

BILATERAL EXTRADITION TREATIES

JORDAN

EXTRADITION TREATY WITH JORDAN

TREATY DOC. 104-3

1995 U.S.T. LEXIS 215

March 28, 1995, Date-Signed

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

TRANSMITTING THE EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE HASHEMITE KINGDOM OF JORDAN, SIGNED AT WASHINGTON ON MARCH 28, 1995

TEXT:

104TH CONGRESS

SENATE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, April 24, 1995.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty between the Government of the United States of America and the Government of the Hashemite Kingdom of Jordan, signed at Washington on March 28, 1995. Also transmitted for the information of the Senate is the report of the Department of State with respect to this Treaty. The Treaty establishes the conditions and procedures for extradition between the United States and Jordan. It also provides a legal basis for temporarily surrendering prisoners to stand trial for crimes against the laws of the Requesting State.

The Treaty [*2] further represents an important step in combatting terrorism by excluding from the scope of the political offense exception serious offenses typically committed by

terrorists, e.g., crimes against a Head of State or first family member of either Party, aircraft hijacking, aircraft sabotage, crimes against internationally protected persons, including diplomats, hostage-taking, narcotics trafficking, and other offenses for which the United States and Jordan have an obligation to extradite or submit to prosecution by reason of a multilateral international agreement or treaty.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States.

This Treaty will make a significant contribution to international cooperation in law enforcement. I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,

Washington, March 31, 1995.

The PRESIDENT,

The White House.

THE PRESIDENT: I have the honor to submit to you the Extradition Treaty between the Government of the United States of America [*3] and the Government of the Hashemite Kingdom of Jordan (the "Treaty"), signed at Washington on March 28, 1995. I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty follows generally the form and content of extradition treaties recently concluded by the United States. It represents a concerted effort by the Department of State and the Department of Justice to modernize the legal tools available for the extradition of serious offenders such as narcotics traffickers and terrorists. This will be the first extradition treaty between the United States and Jordan.

Article 1 obligates each Party to extradite to the other, pursuant to the provisions of the Treaty, any person charged with or found guilty of an offense described in Article 2.

In Article 2, the Parties agree that an offense punishable by both parties by deprivation of liberty or other form of detention for more than one year, or by a more severe penalty shall be extraditable. The Article also provides that attempts and conspiracies to commit these offenses, and participation in the commission of the offenses, are extraditable. Inclusion of a dual criminality clause without [*4] a list of offenses covered by the Treaty obviates the need to renegotiate or supplement the Treaty as offenses become punishable under the laws of both parties. Among other things, the Article further provides that in determining whether an

offense is covered under the Treaty, the offense shall be considered an extraditable offense whether or not the laws in the Contracting Parties place the offenses within the same category of offenses or describe the offense by the same terminology. With regard to offenses committed outside the territory of the Requesting State, an offense described in this Article shall be an extraditable offense regardless of where the act or acts constituting the offense were committed.

Article 3 provides that extradition shall not be refused based on the nationality of the person sought.

Article 4 incorporates a political offense exception to the obligation to extradite. Article 4(1) states generally that extradition shall not be granted for political offenses. Article 4(2) expressly excludes from the reach of the political offense exception several categories of offenses:

(i) a murder or other violent crime against the person of a Head of State of one of [*5] the Contracting States, or of a member of the Head of State's family;

(ii) an offense for which both Parties are obliged pursuant to a multilateral international agreement to extradite the person sought or submit the case for prosecution (e.g., aircraft hijacking pursuant to The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague December 16, 1970, and entered into force October 14, 1971 (22 U.S.T. 1641; TIAS 7192); aircraft sabotage pursuant to the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal September 23, 1971, and entered into force January 26, 1973, (24 U.S.T. 564; TIAS No. 7570) and the Protocol for the Suppression of Unlawful Acts of Violence at Airports serving International Civil Aviation, done at Montreal February 24, 1988; crimes against internationally protected persons, including diplomats, under the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, done at New York December 14, 1973, and entered into force February 20, 1977 (28 U.S.T. 1975; [*6] TIAS No. 8532); hostage taking, pursuant to the International Convention against the Taking of Hostages, done at New York on December 17, 1979, and entered into force June 3, 1983, and for the United States January 6, 1985 (TIAS No. 11081); and narcotics trafficking under the United Nations Convention Against Illicit Traffic in Narcotics Drugs and Psychotropic Substances, done at Vienna December 20, 1988, which entered into force November 11, 1990;

