

Extradition of Criminals and Other Assistance in Criminal Proceedings Act No. 13, 17th April 1984

Translated from the Icelandic

Extradition of Criminals
and Other Assistance in Criminal Proceedings Act
tNo. 13, 17th April 1984

Chapter 1 Conditions for Extradition Article 1

A person who is suspected of, indicted for, or has been sentenced for a criminal offence in a foreign state may be extradited under this Act.

Article 2

Icelandic citizens may not be extradited.

Article 3

A person may only be extradited if the offence involved, or a comparable offence, could be punishable by more than one year's imprisonment under Icelandic law. Agreements may be made with other states concerning extradition for offences which may be punishable by shorter periods of imprisonment or punitive custody under Icelandic law.

Extradition in connection with the conduct of a court case shall only be permitted if it has been decided in the foreign state that the person whose extradition is requested is to be arrested or imprisoned for the offence in question.

Unless other arrangements are made in an agreement with the state involved, extradition for the enforcement of a judgement shall be permitted only:

1. if the punishment specified in the judgement consists of at least 4 months' imprisonment or punitive custody,
2. if, according to the judgement or a decision taken in accordance with an authorization in the judgement, the person sentenced is to be placed in an institution, and the period he is to spend there may be at least 4 months.

Extradition in connection with the conduct of a court case or the execution of punishment for additional offences may be permitted even though the conditions under paragraphs 1-3 are met only in connection with one offence.

If there is reason to believe that the suspicion concerning criminal conduct, or the conclusion of a judgement under which extradition is requested, does not meet the basic principles of Icelandic law concerning reasonable suspicion of criminal conduct or legally acceptable proof of guilt in criminal cases, then extradition shall not be permitted.

Article 4

Extradition in connection with violations of martial law shall not be permitted.

Article 5

Extradition in connection with political offences shall not be permitted.
If the offence also constitutes a violation of legal provisions of a non-political nature, extradition shall be permitted if the act is considered as being political to a small degree.

Article 6

No person may be extradited if there is an appreciable risk that after being extradited, he will be subjected to injustice or persecution which is directed against his life or freedom, or is otherwise of a serious nature, on account of his race, nationality, belief, political opinions or for other political reasons.

Article 7

In special cases, applications for extradition may be refused if humanitarian considerations, such as age, health or other personal circumstances, argue against it.

Article 8

Extradition shall not be permitted when the person whose extradition is requested has been convicted or acquitted in Iceland of the criminal offence in question.
If an investigation concerning an accused person does not result in his being indicted, he may not be extradited for the offence which was the subject of the investigation unless the conditions of the Code Act No. 19/1991, Article 195. of Criminal Procedure for the institution of proceedings are fulfilled.

Article 9

Extradition shall not be permitted if criminal liability, or the punishment according to sentence, has expired or become invalid in some other way under Icelandic law.

Article 10

When the person whose extradition is requested has been sentenced to imprisonment or punitive custody, or, in accordance with a judgement or under the authorization of a judgement, is to be placed, or has been placed, in an institution for an offence other than that covered by the application for extradition, he may not be extradited until he has served the term of imprisonment or punitive custody or been discharged from the institution. No person may be extradited if proceedings are in progress in Iceland for an offence other than the one covered by the application for extradition, and to which a punishment of at least 2 years' imprisonment or punitive custody may apply, or if the person is in custody or has been released on bail according to provisions established under the Code Act No. 19/1991, Article 195. of Criminal Procedure.

Extradition in connection with the conduct of a court case may, however, be permitted on

condition that the person involved will be sent back to Iceland as soon as possible after the conclusion of the case.

Article 11

The following conditions shall be set for extradition:

1. That the person extradited will not be made to face legal proceedings, or undergo punishment, or be extradited to a third state, for another criminal offence committed before he was extradited unless:
 - a. the Ministry of Justice so permits (*cf.* Article 20), or
 - b. the person extradited has not left the country to which he was extradited, even though he has had the opportunity of leaving it without hindrance for at least 45 days, or
 - c. he has returned to the country to which he was extradited after leaving it.
2. That the case involving the person extradited may not be conducted by a temporary court or a court which is authorized only to deal with the offence involved, or with particular exceptional cases, without the permission of the Ministry of Justice.
3. That the death penalty may not be inflicted on the person extradited.

