest**

- 1) In an urgent situation, the Requesting Party may request the provisional arrest of the person sought pending the making of a full request for extradition.
- 2) A request for provisional arrest may be transmitted through the diplomatic channel or Interpol.
- 3) The application for provisional arrest shall contain:
  - a) a description of the person sought;
  - b) the location of the person sought, if known;
  - c) a brief statement of the facts of the case including, if possible, the date and location of the offence(s);
  - d) a description of the law(s) violated;
  - e) the original or a copy of the warrant or order of arrest, the finding of guilt, or the judgment of conviction against the person sought; and

- f) a statement that the supporting documents for the person sought will follow within the time specified in paragraph 5 of this Article.
- 4) The Requesting Party shall be notified without delay of the decision on its request for provisional arrest. In addition the Requested Party shall provide the Requesting Party with the reasons for any inability to proceed with the request, unless the domestic law of the Requested Party prevents it from giving this information.
- 5) The Requesting Party must submit a full request for extradition in compliance with Article 5 within sixty (60) days of the date of provisional arrest.
- 6) A failure to comply with paragraph 5 of this Article may result in the discharge of the person sought.
- 7) The fact that the person sought has been discharged from custody pursuant to paragraph 6 of this Article shall not prejudice the subsequent re-arrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

## ARTICLE 8

### **Decision and Surrender**

- 1) The Requested Party shall promptly notify the Requesting Party through the diplomatic channel of its decision on the request for extradition.
- 2) If the request is refused in whole or in part, the Requested Party shall, unless its domestic law prevents it from so doing, provide information as to the reasons for the refusal. The Requested Party shall provide copies of pertinent judicial decisions upon request.
- 3) If the request for extradition is granted, the authorities of the Contracting Parties shall make arrangements for the surrender of the person sought.
- 4) At the conclusion of the extradition proceedings, the person must be extradited within 28 days. If circumstances prevent the Requested Party from surrendering the person to be extradited, it shall notify the other Party. The Contracting Parties shall agree upon a new period of time for surrender.



## ARTICLE 9

### **Postponed or Conditional Surrender**

- 1) The Requested Party may postpone the surrender of a person sought in order to proceed against that person or, if that person has already been convicted, in order to enforce a sentence of imprisonment. In such a case the Requested Party shall advise the Requesting Party accordingly.
- 2) The Requested Party may, instead of postponing surrender under Paragraph 1, temporarily surrender the person sought to the Requesting Party in accordance with conditions to be agreed between the Contracting Parties.

## ARTICLE 10

### **Requests for Extradition made by more than one State**

If the Requested Party receives requests from the Requesting Party and from any other State or States for the extradition of the same person, either for the same offence or for a different offence, the Requested Party shall determine which of the requests for extradition will be considered first. In making the decision, the Requested Party shall consider all relevant facts, including but not limited to:

- a) the relative seriousness of the offences concerned;
- b) the place where each offence was committed (or was alleged to have been committed);
- c) the date on which the requests were received;
- d) whether, in the case of each offence, the person is accused of its commission (but not alleged to have been convicted) or has been convicted.

## ARTICLE 11

### **Speciality**

- 1) A person extradited under this Treaty may not be detained, tried or punished by the Requesting Party for any offence committed before extradition save for:
  - a) any offence in respect of which the person has been extradited;
  - b) any offence disclosed by the information submitted by the Requesting Party in respect of an offence for which the person has been extradited, provided that:
    - i. any such offence is not one in respect of which the death penalty can be imposed; and
    - ii. any such offence is itself an extraditable offence within the meaning of Article 2 of this Treaty; or
  - c) any offence in respect of which the Requested Party consents to the person's detention, trial or punishment.
- 2) A person extradited under this Treaty may not be the subject of onward extradition to a third State for any offence committed prior to extradition to the Requesting Party unless the Requested Party consents.
- 3) Paragraphs 1 and 2 of this Article shall not prevent a person being detained, tried or punished in respect of an offence committed before extradition where that person:
  - a) has left the territory of the Requesting Party after the extradition but has voluntarily returned to it; or
  - b) has not left the territory of the Requesting Party having been given an opportunity to do so.
- 4) Where a request for the purpose of subparagraph (1c) of this Article is made, the Requested Party may require the submission of the documents called for in Article 5 of this Treaty.

## ARTICLE 12

### **Consent**

If the person sought consents in writing to surrender to the Requesting Party, the Requested Party may, notwithstanding that the requirements of Article 5 have not been met, surrender the person as expeditiously as possible.

