

TREATY OF EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND EL SALVADOR

TEXT:

The United States of America and the Republic of El Salvador having judged it expedient, with a view to the better administration of justice and the prevention of crime within their respective territories and jurisdictions, that persons charged with or convicted of the crimes and offenses hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a treaty for that purpose, and have appointed as their plenipotentiaries--

The President of the United States of America, William Heimke, Envoy Extraordinary and Minister Plenipotentiary of said United States, at San Salvador, and the President of the Republic of El Salvador, Don Manuel Castro Ramirez, Under Secretary of State in the Department [2] of Foreign Relations, who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

It is agreed that the Government of the United States and the Government of El Salvador shall, upon mutual requisition duly made as herein provided, deliver up to justice any person who may be charged with, or may have been convicted of any of the crimes specified in Article II of this Treaty committed within the jurisdiction of one of the Contracting Parties, who shall seek an asylum or shall be found within the territories of the other, provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed.

ARTICLE II

Persons shall be delivered up according to the provisions of this Treaty, who shall have been charged with or convicted of any of the following crimes:

1. Murder, comprehending the crimes designated by the terms of parricide, assassination, manslaughter when voluntary; [3] poisoning or infanticide.
2. The attempt to commit murder.
3. Rape, abortion, carnal knowledge of children under the age of twelve years.
4. Mayhem and other wilful mutilation causing disability or death.
5. Bigamy.
6. Arson.
7. Wilful and unlawful destruction or obstruction of railroads, which endangers human life.

8. Crimes committed at sea:

- (a) Piracy, as commonly known and defined by the law of Nations, or by Statute;
- (b) Wrongfully sinking or destroying a vessel at sea or attempting to do so;
- (c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the Captain or Commander of such vessel, or by fraud or violence taking possession of such vessel;
- (d) Assault on board ships upon the high seas with intent to do bodily harm.

9. Burglary, defined to be the act of breaking into and entering the house of another in the night time with intent to commit a felony therein.

10. The act of breaking into and entering the offices of the Government and public authorities, or the offices of banks, banking houses, savings banks, trust companies, insurance companies, or other buildings [4] not dwellings, with intent to commit a felony therein.

11. Robbery, defined to be the act of feloniously and forcibly taking from the person of another, goods or money by violence or by putting him in fear.

12. Forgery or the utterance of forged papers.

13. The forgery or falsification of the official acts of the Government or public authority, including Courts of Justice, or the uttering or fraudulent use of any of the same.

14. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by National, State, Provincial, Territorial, Local or Municipal Governments, banknotes or other instruments of public credit, counterfeit seals, stamps, dies and marks of State or public administrations, and the utterance, circulation or fraudulent use of the above mentioned objects.

15. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars (or Salvadorean equivalent).

16. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, when the crime or offence [5] is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars (or the Salvadorean equivalent).

17. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them or their families, or for any other unlawful end.

18. Larceny, defined to be the theft of effects, personal property, horses, cattle, or live stock, or money, of the value of twenty-five dollars (or Salvadorean equivalent) or more, or receiving stolen property, of that value, knowing it to be stolen.

19. Obtaining money, valuable securities or other property by false pretences or receiving any

money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars (or Salvadorean equivalent).

20. Perjury or subornation of perjury.

21. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any Company or Corporation, or by any one in any fiduciary position, where the amount [6] of money or the value of the property misappropriated exceeds two hundred dollars (or Salvadorean equivalent).

22. Crimes and offences against the laws of both countries for the suppression of slavery and slave trading.

23. The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by imprisonment by the laws of both Contracting Parties.

ARTICLE III

The provisions of this Treaty shall not import claim of extradition for any crime or offence of a political character, nor for acts connected with such crimes or offences; and no person surrendered by or to either of the Contracting Parties in virtue of this Treaty shall be tried or punished for a political crime or offence. When the offence charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offence was committed or attempted against the life of the Sovereign or Head of a foreign State, or against the life of any member of his family, shall not be deemed sufficient to sustain that such a crime or offence was of a political character, or was an act connected [7] with crimes or offences of a political character.