(iii) a conspiracy or attempt to commit the offenses described above, or participation in the commission of those offenses.

Article 4(3) provides that extradition shall not be granted if the "competent authority" of the Requested State (for the United States, the Secretary of State) determines that the request was politically motivated. Article 4(4) provides that the executive authority of the Requested State can refuse extradition for offenses under military law which are not offenses under ordinary criminal law.

Article 5 bars extradition when the person sought has been convicted or acquitted in the Requested State for the same offense, but does not bar extradition if the competent authorities in the Requested State have declined to [*7] prosecute or have decided to discontinue criminal proceedings.

Article 6 provides that the decision whether to grant a request for extradition shall be made without regard to provisions of the law of either Contracting State concerning lapse of time.

Under Article 7, when an offense for which surrender is sought is punishable by death under the laws of the Requesting State and is not so punishable under the laws of the Requested State, the Requested State may refuse extradition unless the Requesting State provides assurances that the death penalty will not be imposed or, if imposed, will not be carried out.

Article 8-10 address the procedures by which extradition is to be accomplished. Article 8 describes the documents that are required to support a request for extradition. Article 9 establishes the procedures under which documents submitted pursuant to Article 8 shall be received and admitted into evidence in the Requested Party. Article 10 provides that all documents submitted by the Requesting State shall be translated into the language of the Requested State.

Article 11 provides for the provisional arrest and detention of the person sought for no more than ninety days pending [*8] receipt by the competent authority of the Requested State of a fully documented extradition request in conformity with Article 8. The discharge of the person sought from custody pursuant to this Article explicitly does not prejudice subsequent rearrest and extradition upon later delivery of the extradition request and supporting documents.

Article 12 specifies the procedures to govern the surrender and return of fugitives. The Requested State is required to notify promptly the Requesting State of its decision on extradition and, if the request is denied in whole or in part, to provide an explanation. If the request is granted, the person sought must be removed from the territory of the Requested State within the time prescribed by the law of the Requested State.

Article 13 provides that if a person is being prosecuted or is serving a sentence in the Requested State for a different offense, that State may (a) temporarily surrender the person to the Requesting State solely for the purpose of prosecution, or (b) defer surrender until the proceedings are concluded and the sentence served.

Article 14 sets forth a non-exhaustive list of factors to be considered by the Requested State in [*9] determining to which State to surrender a person sought by more than one State.

Article 15 provides, to the extent permitted under the law of the Requested State, for that State to seize and surrender to the Requesting State property related to the offense for which extradition is requested. This obligation, however, is subject to an obligation to duly respect the rights of third parties.

Article 16 sets forth the rule of speciality for this treaty. It provides, subject to specific exceptions, that a person extradited under the Treaty may not be detained, tried, or punished for an offense other than that for which extradition has been granted, unless a waiver of the rule is granted by the competent authority of the Requested State or unless the person extradited fails to leave the Requesting State within ten days of being free to do so or, having left the Requesting State, voluntarily returns to it. Similarly the Requesting State may not surrender or transfer such person to a third State for an offense committed prior to his extradition under this Treaty, unless the Requested State consents or unless the individual remains after ten days or leaves and voluntarily returns.

Article 17 [*10] permits surrender without further proceedings if the person sought gives his consent.

Article 18 governs the transit through the territory of one party of a person being surrendered to the other State by a third State.