## ARTICLE 13

### **Seizure and Surrender of Property**

- 1) The Requested Party may, within the authority of its domestic law and subject to the rights of others, seize the materials stated below and deliver the same to the Requesting Party at the time of extradition of the person or immediately thereafter:
  - a) items used in the commission of the offence(s) for which extradition is requested or which constitute evidence of such offence(s),
  - b) items obtained during the commission of the offence(s) for which extradition is requested if they are in the possession of the person sought at the time of the arrest.
- 2) If the seized materials referred to in paragraph 1 of this Article are required for an investigation or for the prosecution of an offence by the Requested Party, then the delivery of those materials may be delayed, or those materials may be delivered on the condition that they shall be returned after the conclusion of the proceedings by the Requesting Party.
- 3) Where the law of the Requested Party or the protection of the rights of third parties so requires, any property so delivered shall be returned to the Requested Party free of charge after the completion of the proceedings, if that Party so requests.

## ARTICLE 14

### **Transit**

- 1) Either Contracting Party may authorise transit through its territory of a person surrendered to the other Contracting Party by a third State or from the other Contracting Party to a third State. A request for transit shall be transmitted through the diplomatic channel or directly between, for Kuwait, the Ministry of Justice and, for the United Kingdom, the Secretary of State for the Home Department. A request for transit shall contain a description of the person being transited and a brief description of the facts of the case, including details of any risks the person being transited may pose to the public or to officers of the authorities of the Contracting Party to whom the request is directed. A person in transit may be detained in custody by the appropriate authorities of the Contracting Party through whose territory the person is being transported.

2) Authorisation is not required where air transportation is used by one Contracting Party and no landing is scheduled on the territory of the other Contracting Party. If an unscheduled landing does occur, the Contracting Party in whose territory the unscheduled landing occurs may require the other Contracting Party to make a request for transit pursuant to paragraph 1 of this Article, and may detain a person in custody until the request for transit is received and the transit is effective, as long as the request is received within 60 hours of the unscheduled landing.

3) The Contracting Party making the request for transit shall provide to the other Contracting Party any such further information as that Contracting Party may require and within such time period as that Contracting Party may specify for the purposes of deciding whether to authorise transit.

#### ARTICLE 15

##### **Representation and Expenses**

1) The Requested Party shall arrange for the interests of the Requesting Party to be represented in any court proceedings directly concerning the request for extradition by arranging for the provision of advice, assistance, and representation.

2) The Requesting Party shall bear the expenses related to the transport of the person surrendered. The Requested Party shall pay all other expenses incurred by that Party as a direct result of the extradition proceedings.

3) Neither Contracting Party shall make any pecuniary claim against the other Contracting Party arising out of the arrest, detention, examination or surrender of persons sought under this Treaty.

#### ARTICLE 16

##### **Consultation**

The Contracting Parties may consult, orally or in writing, on the application or implementation of this Treaty, in general terms or in a particular case, whenever appropriate. The Contracting Parties may also agree on such practical measures as may be necessary to facilitate the implementation of this Treaty.

## ARTICLE 17

### **Dispute Settlement**

Any dispute regarding the interpretation, application, or implementation of this Treaty shall be resolved through the diplomatic channels through consultations and negotiations.

## ARTICLE 18

### **Application**

- 1) This Treaty shall apply to offences committed before or after the date on which it enters into force.
- 2) This Treaty shall apply:
  - a) in the territory of the State of Kuwait; and
  - b) in the territory of the United Kingdom of Great Britain and Northern Ireland;
  - c) to any other territories for whose international relations one of the Contracting Parties is responsible and to which this Treaty shall have been extended by Exchange of Notes.
- 3) The application of this Treaty to any territory in respect of which extension has been made in accordance with paragraph 2(c) of this Article may be terminated by either Contracting Party giving six (6) months' written notice to the other through the diplomatic channel.
- 4) A request by State of Kuwait for the extradition of an accused or convicted person who is found in any of the territories to which this Treaty applies in accordance with paragraph 2(c) of this Article may be made to the Governor or other competent authority of that territory, who may take the decision himself or refer the matter to the United Kingdom for its decision. A request on the part of any of the territories to which this Treaty applies in accordance with paragraph 2 (c) of this Article for the extradition of an accused or convicted person who is found in State of Kuwait may be made to Ministry of Justice by the Governor or other competent authority of that territory.

ARTICLE 19

**Ratification, entry into force and Termination**

1) This Treaty shall enter into force on the date of the receipt of the last written notification through diplomatic channels by which the Contracting Parties notify each other of the completion of their respective requirements for the entry into force of this Treaty.

2) Either Contracting Party may terminate this Treaty at any time by giving notice in writing to the other. In that case the Treaty shall cease to have effect six (6) months after the date of the receipt of that notification. However the procedures already initiated for an extradition request by either of the Contracting Parties shall continue to be governed by this Treaty until their conclusion

**IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Treaty.**

**DONE** at Kuwait, on fifteenth December 2016, in duplicate, in the Arabic and English languages, both texts being equally authentic.

**For the Government of the United Kingdom of Great Britain and Northern Ireland:**

**For the Government of the State of Kuwait:**

TOBIAS ELLWOOD

KHALED AL-JARALLAH

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