

SWEDEN - SUPPLEMENTARY

Extradition

TIAS 10812

35 U.S.T. 2501; 1983 U.S.T. LEXIS 131

March 14, 1983, Date-Signed

September 24, 1984, Date-In-Force

STATUS:

[*1] Supplementary convention signed at Stockholm March 14, 1983
Transmitted by the President of the United States of America to the Senate May 25, 1983 (Treaty
Doc. No. 98-4, 98th Cong., 1st Sess.);
Reported favorably by the Senate Committee on Foreign Relations June 20, 1984 (S. Ex. Rept.
No. 98-27, 98th Cong., 2d Sess.);
Advice and consent to ratification by the Senate June 28, 1984;
Ratified by the President July 13, 1984;
Ratified by Sweden July 2, 1984;
Ratifications exchanged at Washington September 24, 1984;
Proclaimed by the President October 31, 1984;
Entered into force September 24, 1984.

SUPPLEMENTARY CONVENTION ON EXTRADITION BETWEEN THE UNITED
STATES OF AMERICA AND THE KINGDOM OF SWEDEN

TILLAGGSKONVENTION OM UTLAMNING MELLAN AMERIKAS FORENTA STATER
OCH KONUNGARIKET SVERIGE

TEXT:

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA A PROCLAMATION

CONSIDERING THAT:

The Supplementary Convention to the Extradition Convention of October 24, 1961 between the
United States of America and the Kingdom of Sweden was signed at Stockholm on March 14,

1983, the text of which is hereto annexed;

The Senate of the United States of America by its resolution of June 28, 1984, two-thirds of the Senators [*2] present concurring therein, gave its advice and consent to ratification of the Supplementary Convention;

The Supplementary Convention was ratified by the President of the United States of America on July 13, 1984, in pursuance of the advice and consent of the Senate, and was ratified on the part of the Kingdom of Sweden;

It is provided in Article XIII of the Supplementary Convention that the Supplementary Convention shall enter into force in accordance with the terms of Article XVI of the Convention on Extradition between the United States of America and Sweden signed at Washington on October 24, 1961;

Article XVI of the Convention of October 24, 1961 provides for entry into force upon the exchange of instruments of ratification;

The instruments of ratification of the Supplementary Convention were exchanged at Washington on September 24, 1984, and accordingly the Supplementary Convention entered into force on September 24, 1984;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, proclaim and make public the Supplementary Convention to the end that it be observed and fulfilled with good faith on and after September 24, 1984, by the United States of America [*3] and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this thirty-first day of October in the year of our Lord one thousand nine hundred eighty-four and of the Independence of the United States of America the two hundred ninth.

The Government of the United States of America and the Government of the Kingdom of Sweden, desiring to make more effective the Extradition Convention signed at Washington October 24, 1961, n1 have agreed upon the following amendments and additions to the convention:

-----Footnotes-----

n1 TIAS 5496; 14 UST 1845.

-----End Footnotes-----

Article I

Each Contracting State undertakes to surrender to the other, subject to the provisions and conditions laid down in this Convention, those persons found in its territory who are sought for the purpose of prosecution, who have been found guilty of committing an offense, or who are wanted [*4] for the enforcement of a sentence, in respect of any offense made extraditable under Article II of this Convention committed within the territorial jurisdiction of the other, or outside thereof under the conditions specified in Article IV of this Convention.

Article II

(1) An offense shall be an extraditable offense only if it is punishable under the laws of both Contracting States by deprivation of liberty for a period of at least two years. However, when the request for extradition relates to a person who has been convicted and sentenced, extradition shall be granted only if the duration of the penalty, or the aggregate of the penalties still to be served amounts to at least six months.

2) For the purpose of this Article, it shall not matter;

(a) whether or not the laws of the Contracting States place the offense within the same category of offenses or denominate the offense by the same terminology; or

(b) whether or not the offense is one for which United States federal law requires proof of interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction [*5] in a United States federal court.

(3) Subject to the conditions set out in paragraphs (1) and (2) of this Article, extradition shall also be granted for conspiring in, attempting, preparing for, or participating in, the commission of an offense.

