

TREATY ON EXTRADITION BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE KINGDOM OF SPAIN

The Republic of the Philippines and the Kingdom of Spain, hereinafter referred to as Contracting Parties;

Desiring to make more effective the cooperation of the two countries in the suppression of crime by concluding a treaty on extradition,

Have agreed as follows:

ARTICLE 1 OBLIGATION TO EXTRADITE

The Contracting Parties agree to extradite to each other, in accordance with the provisions of this Treaty, any person who is wanted for prosecution, imposition or enforcement of a sentence in the Requesting State for an extraditable offence.

ARTICLE 2 EXTRADITABLE OFFENCES

1. For the purpose of this Treaty, extradition shall be granted for acts or omissions which are punishable under the laws of both Contracting Parties by imprisonment or other deprivation of liberty for a maximum period of at least one year or by a more severe penalty. Where the request for extradition relates to a person convicted of such an offence who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty, extradition shall be granted only if a period of at least six months of the penalty remains to be served.

2. For the purpose of this Article:

a) it shall not matter whether the laws of the Contracting Parties place the acts or omissions constituting the offence within the same category of offences or denominate the offence by different terminology; and

b) the totality of the acts or omissions alleged against the person whose extradition is requested shall be taken into account in determining the constituent elements of the offence in the Requested State.

3. Subject to paragraph 1, an offence of a fiscal character is an extraditable offence.

4. If the request for extradition relates to a number of offences, each of which is punishable under the laws of both Contracting Parties, but some of which do not meet the other requirements of paragraph 1, the Requested State may also grant extradition for such offences.

ARTICLE 3 MANDATORY REFUSAL OF EXTRADITION

1. Extradition shall not be granted in any of the following circumstances:

- a) when the offence for which extradition is requested is considered by the Requested State to be a political offence;
- b) when there are substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality or political beliefs;
- c) when the offence for which extradition is requested is an offence under military law, which is not an offence under the ordinary criminal law of the Contracting Parties;
- d) when final judgment has been passed in the Requested State in respect of the offence for which the person's extradition is requested; or
- e) when the prosecution or the enforcement of the sentence for the offence identified in the request for extradition would be barred by lapse of time or by any other reason under the law of the Requested State.

2. For the purpose of paragraph 1 of this Article, political offence shall not include:

- a) the taking or attempted taking of the life of a Head of State or Head of Government or a member of his or her family;
- b) an offence for which either of the Contracting Parties has the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to its competent authorities for the purpose of prosecution;
- c) murder, manslaughter or other intentional homicide, malicious wounding or inflicting grievous bodily harm;
- d) an offence involving kidnapping, abduction, or any form of unlawful detention, including the taking of a hostage;
- e) an offence involving the placing or use of automatic firearms, explosives, incendiaries or destructive devices or substance capable of endangering life or of causing grievous bodily harm or substantial property damage;
- f) any offence related to terrorism; and
- g) the attempt or conspiracy to commit any of the above offences, or involvement as accomplice of a person who commits or attempts to commit any of the above crimes.

ARTICLE 4

DISCRETIONARY REFUSAL OF EXTRADITION

1. Extradition may be refused in any of the following circumstances:

- a) when a person whose extradition is requested is a national of the Requested State;
- b) when the Requested State, while also taking into account the nature of the offence and the interests of the Requesting State, 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;

c) when the courts of the Requested State have jurisdiction to prosecute the person for the offence for which extradition is requested;

d) when the offence was committed outside the territory of the Requesting State and the law of the Requested State does not, in corresponding circumstances, provide for the same jurisdiction.

2. When the Requested State refuses to extradite a national of that State, it shall submit the case to its competent authorities in order that appropriate proceedings may be taken. 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 any action taken.

ARTICLE 5

CAPITAL PUNISHMENT AND LIFE IMPRISONMENT

If the offence for which extradition is requested is punishable by death or life imprisonment under the law of the Requesting State, and if in respect of such offence the death penalty or life imprisonment is not provided for by the law of the Requested State or is not normally carried out, extradition shall be refused unless the Requesting State gives such assurances as the Requested State considers sufficient, that the death penalty or life imprisonment will not be carried out.

ARTICLE 6

TEMPORARY AND DEFERRED SURRENDER

1. 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, 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 between the Contracting Parties.

2. The Requested State may postpone the extradition 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 7

PRESENTATION OF A REQUEST AND DOCUMENTS TO BE SUBMITTED

1. Requests for extradition and all other documents shall be sent through diplomatic channels.

2. In all cases, the following documents shall be submitted in support of a request for extradition:

a) information about the description, identity, location and nationality of the person sought; and

b) a document from the judicial authorities or from the relevant Ministry or other agencies concerning the circumstances of the acts or omissions constituting each offence for which extradition is requested, including the place and date of the commission of the offence, the nature of the offence, the applicable legal provision, and any provision describing any time limit on the prosecution or the execution of punishment for the offence. A copy of the text of such legal provisions shall be appended.

3. In the case of a person accused of an offence, the request shall be accompanied by the original or a certified true copy of the warrant of arrest and the criminal charge issued in the Requesting State.

4. In the case of a person sought for the enforcement of a sentence, the request shall be accompanied by:

a) the original or a certified true copy of the judgment or document setting out the conviction and sentence to be served; and

b) if a portion of the sentence has already been served, a written statement by a competent authority specifying the portion of the sentence which remains to be served.

5. All documents submitted in support of a request for extradition, which have been certified, signed or issued by a judicial or other competent authority of the Requesting State, shall be admitted in extradition proceedings in the Requested State without proof of the signature or of the official character of the person having signed them.

ARTICLE 8

ADDITIONAL INFORMATION

If the Requested State considers that the information provided in support of the request for the extradition of a person is not sufficient to fulfill the requirements of this Treaty, that State may request that additional information be provided within such time as it specifies.

ARTICLE 9

PROVISIONAL ARREST

1. In case of urgency, the Requesting State may apply in writing to the competent authorities of the Requested State, through the International Criminal Police Organization (INTERPOL) or through diplomatic channels, for the provisional arrest of the person sought pending the presentation of the formal request for extradition.

2. The application for provisional arrest shall be accompanied by a copy of the court decision or warrant of arrest, a description of the offence, when and where it was committed and the details of the identity of the person sought; and shall contain a statement that an extradition request will be made subsequently.

3. Upon receipt of such an application for provisional arrest, the Requested State shall take the necessary steps to secure the arrest of the person sought and the Requesting State shall be promptly notified of the result of its application.

4. A person arrested upon such application shall be released from custody upon the expiration of sixty days from the date of that person's arrest if a request for that