

No. 50002

**Canada
and
Italy**

Treaty between the Government of Canada and the Government of the Italian Republic concerning extradition. Rome, 13 January 2005

Entry into force: *17 November 2010, in accordance with article XXII*

Authentic texts: *English, French and Italian*

Registration with the Secretariat of the United Nations: *Canada, 13 August 2012*

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Traité d'extradition entre le Gouvernement du Canada et le Gouvernement de la République italienne. Rome, 13 janvier 2005

Entrée en vigueur : *17 novembre 2010, conformément à l'article XXII*

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Enregistrement auprès du Secrétariat des Nations Unies : *Canada, 13 août 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

TREATY
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE ITALIAN REPUBLIC
CONCERNING EXTRADITION

THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE ITALIAN REPUBLIC, hereinafter referred to as the “Contracting States”,

DESIRING to make more effective their co-operation in the suppression of crime by concluding a treaty for the extradition of persons wanted for prosecution or convicted of offences,

REAFFIRMING their respect for each other’s legal systems and judicial institutions,

HAVE AGREED as follows:

ARTICLE I

Obligation to Extradite

Each Contracting State agrees to surrender to the other, in accordance with the provisions of this Treaty, any person who is wanted in the Requesting State for prosecution, or the imposition or enforcement of a sentence, in respect of an extraditable offence as defined in article II.

ARTICLE II

Extraditable Offences

1. For the purposes of this Treaty, extradition shall be granted for conduct which constitutes an offence under the laws of both Contracting States, and which is punishable 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 purposes of this Treaty, it shall not matter whether the laws of the Contracting States place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same or similar terminology.
3. For the purposes of this Treaty, in determining whether acts or omissions amount to an offence against the laws of the Requested State, the totality of the acts or omissions alleged against the person whose extradition is requested shall be taken into account without reference to the elements of the offence prescribed by the law of the Requesting State.

4. An offence of a fiscal character, including an offence against a law relating to taxation, custom duties, foreign exchange control or any other revenue matter, is an extraditable offence within the meaning of paragraph 1.
5. Extradition may be granted pursuant to the provisions of this Treaty in respect of an offence provided that:
 - (a) it was an offence in the Requesting State at the time of the conduct constituting the offence; and
 - (b) the conduct alleged would, if it had taken place in the Requested State at the time of the making of the request for extradition, have constituted an offence against the law of the Requested State.
6. An offence is extraditable whether or not the conduct on which the Requesting State bases its request occurred in the territory over which it has jurisdiction. However, where the law of the Requested State does not provide for jurisdiction over an offence in similar circumstances, the Requested State may refuse extradition on this basis.
7. If the request for extradition relates to a number of offences, each of which is punishable under the laws of both States, but some of which do not meet the other requirements of paragraph 1, the Requested State may also grant extradition for such offences provided that extradition is ordered for at least one offence which meets all of the requirements of paragraph 1.
8. If the request for extradition relates to a sentence of both imprisonment and a pecuniary sanction, the Requested State may grant extradition for the enforcement of both the imprisonment and the pecuniary sanction.

ARTICLE III

Mandatory Refusal of Extradition

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 as a political offence or an offence of political character. For the purposes of this paragraph, a political offence or an offence of political character shall not include:
 - (i) conduct that constitutes an offence mentioned in a multilateral agreement to which Canada and Italy are parties and under which the Contracting States are obliged to extradite the person or submit the matter to appropriate authorities for prosecution;
 - (ii) unlawful killing of a human being;
 - (iii) inflicting serious bodily harm;
 - (iv) criminal conduct of a sexual nature;
 - (v) kidnapping, abduction, hostage taking or extortion;
 - (vi) using explosives, incendiaries, devices or substances in circumstances in which human life is likely to be endangered or serious bodily harm or substantial property damage is likely to be caused;

- (vii) attempting, conspiring, counselling, aiding or abetting another person to engage in or to commit any conduct referred to in paragraphs (i) to (vi) or being an accessory after the fact in relation to such conduct;
- (b) when surrender would be unjust or oppressive having regard to all the circumstances or the Requested State has substantial grounds to believe that the request for extradition has been made for the purpose of prosecuting or punishing the person claimed by reason of race, religion, nationality or political opinion, ethnic origin, language, colour, sex, sexual orientation, age, mental or physical disability or status or that the person's position may be prejudiced for any of those reasons;
- (c) when the offence for which extradition is requested is an offence under military law, but not under the ordinary criminal law of the Contracting States;
- (d) when final judgment has been passed in the Requested State in respect of the offence for which the person's extradition is requested;
- (e) when the prosecution or the enforcement of the sentence for the offence identified in the request for extradition is barred by lapse of time under the law of the Requesting State.

ARTICLE IV

Discretionary Refusal of Extradition

Extradition may be refused in any of the following circumstances:

- (a) when the offence for which extradition is requested is subject to the jurisdiction of the Requested State and the Requested State is prosecuting or will prosecute the person sought by the Requesting State for the conduct constituting the offence for which extradition is requested;
- (b) when the person sought was a minor within the meaning of the law of the Requested State at the time of the offence and the law that will apply to that person in the Requesting State is not consistent with the fundamental principles of the law of the Requested State dealing with minors;
- (c) when the person sought has been finally acquitted or convicted in a third State for conduct constituting the offence for which extradition is requested and, if convicted, the sentence imposed has been fully enforced or is no longer enforceable;
- (d) when the Requested State, while also taking into account the nature of the offence and the interests of the Requesting State, considers that, because of the health or age of the person sought, the extradition would be incompatible with humanitarian considerations.

ARTICLE V

Extradition of Nationals

1. The Requested State may not refuse to extradite a person solely because that person is a national of the Requested State.

2. Where the Requested State has refused to extradite one of its nationals pursuant to article IV, the Requesting State may ask that the Requested State consider, subject to the law of the Requested State, whether to submit the matter to its authorities to determine whether criminal proceedings may be undertaken.

ARTICLE VI

Presentation of Extradition Requests

1. Subject to paragraph 1 of Article IX, requests made pursuant to this Treaty, documents submitted in support thereof and correspondence may be exchanged between the Department of Justice of Canada and the Italian Ministry of Justice.
2. This Article in no way precludes the use of diplomatic channels.

ARTICLE VII

Documents to be Submitted

1. The following documents shall be submitted in support of a request for extradition:
 - (a) in all cases whether the person is sought for prosecution or the imposition or enforcement of a sentence:
 - (i) information about the description, identity, location and nationality of the person sought, including, where available, fingerprints and photographs;
 - (ii) a statement prepared by a public official, including a judicial, prosecuting or corrections official, which describes briefly the conduct constituting the offence for which extradition is requested, indicating the place, date and nature of the offence and which provides a description or a copy of the text of the legal provisions describing the offence and the applicable penalty.

This statement shall also indicate:

- (I) that these legal provisions were in force at the time of the commission of the offence and still apply at the time of the extradition request;
 - (II) whether or not the prosecution of the offence, the imposition or the enforcement of any applicable penalty is barred by reason of prescription; and
 - (III) where the offence occurred outside the territory of the Requesting State, the legal provisions establishing its jurisdiction;
 - (b) in the case of a person sought for prosecution for an offence:
 - (i) the original or a certified true copy of the order of arrest or any other document having the same force and effect, issued in the Requesting State;
 - (ii) a copy of the indictment, charge sheet or other charging document; and