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**United States of America
and
Luxembourg**

Extradition treaty between the United States of America and the Grand Duchy of Luxembourg. Washington, 1 October 1996

Entry into force: *1 February 2002, in accordance with article 23*

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**États-Unis d'Amérique
et
Luxembourg**

Traité d'extradition entre les États-Unis d'Amérique et le Grand-Duché de Luxembourg. Washington, 1^{er} octobre 1996

Entrée en vigueur : *1^{er} février 2002, conformément à l'article 23*

Textes authentiques : *anglais et français*

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[ENGLISH TEXT – TEXTE ANGLAIS]

EXTRADITION TREATY
BETWEEN THE
UNITED STATES OF AMERICA
AND
THE GRAND DUCHY OF LUXEMBOURG

The Government of the United States of America and the Government of the Grand Duchy of Luxembourg,

Recalling the Treaty of Extradition between the Contracting States, signed at Berlin, October 29, 1883, as amended by the Supplementary Extradition Convention between the Contracting States, signed at Luxembourg, April 24, 1935;¹

Noting that both the Government of the United States of America and the Government of the Grand Duchy of Luxembourg currently apply the terms of that Treaty, as amended, and

Desiring to provide for more effective cooperation between the two States in the suppression of crime, and, for that purpose, to conclude a new treaty for the extradition of offenders;

Have agreed as follows:

Article I
Obligation to Extradite

The Contracting States agree to extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with, found guilty of, or convicted 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 maximum period of more than one year or by a more severe penalty. For the purpose of this paragraph, an offense shall include:

- (a) an attempt to commit, or participation or complicity in the commission of, an offense; and
- (b) an "association of wrongdoers" as provided by the laws of Luxembourg, or a "conspiracy" as provided by the laws of the United States, to commit an offense.

2. Where the request for extradition is for a person sought for the execution of a sentence, extradition shall only be granted if a penalty of at least six months imprisonment remains to be served.

3. In determining whether an offense is an extraditable offense, the Contracting States:

- (a) shall consider only the essential elements of the offense punishable under the laws of both States and shall disregard that the respective laws do not place the offense within the same category of offenses or describe the offense by the same terminology; and
- (b) shall not consider as an essential element of an offense punishable in the United States an element such as interstate transportation or use of the mails or of other facilities affecting interstate or foreign commerce, since such an element is for the purpose of establishing jurisdiction in a United States court.

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

5. If, in addition to an offense extraditable under paragraph 1, the request for extradition includes an offense which is punishable by deprivation of liberty under the laws of both Contracting States, but which does not fulfill the condition with regard to the amount of punishment which may be imposed, the Requested State shall grant extradition for this offense, provided that all other requirements for extradition are met.

6. Extradition may be denied if prosecution of the offense or execution of the penalty has been barred by lapse of time under the laws of the Requested State. Acts constituting an interruption or suspension of the time-bar in the Requesting State shall be taken into consideration insofar as possible.

Article 3

Nationality

1. Neither Contracting State shall be bound to extradite its own nationals, but the Executive Authority of the United States shall have the power to extradite such persons if, in its discretion, it be deemed proper to do so.

2. If extradition is refused solely on the basis of the nationality of the persons sought, the Requested State shall, at the request of the Requesting State, submit the case to its authorities for prosecution.

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 willful 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 to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution;
- (c) murder, manslaughter, malicious wounding or inflicting grievous bodily harm;
- (d) an offense involving kidnapping, abduction, or any form of unlawful detention, including the taking of a hostage;

- (e) placing or using an explosive, incendiary or destructive device or substance capable of endangering life or causing grievous bodily harm;
- (f) an attempt to commit, or participation or complicity in the commission of, any of the foregoing offenses; and
- (g) an "association of wrongdoers" as provided by the laws of Luxembourg, or a "conspiracy" as provided by the laws of the United States, to commit any of the foregoing offenses.

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

4. The executive authority of the Requested State shall refuse extradition for offenses under military law which are not offenses under ordinary criminal law.

Article 5 Fiscal Offenses

1. The executive authority of the Requested State shall have discretion to deny extradition when the offense for which extradition is requested is a fiscal offense.

2. For purposes of this Treaty, a fiscal offense is:

- (a) an offense relating to the reporting and payment of taxes or customs duties, or
- (b) an offense relating to currency exchange laws.

3. For purposes of this Treaty, an offense described in paragraph 2 may nonetheless be considered not to be a fiscal offense if it relates to drug trafficking, a crime of violence, or other criminal conduct of a particularly serious nature without regard to whether extradition is sought for such other criminal activity.