(4) When extradition has been granted with respect to an extraditable offense, it shall also be granted with respect to any other offense specified in the extradition request that meets all other requirements for extradition except for periods of deprivation of liberty set forth in paragraph (1) of this Article.

Article III

Deleted.

Article IV

(1) Subject to the provisions of paragraph (2) of this Article, extradition shall be granted in respect of an extraditable offense committed outside the territorial jurisdiction of the requesting State if:

(a) the courts of the requested State would be competent to exercise jurisdiction in similar circumstances; or

(b) the person sought is a national of the requesting State.

(2) Extradition may be refused for an offense which has been committed within the territorial jurisdiction of the requested State, when that State takes all possible measures in accordance with its own laws to prosecute [*6] the person claimed.

(3) The words "territorial jurisdiction" as used in this Article and in Article I of this Convention mean: territory, including territorial waters, and the airspace thereover, belonging to or under the control of one of the Contracting States; and vessels and aircraft belonging to one of the Contracting States or to a citizen or corporation thereof when such vessel is on the high seas or such aircraft is over the high seas.

Article VI

If the extradition request is granted in the case of a person who is being prosecuted or is serving a sentence in the territory of the requested State for a different offense, the requested State may:

(a) defer the surrender of the person sought until the conclusion of the proceedings against that person, or the full execution of any punishment that may be or may have been imposed; or

(b) temporarily surrender the person sought to the requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody while in the requesting State and shall be returned to the requested State after the conclusion of the proceedings against that person in accordance with conditions to be determined by mutual agreement [*7] of the Contracting States.

Article VII

(1) There is no obligation upon the requested State to grant the extradition of a person who is a national of the requested State, but the executive authority of the requested State shall, subject to the appropriate laws of that State, have the power to surrender a national of that State if, in its discretion, it be deemed proper to do so.

(2) If the request for extradition is denied solely on the basis that the person claimed is a national of the requested State, that State shall, if asked to do so by the requesting State, take all possible measures in accordance with its own laws to prosecute the person claimed. If the requested State requires additional documents or evidence, such documents or evidence shall be submitted without charge to that State. The requesting State shall be informed of the result of its request.

Article XI

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

(2) The request for extradition shall be accompanied by:

(a) a statement as to the identity and probable location of the person sought;

(b) a statement of the facts of the case, including, if possible, the time and location of [*8] the crime;

(c) the provisions of the law describing the essential elements and the designation of the offense for which extradition is requested;

(d) the provisions of the law describing the punishment for the offense; and

(e) the provisions of the law describing any time limit on the prosecution or the execution of punishment for the offense.

(3) A request for extradition relating to a person who is sought for prosecution also shall be accompanied by:

(a) evidence providing probable cause to believe that the person sought is the person to whom the warrant or decision of arrest refers;

(b) a certified copy of the warrant of arrest, issued by a judge or other competent judicial officer with respect to a request emanating from the United States, or a certified copy of the decision of

arrest (haktningsbeslut) issued by a judge or other competent judicial officer with respect to a request emanating from Sweden, and such supplementary documentation as provides probable cause to believe that the person sought committed the offense for which extradition is requested. Such a warrant or decision of arrest and supplementary documentation shall be recognized as sufficient grounds [*9] for extradition, unless, in a specific case, it appears that the warrant or decision of arrest is manifestly ill-founded.

(4) In the case of a person who has been convicted of the offense, a request for extradition shall be accompanied by a duly certified or authenticated copy of the final sentence of the competent court. If the person was found guilty but not sentenced, the request shall be accompanied by a statement to that effect by the competent court. However, in exceptional cases, the requested State may request additional documentation.

(5) Documents transmitted through the diplomatic channel shall be admissible in extradition proceedings in the requested State without further certification, authentication or other legalization.

(6) The documents in support of the request for extradition shall be accompanied by a duly certified translation thereof into the language of the requested State.

Article XII

(1) In case of urgency, either Contracting State may request the provisional arrest of any accused or convicted person. Application for provisional arrest shall be made through the diplomatic channel or directly between the United States Department of Justice and the Ministry [*10] for Foreign Affairs in Sweden, in which case the facilities of Interpol may be used.