If any question shall arise as to whether a case comes within the provisions of this Article, the decisions of the authorities of the Government on which the demand for surrender is made, or which may have granted the extradition shall be final.

ARTICLE IV

No person shall be tried or punished for any crime or offence other than that for which he was surrendered without the consent of the Government which surrendered him, which may, if it think proper, require the production of one of the documents mentioned in Article XI of this Treaty.

ARTICLE V

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the crime was committed, the criminal is exempt from prosecution or punishment for the offence for which the surrender is asked.

ARTICLE VI

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail or in custody, for a crime or offence committed in the country where he has sought asylum, or shall have been convicted thereof, his [8] extradition may be deferred until such proceedings be determined, and, until he shall have been set at liberty in due course of law.

ARTICLE VII

If a fugitive criminal claimed by one of the parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to that State whose demand is first received.

ARTICLE VIII

Under the stipulations of this Treaty, neither of the Contracting Parties shall be bound to deliver up its own

citizens. ARTICLE IX

The expense of the arrest, detention, examination and transportation of the accused shall be paid by the Government which has preferred the demand for extradition.

ARTICLE X

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offence, or which may be material as evidence in making proof of the crime, shall, so far as practicable, according to the laws of either of the Contracting Parties, be delivered up with his person at the time of the surrender. Nevertheless the rights of a third party with regard to the articles aforesaid shall be duly respected. [9]

ARTICLE XI

The stipulations of this Treaty shall be applicable to all territory wherever situated, belonging to either of the Contracting Parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the Contracting Parties. In the event of the absence of such Agents from the country or its seat of Government, requisition may be made by superior Consular officers.

It shall be competent for such Diplomatic or superior Consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made under oath, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper [10] executive authority, that a warrant may issue for the surrender of the fugitive.

The extradition of fugitives under the provisions of this Treaty shall be carried out in the United States and in the Republic of El Salvador, respectively, in conformity with the laws regulating extradition for the time being in force in the State in which the request for the surrender is made.

ARTICLE XII

Where the arrest and detention of a fugitive in the United States are desired on telegraphic or other information in advance of the presentation of formal proof, complaint on oath, as provided by the statutes of the United States, shall be made by an agent of the Government of El Salvador before a judge or magistrate authorized to issue warrants of arrest in extradition cases.

When, under the provisions of this Article, the arrest and detention of a fugitive are desired in the Republic of El Salvador, the proper course shall be to apply to the Foreign Office, which will immediately cause the necessary steps to be taken in order to secure the provisional arrest or detention of the fugitive.

The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his [11] surrender accompanied by the necessary evidence of his guilt has not been produced under the stipulations of this Treaty, within two months from the date of his provisional arrest or detention.

ARTICLE XIII

In every case of a request made by either of the two Contracting Parties for the arrest, detention or extradition of fugitive criminals, the legal officers or fiscal ministry of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their or its power; and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition, provided however, that any officer or officers of the surrendering Government so giving assistance, who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed [12] in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XIV

The conveyance through the territories of either of the High Contracting Parties of any person, not being a citizen of the country to be passed through, extradited by a third Power to either of them for any of the crimes specified in this Treaty, will be permitted if, in the case of the United States, the authority of the Secretary of State and, in that of El Salvador, that of the Minister for Foreign Relations, is first obtained.

ARTICLE XV

This Treaty shall take effect from the day of the exchange of the ratifications thereof; but

either Contracting Party may at any time terminate the same on giving to the other six months' notice of its intention to do so. The ratifications of the present Treaty shall be exchanged at San Salvador or at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the above Articles, and have hereunto affixed their seals. Done in duplicate, at the City of San Salvador, this eighteenth day of April, one thousand nine hundred and eleven.

SIGNATORIES:

WILLIAM HEIMKE

[EAL]

M. CASTRO R.

[EAL]