

No. 30597

MULTILATERAL

**Inter-American Convention on extradition. Concluded at
Caracas on 25 February 1981**

Authentic texts: Spanish, English, Portuguese and French.

Registered by the Organization of American States on 7 December 1993.

MULTILATÉRAL

**Convention interaméricaine sur l'extradition. Conclue à
Caracas le 25 février 1981**

Textes authentiques : espagnol, anglais, portugais et français.

Enregistrée par l'Organisation des Etats américains le 7 décembre 1993.

INTER-AMERICAN CONVENTION¹ ON EXTRADITION

Reaffirming their goal of strengthening international cooperation in legal and criminal law matters, which was the inspiration for the agreements reached in Lima on March 27, 1879, in Montevideo on January 23, 1889, in Mexico City on January 28, 1902, in Washington on February 7, 1923, in Havana on February 20, 1928, in Montevideo on December 26, 1933, in Guatemala City on April 12, 1934, and in Montevideo on March 19, 1940;

Taking into consideration resolutions CVII of the Tenth Inter-American Conference (Caracas, 1954), VII of the Third Meeting of the Inter-American Council of Jurists (Mexico, 1956), IV of the Fourth Meeting of that Council (Santiago, Chile, 1959), and AG/RES.91 (II-0/72), 183 (V-0/75) and 310 (VII-0/77) of the General Assembly of the Organization of American States, as well as the draft Conventions proposed by the Inter-American Juridical Committee in 1954, 1957, 1973, and 1977;

Believing that the close ties and the cooperation that exist in the Americas call for the extension of extradition to ensure that crime does not go unpunished, and to simplify procedures and promote mutual assistance in the field of criminal law on a wider scale than provided for by the treaties in force, with due respect to the human rights embodied in the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights;² and

Conscious that the fight against crime at the international level will enhance the fundamental value of justice in criminal law matters,

The Member States of the Organization of American States

ADOPT THE FOLLOWING INTER-AMERICAN CONVENTION ON EXTRADITION

Article 1

Obligation to Extradite

The States Parties bind themselves, in accordance with the provisions of this Convention, to surrender to other States Parties that request their extradition persons who are judicially required for prosecution, are being tried, have been convicted or have been sentenced to a penalty involving deprivation of liberty.

¹ Came into force on 28 March 1992, i.e., the thirtieth day following the date of deposit with the General Secretariat of the Organization of American States of the second instrument of ratification, in accordance with article 31 (1):

<i>Participant</i>	<i>Date of deposit of the instrument of ratification</i>
Venezuela	4 October 1982
Panama	28 February 1992

² United Nations, *Official Records of the General Assembly, Third Session, Part I*, p. 71.

Article 2

Jurisdiction

1. For extradition to be granted, the offense that gave rise to the request for extradition must have been committed in the territory of the requesting State.

2. When the offense for which extradition is requested has been committed outside the territory of the requesting State, extradition shall be granted provided the requesting State has jurisdiction to try the offense that gave rise to the request for extradition and to pronounce judgment thereon.

3. The requested State may deny extradition when it is competent, according to its own legislation, to prosecute the person whose extradition is sought for the offense on which the request is based. If it denies extradition for this reason, the requested State shall submit the case to its competent authorities and inform the requesting State of the result.

Article 3

Extraditable Offenses

1. For extradition to be granted, the offense for which the person is sought shall be punishable at the time of its commission, by reason of the acts that constitute it, disregarding extenuating circumstances and the denomination of the offense, by a penalty of not less than two years of deprivation of liberty under the laws of both the requesting State and the requested State. Where the principle of retroactivity of penal law exists, it shall be applied only when it is favorable to the offender.

2. If the extradition is to be carried out between States whose laws establish minimum and maximum penalties, the offense for which extradition is requested shall be punishable, under the laws of the requesting and the requested States, by an average penalty of at least two years of deprivation of liberty. Average penalty is understood to be one-half of the sum of the minimum and maximum terms of each penalty of deprivation of liberty.

3. Where the extradition of an offender is requested for the execution of a sentence involving deprivation of liberty, the duration of the sentence still to be served must be at least six months.

4. In determining whether extradition should be granted to a State having a federal form of government and separate federal and state criminal legislation, the requested State shall take into consideration only the essential elements of the offense and shall disregard elements such as interstate transportation or use of the mails or other facilities of interstate commerce, since the sole purpose of such elements is to establish the jurisdiction of the federal courts of the requesting State.

Article 4

Grounds for Denying Extradition

Extradition shall not be granted:

1. When the person sought has completed his punishment or has been granted amnesty, pardon or grace for the offense for which extradition is sought, or when he has been acquitted or the case against him for the same offense has been dismissed with prejudice.

2. When the prosecution or punishment is barred by the statute of limitations according to the laws of the requesting State or the requested State prior to the presentation of the request for extradition.

3. When the person sought has been tried or sentenced or is to be tried before an extraordinary or ad hoc tribunal of the requesting State.

4. When, as determined by the requested State, the offense for which the person is sought is a political offense, an offense related thereto, or an ordinary criminal offense prosecuted for political reasons. The requested State may decide that the fact that the victim of the punishable act in question performed political functions does not in itself justify the designation of the offense as political.

5. When, from the circumstances of the case, it can be inferred that persecution for reasons of race, religion or nationality is involved, or that the position of the person sought may be prejudiced for any of these reasons.

6. With respect to offenses that in the requested State cannot be prosecuted unless a complaint or charge has been made by a party having a legitimate interest.

Article 5

Specific Offenses

No provision of this Convention shall preclude extradition regulated by a treaty or Convention in force between the requesting State and the requested State whose purpose is to prevent or repress a specific category of offenses and which imposes on such States an obligation to either prosecute or extradite the person sought.

Article 6

Right of Asylum

No provision of this Convention may be interpreted as a limitation on the right of asylum when its exercise is appropriate.

Article 7

Nationality

1. The nationality of the person sought may not be invoked as a ground for denying extradition, except when the law of the requested State otherwise provides.

2. In the case of convicted persons, the States Parties may negotiate the mutual surrender of nationals so that they may serve their sentences in the States of which they are nationals.

Article 8

Prosecution by the Requested State

If, when extradition is applicable, a State does not deliver the person sought, the requested State shall, when its laws or other treaties so permit, be obligated to prosecute him for the offense with which he is charged, just as if it had been committed within its territory, and shall inform the requesting State of the judgment handed down.

Article 9

Penalties Excluded

The States Parties shall not grant extradition when the offense in question is punishable in the requesting State by the death penalty, by life imprisonment, or by degrading punishment, unless the requested State has previously obtained from the requesting State, through the diplomatic channel, sufficient assurances that none of the above-mentioned penalties will be imposed on the person sought or that, if such penalties are imposed, they will not be enforced.

Article 10

Transmission of Request

The request for extradition shall be made by the diplomatic agent of the requesting State, or, if none is present, by its consular officer, or, when appropriate, by the diplomatic agent of a third State to which is entrusted, with the consent of the government of the requested State, the representation and protection of the interests of the requesting State. The request may also be made directly from government to government, in accordance with such procedure as the governments concerned may agree upon.