(2) The application shall contain: a description of the person sought; the location of that person, if known; a brief statement of the facts of the case including, if possible, the time and location of the offense; a statement of the existence of a warrant or decision of arrest or a judgment of conviction against that person, as referred to in Article XI; and a statement that a request for extradition of the person sought will follow.

(3) On receipt of such an application, the requested State shall take the appropriate steps to secure the arrest of the person sought. The requesting State shall be promptly notified of the result of its application.

(4) Provisional arrest shall be terminated if, within a period of 40 days after the apprehension of the person sought, the Executive Authority of the requested State has not received the formal request for extradition and the supporting documents required by Article XI.

(5) The termination of provisional arrest pursuant to paragraph (4) of this Article shall not prejudice the extradition of the person sought if the extradition request and the supporting [*11] documents mentioned in Article XI are delivered at a later date.

Article XIII

(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 out of the arrest, detention, examination and surrender of persons sought under the terms of this Convention or arising out of the representation of the interests of the requesting State before the competent authorities of the requested State, shall be made by the requested State against the requesting State.

This supplementary Convention shall apply to offenses encompassed by Article II committed before as well as after its entry into force.

Article XVI of the Convention of October 24, 1961, shall also apply to the entry into force and the termination of this supplementary Convention.

IN WITNESS WHEREOF, the respective plenipotentiaries [*12] have signed this supplementary Convention and have affixed hereunto their seals.

DONE at Stockholm in duplicate, in the English and Swedish languages, both versions being equally authentic, this March 14 1983.

Amerikas Forenta Staters regering och Konungariket Sveriges regering, som onskar gora den i Washington den 24 oktober 1961 undertecknade utlamningskonventionen mera effektiv, har overenskommit om foljande andringar i och tillagg till konventionen:

Artikel I

Vardera avtalsslutande staten atar sig att i enlighet med de bestammelser och villkor som

faststallts i denna konvention till den andra staten utlamna pa dess territorium patraffade personer, som ar eftersokta for lagforing, som har befunnits skyldiga till ett brott eller som ar eftersokta for verkstallandet av en dom beträffande ett enligt artikel II i denna konvention utlammningsbart brott, vilket har begatts inom den andra statens territoriella jurisdiktionsomrade eller utanfor detta under de i artikel IV i denna konvention angivna villkoren.

Artikel II

1. Ett brott skall vara ett utlammningsbart brott endast om det enligt bada de avtalsslutande staternas lagar ar belagt med frihetsstraff under en tid av minst [*13] tva ar. Nar framstallningen om utlamning avser en person som har befunnits skyldig till och domts for brott, skall emellertid utlamning beviljas endast om strafftidens langd eller den sammanlagda strafftid som aterstar att avtjana uppgar till minst sex manader.

2. Vid tillampningen av denna artikel skall det vara utan betydelse,

a) om de avtalsslutande staternas lagar hanfor brottet till samma brottskategori eller betecknar brottet med samma terminologi; eller

b) om det for brottet enligt Amerikas Forenta Staters federala lagstiftning kravs bevis for mellanstatlig transport eller anvandning av postvasendet eller andra hjalpmedel som beror mellanstatlig eller utrikes handel, eftersom sadana omstandigheter endast ar av betydelse for att ge behorighet at en federal domstol i Amerikas Forenta Stater.

3. Med beaktande av de i punkterna 1 och 2 i denna artikel angivna villkoren skall utlamning ocksa beviljas for stamping, forsok, forberedelse eller medverkan till brott.

4. Nar utlamning har beviljats beträffande ett utlammningsbart brott, skall den ocksa beviljas beträffande varje annat brott som har upptagits i utlammningsframstallningen och som uppfyller alla andra villkor for [*14] utlamning utom den i punkt 1 i denna artikel angivna tiden for frihetsberovande.

Artikel III

Upphavd.