Article 19 contains provisions on representation and expenses that are similar to those found in other modern extradition treaties. Specifically, the Requested State bears the expenses for the legal representation of the Requesting State in any proceedings arising out of a request for extradition. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. Article 19(3) clarifies that neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under the Treaty.

Article 20 states that the U.S. Department of Justice and the Jordanian Ministry of Justice may consult with each other directly or through the facilities of the international Criminal Police Organization (INTERPOL) in connection with the processing of individual cases and in furtherance of maintaining and improving the procedures for the implementation [*11] of the Treaty.

Article 21, like the parallel provision in almost all recent United States extradition treaties, states that the Treaty is retroactive, in that it shall apply to offenses committed before as well as after the date the Treaty enters into force.

Article 22 provides that for the United States, the term "competent authority," as used in this Treaty, means the appropriate authorities of its executive branch.

Article 23 contains final clauses dealing with the Treaty's entry into force and termination. Paragraph 1 states that the Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged as soon as possible. Paragraph 2 states that the Treaty shall enter into force upon the exchange of instruments of ratification.

Article 24 provides that either Contracting State may terminate this Treaty at any time by giving written notice through diplomatic channels to the other Contracting State, and the termination shall be effective six months after the date of the receipt of such notice.

A Technical Analysis explaining in detail the provisions of the Treaty is being prepared by the United States negotiating delegation and will be submitted separately [*12] to the Senate Committee on Foreign Relations.

The Department of Justice joins the Department of State in favoring approval of this Treaty by the Senate at an early date.

Respectfully submitted,

WARREN CHRISTOPHER.

EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE HASHEMITE KINGDOM OF JORDAN

The Government of the United States of America and the Government of the Hashemite Kingdom of Jordan,

Desiring to provide for more effective cooperation between the two States in the suppression of crime and the pursuit of offenders, and to facilitate relations between the two States in the area of extradition by concluding a treaty for the extradition of offenders,

Have agreed as follows:

Article 1

Obligation to Extradite

The Contracting States shall extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with or found guilty of an extraditable offense.

Article 2

Extraditable Offenses

1. An offense shall be an extraditable offense if it is punishable under the laws in both Contracting States by deprivation of liberty for a period of more than one year or by a more severe [*13] penalty.
2. An offense shall also be an extraditable offense if it consists of an attempt or a conspiracy to commit, or participation in the commission of, an offense described in paragraph 1.
3. For the purposes of this Article, an offense shall be an extraditable offense:

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

(b) whether or not the offense is one for which United States federal law requires the showing of such matters as 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 in a United States federal court.

4. An offense described in this Article shall be an extraditable offense regardless of where the act or acts constituting the offense were committed.

5. If extradition has been granted for an extraditable offense, it shall also be granted for any other offense specified in the request even if the latter offense is punishable by deprivation of liberty for one year or less, provided that all other requirements for [*14] extradition are met.

Article 3

Nationality

If all conditions in this Treaty relating to extradition are met, extradition shall not be refused based on the nationality of the person sought.

Article 4

Political and Military Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense.

2. For the purposes of this Treaty, the following offenses shall not be considered to be political offenses:

(a) a murder or other violent crime against the person of a Head of State of one of the Contracting States, or of a member of the Head of State's family;

(b) an offense for which both Contracting States have the obligation pursuant to a multilateral international agreement or treaty to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution; and

(c) a conspiracy or attempt to commit, or participation in, any of the foregoing offenses.

3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the competent authority of the Requested State determines that the request was politically motivated.

4. The competent authority of the Requested [*15] State may refuse extradition for offenses under military law which are not offenses under ordinary criminal law.

Article 5

Prior Prosecution

1. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offense for which extradition is requested.

2. Extradition shall not be precluded by the fact that the authorities in the Requested State have decided not to prosecute the person sought for the acts for which extradition is requested, or to discontinue any proceedings which have been instituted against the person sought for those acts.