Further conditions for extradition may be set.

Chapter II. Procedure in Extradition Cases. Article 12

Applications for extradition shall be made through diplomatic channels unless other arrangements have been agreed with the state involved.

An application for extradition shall contain information about the nationality of the person whose extradition is requested, his address (if known) in Iceland, the nature of the offence and where and when it was committed. If there exists a description of the person whose extradition is requested, this shall be included. Furthermore, applications for extradition shall be accompanied by a copy of the legal provisions of which the offence is considered to be a violation. If there are substantial obstacles to providing a copy, then it may be regarded as sufficient to give an account of the legal provisions which are believed to have been violated.

An application for extradition in connection with the investigation of a case shall be accompanied by an original, or a certified photocopy, of an arrest warrant or other decision regarding arrest which, under the agreed arrangements, is in accordance with the legislation of the state involved and presents arguments in support of the view that there are valid reasons for suspecting the person concerned of having committed a criminal offence.

Applications for the extradition of a person in connection with the enforcement of a judgement shall be accompanied by the judgement or a certified transcript thereof.

Article 13

If, on the grounds of the extradition application and the information submitted with it, the Ministry of Justice considers that the application should be rejected immediately, this shall be done.

If an application is not rejected immediately under paragraph 1, the Ministry of Justice shall send the application to the Director of Public Prosecutions, who shall be obliged to ensure that the necessary investigation is carried out immediately.

Unless other provisions are made in this Act, the provisions of the Code of Criminal Procedure shall be applied, as appropriate, to investigations and other matters concerning extradition applications.

Article 14

The person whose extradition is requested may demand the ruling of the Reykjavík District Court Act No. 19/1991, Article 195. as to whether the legal conditions for extradition have been met. In addition to informing the person of the extradition application and the arguments presented in support of it, the Director of Public Prosecutions shall inform him of this authorization and of the fact that he has the opportunity of having a legal advisor appointed under Article 16.

A demand for a ruling shall be submitted to the Director of Public Prosecutions or the Ministry of Justice not later than 24 hours after the person whose extradition is requested has been informed that the Ministry of Justice has decided to grant the extradition request. If there are special reasons, the Ministry of Justice may permit a decision regarding extradition to be referred to a court even though the deadline stated above has passed.

If an order is demanded within the legally prescribed period, or if an exemption from the deadline has been granted, then extradition shall not take place until a final court ruling has been delivered.

Article 15

In the course of an investigation in connection with an extradition application, the coercive measures permitted under the Code of Criminal Procedure in the investigation of comparable criminal cases may be applied. Decisions on whether the conditions exist for applying coercive measures may be based on the court decisions accompanying the applications without further investigation of the demonstration of the guilt of the person concerned.

The coercive measures mentioned above may be applied until it has been established whether extradition is to take place, and, if it is permitted, until it takes place. If a ruling is delivered authorizing remand custody, it shall not be for a period of longer than 3 weeks. If it is considered necessary to extend the custody period, this shall be done by a ruling delivered by a court in which the person remanded in custody is present. The custody period may not be extended by more than 2 weeks at a time.

Article 16

A judge shall appoint a legal advisor for the person whose extradition is requested if the person or the Director of Public Prosecutions so requests. A judge may also appoint a legal advisor on his own initiative if he considers there is reason to do so.

The wages of the legal advisor and other legal costs shall be paid by the Treasury. Under special circumstances, however, a judge may decide that the person concerned shall pay the costs.

Article 17

As soon as the investigation has been completed, the Director of Public Prosecutions shall send all evidence in the case to the Ministry of Justice, together with a report on the case. The ministry shall then take a decision on whether to authorize extradition.

Article 18

When the Ministry of Justice has decided to grant an extradition application, extradition shall proceed as quickly as possible. If the person whose extradition is requested is not in detention, he may be arrested and remanded in custody until he is handed over, or his freedom may be curtailed in other ways according to the provisions of the Code Act No. 19/1991, Article 195. of Criminal Procedure.

A ruling on coercive measures shall not, however, be valid for more than 30 days after a final decision on extradition has been taken. However, a criminal court may decide, under particular circumstances and at the request of the Ministry of Justice, that coercive measures are to be applied for a specific further period.

When a person is extradited, it may be decided that items or valuables which have been confiscated in connection with the case shall be made over to the authority which requested the extradition, providing that when such items are made over, provisos are stated, if there is considered to be reason for doing so, in order to protect the rights of third parties.

Chapter III.

Other Decisions in Connection with Extradition.

Article 19

If a person is sought by the authorities in a foreign state because he is suspected of, has been indicted for, or has been convicted of, a criminal offence which may constitute the basis for extradition under this Act, the coercive measures prescribed in the Code of Criminal Procedure may be applied to him in the same way as if he were accused of the corresponding offence in Iceland. The same measures may be applied if the relevant authorities announce that they intend to demand the extradition of the person for the offence.

The Ministry of Justice shall be informed immediately of a decision on coercive measures. The ministry may decide that coercive measures may not be taken if it considers that no grounds for extradition exist. If the ministry does not decide that coercive measures are to be discontinued, it shall take steps to have the foreign state notified of them, and to have them discontinued if an application for extradition is not submitted at the first opportunity. If no extradition application has been received within 30 days of the sending of the notification, the coercive measures shall be discontinued. In special circumstances, this period may be extended.

Article 20

In response to a request, the Ministry of Justice may authorize the institution of legal proceedings against a person who has been extradited under this Act, or give its consent for him to undergo punishment for a criminal offence other than the one for which he was extradited, and which was committed before the extradition. The same shall apply regarding consent to have him extradited to a third state in connection with a criminal offence committed before he was extradited from Iceland.

Consent may only be granted if the person could have been extradited under this Act for the offence. The provisions of Articles 14 and 16 shall also apply, as appropriate, to the granting of such consent.

Consent for the further extradition of the person to Denmark, Finland, Norway or Sweden may, however, be granted if the conditions of the Act No. 7/1962 for extradition to those countries apply.

Requests for consent under paragraph 1 shall contain the same information as is listed in

paragraph 2 of Article 12. In addition, satisfactory evidence shall be submitted showing that the person concerned has been informed of his rights under Articles 14 and 16, as appropriate, and whether he wishes to exercise the rights stated there.

When a court ruling is sought as to whether the legal conditions have been met, consent may not be granted until a final court ruling has been given. Such cases shall be presented to the Reykjavík District Court Act No. 19/1991, Article 195. for a ruling.

In response to a request, the Ministry of Justice may permit a temporary court or other court (*cf.* paragraph 2 of Article 11) to deal with the case of a person who has been extradited, but only if it is considered that treatment by that court will not jeopardize the case.

Article 21

The Ministry of Justice may grant permission for a person who is extradited from one foreign state to another to be transported through Icelandic territory except in cases where the provisions of Article 2 or Articles 4-6 prevent the extradition of persons from Iceland for the offence.

In the case of extradition to Denmark, Finland, Norway or Sweden, permission under paragraph 1 may be granted except in cases where the provisions of Article 2 or Article 4 of the Act No. 7/1962, on extradition to those countries, prevent the extradition of persons from Iceland to the state involved.

Chapter IV.

Other Assistance in Connection with Criminal Proceedings.

Article 22

In order to gather evidence for use in criminal proceedings in another state, it may be decided, in response to a request, that the provisions of the Code Act No. 19/1991, Article 195. of Criminal Procedure shall be applied in the same way as in comparable proceedings in Iceland. Requests shall be sent to the Ministry of Justice unless other arrangements are made in an agreement with another state (*cf.* Article 6). A request shall contain information on the type of offence and where and when it was committed. Requests may only be granted if it is demonstrated that a decision has been taken on coercive measures which are in conformity with the legislation of the state involved.