Artikel IV

1. Med forbehall for bestämmelserna i punkt 2 i denna artikel skall utlamning beviljas for ett utlammningsbart brott som har begatts utanfor den ansokande statens territoriella

jurisdiktionsområde, om

a) den anmodade statens domstolar skulle ha varit behöriga att utöva jurisdiktion under liknande omständigheter; eller

b) den eftersökte är medborgare i den ansökande staten.

2. Utlamnning får vägras för ett brott som har begåtts inom den anmodade statens territoriella jurisdiktionsområde, när denna stat vidtar alla de åtgärder som är möjliga enligt dess egen lag för att lagföra den person som har begåtts utlamnad.

3. Med uttrycket "territoriellt jurisdiktionsområde" i denna artikel och i artikel I i denna konvention förstås territorium, inbegripet sjöterritorium och luftrummet däröver, som tillhör endera avtalslutande staten eller står under dess kontroll, liksom fartyg och luftfartyg, tillhörande endera avtalslutande staten eller dess medborgare eller juridiska personer, när sådant fartyg befinner sig på öppna havet eller sådant luftfartyg befinner sig över [*15] öppna havet.

Artikel VI

Om en utlämningsframställning beviljas beträffande en person mot vilken åtal har väckts eller som på den anmodade statens territorium årtjänat straff för ett annat brott, får den anmodade staten

a) uppskjuta överlämnandet av den eftersökte till dess förfarandet mot denna person har slutförts eller till dess det straff som kan ha utdömts eller kan komma att utdömas har slutgiltigt årtjänats; eller

b) tillfälligt överlämna den eftersökte till den ansökande staten för lagföring. Den sålunda överlämnade personen skall hållas i förvar under uppehållet i den ansökande staten och skall, sedan förfarandet mot denna person slutförts, återlämnas till den anmodade staten på villkor, varom de avtalslutande staterna kommer överens.

Artikel VII

1. Den anmodade staten är icke förpliktad att bevilja utlämnning av en person, som är medborgare i den anmodade staten, men den verkställande myndigheten i den anmodade staten skall i enlighet med lagen i denna stat ha rätt att överlämna en egen medborgare, om detta enligt dess bedömning anses böra ske.

2. Om utlämningsframställningen avslås enbart på grund av att den person som har begåtts

utlamnad ar medborgare i den [*16] anmodade staten, skall denna stat, om den uppmanas hartill av den ansokande staten, vidtaga alla atgarder som ar mojliga enligt dess egen lag for att lagfora den person som har begarts utlamnad. Om den anmodade staten behover ytterligare handlingar eller bevis, skall sadana handlingar eller bevis utan kostnad overlamnans till denna stat. Den ansokande staten skall underrattas om resultatet av sin framställning.

Artikel XI

1. En framställning om utlamning skall goras pa diplomatisk vag.

2. Framställningen om utlamning skall atfoljas av

a) uppgift om den eftersoktes identitet och troliga uppehallsort;

b) uppgift om de faktiska forhallandena i arendet innefattande, om mojligt, tidpunkt och plats for brottet;

c) de lagrum som anger de vasentliga rekvisiten for det brott for vilket utlamning begars och brottets benamning;

d) de lagrum som anger straffet for brottet; och

e) de lagrum som anger eventuell atals- eller pafoljdsprekription for brottet.

3. En framställning om utlamning av en person som ar eftersokt for lagforing skall ocksa atfoljas av

a) bevisning som visar att det finns sannolika skal att antaga att den eftersokte ar den person som asyftas med haktningsbeslutet; [*17]

b) en bestyrkt kopia av ett haktningsbeslut (warrant of arrest) utfardat av en domare eller annan behorig domstolstjansteman savitt galler en framställning fran Amerikas Forenta Stater, eller en bestyrkt kopia av ett haktningsbeslut utfardat av en domare eller annan behorig domstolstjansteman savitt galler en framställning fran Sverige, samt sadan ytterligare utredning som ger vid handen att det finns sannolika skal att antaga att den eftersokte har begatt det brott for vilket utlamning begars. Ett sadant haktningsbeslut och sadan ytterligare utredning skall godtagas som tillracklig grund for utlamning, om det inte i ett sarskilt fall framgar att haktningsbeslutet ar uppenbart oriktigt.

4. Beträffande en person som har befunnits skyldig till brottet skall en framställning om

utlamning atfoljas av en vederborligen bestyrkt eller vidimerad kopia av den behoriga domstolens slutliga dom. Beträffande den som har befunnits skyldig men icke har domts till straff skall framställningen atfoljas av ett intyg harom fran den behoriga domstolen. I undantagsfall far dock den anmodade staten begara ytterligare handlingar.

5. Handlingar som har overlamnats pa diplomatisk vag skall godtagas i [*18] utlammingsforfarandet i den anmodade staten utan ytterligare bestyrkande, vidimering eller annan legalisering.

6. De handlingar som ligger till grund for utlammingsframställningen skall atfoljas av en vederborligen bestyrkt oversattning till den anmodade statens sprak.

Artikel XII

1. I bradskande fall far endera avtalsslutande staten begara att en misstankt eller domd person provisoriskt anhalles. En begaran om provisoriskt anhallande skall goras pa diplomatisk vag eller direkt mellan Amerikas Forenta Staters justitiedepartement och Sveriges utrikesdepartement, varvid vagen over Interpol far användas.

2. Begaran skall innehalla en beskrivning av den eftersokte, hans uppehallsort om denna ar kand, en kort redogorelse for de faktiska omstandigheterna i arendet innefattande, om mojligt, tidpunkt och plats for brottet, uppgift om att haktningsbeslut eller dom meddelats mot namnda person i enlighet med artikel XI samt uppgift om att en framställning om utlamning av den eftersokte kommer att avges.

3. Sedan sadan begaran mottagits, skall den anmodade staten vidtaga lampliga atgarder for att sakerstalla den eftersoktes anhallande. Den ansokande staten skall omedelbart underrattas [*19] om resultatet av sin begaran.

4. Det provisoriska anhallandet skall upphora, om den verkstallande myndigheten i den anmodade staten icke inom en tidsrymd av 40 dagar efter gripandet av den eftersokte har mottagit den foreskrivna framställningen om utlamning och de handlingar som enligt artikel XI erfordras till stod harfor.

5. Att det provisoriska anhallandet upphort enligt punkt 4 i denna artikel skall icke forhindra utlamning av den eftersokte, om framställningen om utlamning och de handlingar till stod harfor som avses i artikel XI avlamnas vid en senare tidpunkt.

Artikel XIII

1. Den anmodade staten skall granska de till stöd för utlämningsframställningen åberopade handlingarna med avseende på deras juridiska hållbarhet, innan de överlämnas till de domande myndigheterna, och skall sorja för att den ansökande statens intressen företräds inför de behöriga myndigheterna i den anmodade staten.

2. Kostnader som har samband med översättningen av handlingar och den eftersöktes transport skall betalas av den ansökande staten. Den anmodade staten skall icke fördrå ersättning av den ansökande staten för kostnader som uppkommit till följd av eftersökta personers anhallande eller haktning, [*20] förhör med dem eller deras överlämnande i enlighet med bestämmelserna i denna konvention eller till följd av att den ansökande statens intressen företräts inför de behöriga myndigheterna i den anmodade staten.

Denna tilläggskonvention skall tillämpas på brott som omfattas av artikel II, vare sig de begäts före eller efter dess ikraftträdande.

Artikel XVI i konventionen den 24 oktober 1961 skall också gälla denna tilläggskonventions ikraftträdande och uppsägning.

TILL BEKRAFTELSE HARAV, har de befullmäktigade ombuden undertecknat denna tilläggskonvention och har nedan anbringat sina sigill.

Som skedde i två exemplar, på engelska och svenska språken, vilka äger lika vitsord, i Stockholm den 14 mars 1983.

SIGNATORIES:

[SEAL]

Ronald Reagan

By the President:

George P. Shultz

Secretary of State

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Franklin S. Forsberg.

[SEAL]

FOR THE GOVERNMENT OF THE KINGDOM OF SWEDEN

Lennart Bodstrom.

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FOR AMERIKAS FORENTA STATERS REGERING:

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