Article 6

Lapse of Time

The decision whether to grant the request for extradition shall be made without regard to provisions of the law of either Contracting State concerning lapse of time.

Article 7

Capital Punishment

When the offense for which extradition is sought is punishable by death under the laws in the Requesting State and is not punishable by death under the laws in the Requested State, the Requested State may refuse extradition unless the Requesting State provides such assurances as the Requested State considers sufficient that the death penalty, if imposed, shall not be carried [*16] out.

In cases in which a Requesting State provides an assurance in accordance with this Article, the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

Article 8

Extradition Procedures and Required Documents

1. All requests for extradition shall be submitted through the diplomatic channel.

2. All requests shall contain:

(a) documents, statements, photographs (if possible), or other types of information which describe the identity, nationality, and probable location of the person sought;

- (b) information describing the facts of the offense and the procedural history of the case;
- (c) the text of the law describing the essential elements of the offense for which extradition is requested;
- (d) the text of the law prescribing the punishment for the offense; and
- (e) the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.

3. A request for extradition of a person who is sought for prosecution shall also contain:

- (a) a copy of the warrant or order of arrest issued by a judge or other competent authority;
- (b) a copy of the charging documents; and
- (c) such [*17] information as would provide a reasonable basis to believe that the person sought committed the offense for which extradition is requested.

4. A request for extradition relating to a person who has been found guilty of the offense for which extradition is sought shall also contain:

- (a) a copy of the judgment of conviction or, if such copy is not available, a statement by a judicial authority that the person has been found guilty;
- (b) information establishing that the person sought is the person to whom the finding of guilt refers;
- (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 found guilty in absentia, the documents required in paragraph 3.

Article 9

Admissibility of Documents

The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if:

- (a) they are certified by the principal diplomatic or consular officer of the Requested State resident in the Requesting State; or
- (b) they are certified or authenticated in any other manner accepted by the law [*18] of the Requested State.

Article 10

Translation

All documents submitted by the Requesting State shall be translated into the language of the Requested State.

Article 11

Provisional Arrest

1. In case of urgency, either Contracting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the Department of Justice in the United States and the Ministry of Justice in the Hashemite Kingdom of Jordan. The facilities of the International Criminal Police Organization (INTERPOL) may be used to transmit such a request.

2. The application for provisional arrest shall contain:

(a) a description of the person sought (including a photograph, if possible) and information concerning the person's nationality;

(b) the location of the person sought, if known;

(c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;

(d) a statement of the laws violated;

(e) a statement of the existence of a warrant of arrest or a finding of guilt or judgment of conviction against the person [*19] sought; and

(f) a statement that a request for extradition for the person sought will follow.

3. The Requesting State shall be notified without delay of the disposition of its application and the reasons for denial, if the request is denied.

4. A person who is provisionally arrested shall be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the competent authority of the Requested State has not received the formal request for extradition and the supporting documents required in Article 8. This period may be extended, upon application of the Requesting State, for up to an additional thirty (30) days.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4

of this Article shall not prejudice the subsequent rearrest and extradition of that person if the Requested State receives the extradition request and supporting documents at a later date.

Article 12

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State of its decision on the request for extradition.
2. If the request is denied in whole or in part, the Requested State shall [*20] provide an explanation of the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.
3. If the request for extradition is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.
4. If the person sought is not removed from the territory of the Requested State within the time prescribed by the law of that State, that person may be discharged from custody, and the Requested State may subsequently refuse extradition for the same offense.

Article 13

Temporary and Deferred Surrender

1. If the extradition request is granted in the case of a person who is being proceeded against or is serving a sentence in the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody 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 agreement of the Contracting States.
2. The Requested State may postpone the extradition [*21] proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

Article 14

Requests for Extradition Made by Several States

If the Requested State receives requests from the other Contracting State and from any other State or States for the extradition of the same person, either for the same offense or for different offenses, the competent authority of the Requested State shall determine to which State it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including but not limited to:

- (a) whether the requests were made pursuant to treaty;
- (b) the place where each offense was committed;
- (c) the respective interests of the Requesting States;
- (d) the gravity of the offenses;
- (e) the nationality of the victim;
- (f) the possibility of further extradition between the Requesting States; and
- (g) the chronological order in which the Requesting States sought extradition.