A request may not be granted if the act which it concerns, or a comparable act, is not punishable under Icelandic law or if, under the provisions of Articles 5-7, it cannot constitute grounds for extradition. The second condition of the first sentence of this paragraph shall not apply to states which participate in the Schengen scheme. In the case of requests from Denmark, Finland, Norway or Sweden, the first condition of the first sentence of this paragraph shall only apply regarding political offences.

The Ministry of Justice shall immediately reject the request if the conditions of paragraph 2 are not met, or if it is clear that the request can not be granted. If a request is not rejected under this paragraph, the case shall be sent to the Director of Public Prosecutions for further treatment, and he shall take steps to have the necessary investigation carried out immediately. When the investigation has been completed, the Director of Public Prosecutions shall send all the evidence in the case to the Ministry of Justice, together with a report on it. The ministry shall then take a decision on whether to grant the request.

Provision may be made in an agreement with a foreign state to have the case dealt with by an authority other than the ministry.

If it is likely that a person residing in Iceland, who is not suspected in connection with the case, has legally acquired an item which is to be seized, then the condition for yielding him to

the authorities of another state shall be that he will be returned, free of charge, when the conduct of the case is completed.

Article 23

In connection with the conduct of a criminal case in another state, it may be decided, in response to a request, that a person who in accordance with a sentence is imprisoned or deprived of his liberty for a criminal offence shall be sent to another state for questioning as a witness or for joint questioning.

Requests shall be sent to the Ministry of Justice unless other arrangements are decided in an agreement with another state (*cf.* Article 6). The request shall contain accurate information about the criminal offence.

A request may not be granted if the act which it concerns, or a comparable act, is not punishable under Icelandic law or if, under the provisions of Articles 5-7, it can not constitute grounds for extradition. In addition, a request shall be rejected if the presence in Iceland of the person involved is necessary in connection with a criminal case or if there are other cogent reasons against transferring him to the other state. Particular consideration shall be given to whether transferring him is likely to lengthen the period during which he will be deprived of his freedom. In the case of requests from Denmark, Finland, Norway or Sweden, the conditions of the first sentence of this paragraph shall be replaced by the demand that extradition in connection with the act is not permitted under the provisions of Article 4 of the Act No. 7/1962 on the extradition of persons to those countries.

The Ministry of Justice shall immediately reject the request if it is clear that it can not be granted. If a request is not rejected under this paragraph, the case shall be sent to the Director of Public Prosecutions for further treatment, and he shall take steps to have the necessary investigation carried out immediately.

If the person concerned does not consent to be transferred, the Reykjavík District Court Act No. 19/1991, Article 195. shall deliver a ruling as to whether the legal conditions for transferral have been met. When the investigation has been completed, the Director of Public Prosecutions shall send the Ministry of Justice all the evidence in the case together with a report on the entire case. The ministry shall then take a decision on whether to grant the request.

Provision may be made in an agreement with a foreign state to have the case dealt with by an authority other than the ministry.

The condition set for the transferral of a person shall be that the person concerned shall be returned at the first opportunity, possibly within a specific period, and that while he resides in the foreign country, no investigations in a case against him shall be initiated and he shall not be punished there or extradited to another country for an offence committed before the transferral took place.

Chapter V. Final Provisions.

Article 24

Appeals against rulings given under this Act may be made to the Supreme Court under the general rules of the Code of Criminal Procedure.

Article 25

Agreements may be made with other states concerning the obligation to extradite persons and other assistance in criminal proceedings, with specific conditions which may not, however, be at variance with the provisions of this Act.

Without prejudice to this Act, extradition may be carried out and requests for assistance in criminal proceedings may be granted to the extent of Iceland's obligations under agreements made with other states before the commencement of this Act.

Extradition and other assistance in criminal proceedings shall be permitted under this Act even though Iceland is not obliged to provide such assistance under an agreement on these matters with the state involved.

Article 26

The provisions of Chapters I and II on extradition, and the provisions of Chapter III dealing with extradition, shall not apply towards Denmark, Finland, Norway and Sweden.

Article 27

The Minister of Justice may issue regulations containing further provisions on the application of this Act.

Article 28

This Act shall take effect on 1st July 1984.