Article 15

Seizure and Surrender of Property

1. To the extent permitted [*22] under its law, the Requested State may seize and surrender to the Requesting State all articles, documents, and evidence connected with the offense in respect of which extradition is granted. The items mentioned in this Article may be surrendered even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.
2. The Requested State may condition the surrender of the property upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such property if it is needed as evidence in the Requested State.
3. The rights of third parties in such property shall be duly respected.

Article 16

Rule of Speciality

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:
 - (a) the offense for which extradition has been granted or a differently denominated offense based on the same facts on which extradition was granted, provided such offense is extraditable, or is a lesser included offense;
 - (b) an offense committed after the extradition of the person; or [*23]
 - (c) an offense for which the competent authority of the Requested State consents to the

person's detention, trial, or punishment. For the purpose of this subparagraph:

(i) the Requested State may require the submission of the documents called for in Article 8; and

(ii) the person extradited may be detained by the Requesting State for 90 days, or for such longer period of time as the Requested State may permit, while the request is being processed.

2. A person extradited under this Treaty may not be extradited to a third State for an offense committed prior to his extradition under this Treaty, unless the Contracting State which has extradited him consents to extradition to the third State.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to a third State, if:

(a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or

(b) that person does not leave the territory of the Requesting State within 10 days of the day on which that person is free to leave.

Article 17

Waiver of Extradition

If the person sought consents [*24] to surrender to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings under this Treaty.

Article 18

Transit

1. Either Contracting State may authorize transportation through its territory of a person surrendered to the other State by a third State. A request for transit shall be transmitted through the diplomatic channel or directly between the Department of Justice in the United States and the Ministry of Justice in the Hashemite Kingdom of Jordan. The facilities of the International Criminal Police Organization (INTERPOL) may also be used to transmit such a request. The request shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.

2. No authorization is required where air transportation is used by one Contracting State and no landing is scheduled on the territory of the other Contracting State. If an unscheduled landing occurs on the territory of the other Contracting State, that Contracting State may

require the request for transit as provided in paragraph 1. That Contracting State [*25] shall detain the person to be transported until the request for transit is received and the transit is effected, so long as the request is received within 96 hours of the unscheduled landing.

Article 19

Representation and Expenses

1. The Requested State shall advise, assist, appear in court on behalf of the Requesting State, and represent the interests of the Requesting State, in any proceedings arising out of a request for extradition.
2. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition proceedings.
3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under this Treaty.

Article 20

Consultation

The Department of Justice in the United States and the Ministry of Justice in the Hashemite Kingdom of Jordan may consult with each other directly, or through the facilities of the International Criminal Police Organization (INTERPOL), in connection with the processing of individual cases and in furtherance [*26] of maintaining and improving procedures for the implementation of this Treaty.

Article 21

Application

This Treaty shall apply to offenses committed before as well as after the date it enters into force.

Article 22

Definition

For the United States, the term "competent authority," as used in this Treaty, means the appropriate authorities of its executive branch.

Article 23

Ratification and Entry into Force

1. This Treaty shall be subject to ratification after each Contracting State has completed its internal legal processes. The instruments of ratification shall be exchanged at Washington as soon as possible.

2. This Treaty shall enter into force upon the exchange of the instruments of ratification.

Article 24

Termination

Either Contracting State may terminate this Treaty at any time by giving written notice through diplomatic channels to the other Contracting State, and the termination shall be effective six months after the date of the receipt of such notice.

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

DONE in duplicate at Washington, this 28th day of March, 1995, in the English and Arabic languages, both [*27] texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE HASHEMITE KINGDOM OF JORDAN: