

**TREATY  
BETWEEN THE REPUBLIC OF KAZAKHSTAN AND  
THE FEDERATIVE REPUBLIC OF BRAZIL  
ON THE EXTRADITION OF PERSONS**

The Republic of Kazakhstan and the Federative Republic of Brazil, hereinafter referred to as "Parties",

WISHING to make the efforts made by the Parties in combating criminality more effective;

OBSERVING the principles of respect for sovereignty, of non-interference in internal matters of each of the Parties and the norms of International Law;

BEING AWARE of the need to maintain the greatest possible cooperation in extraditing fugitive persons;

hereby agreed on the following.

**Article 1  
Obligation to extradite**

The Parties commit themselves to hand over to each other, in accordance with the provisions set forth in this Treaty and in accordance with their respective internal laws, those persons who are to be found in the territory of one of the Parties and are sought by the competent authorities of the other in order to criminal prosecution or enforcement of a court sentence for extraditable offences.

**Article 2  
Conditions for extradition**

1. The following conditions shall be met for extradition to be granted:

a) the Requesting Party has jurisdiction over the offences that serve as the basis of the extradition request;

b) the acts are classified as a crime under the laws of both Parties irrespective of the denomination and they are punishable by imprisonment for not less than one (year); and

c) the sentence of imprisonment to be served is more than 6 (six ) months.

2. When the extradition request concerns several related crimes, it shall be sufficient that any one of them meets the requirements set forth in the provisions of the paragraph 1 of this Article for extradition to be granted.

3. Extradition, in accordance with the provisions of this Treaty, shall be applicable to the authors, coauthors and accomplices whatever their degree of participation in the crime.

4. Acts recognized by multilateral treaties, to which the Parties are members, as extraditable offences shall also serve as the basis for extradition.

5. For crimes in the economic sphere and acts related to currency regulations, extradition may not be refused only on the grounds that the laws of the Requested Party do not provide the same taxes or if such acts have different regulations in the laws of the Parties.

### **Article 3 Central Authorities**

1. For the purposes of putting into effect this Treaty, the Parties do hereby designate as their Central Authorities:

for the Republic of Kazakhstan – the Prosecutor General’s Office;

for the Federative Republic of Brazil – the Ministry of Justice.

2. In the case of any changes in the denomination of their Central Authorities or the transfer of their functions to other state agencies, the Parties shall notify each other about such changes through diplomatic channels.

### **Article 4 Refusal of extradition**

1. Extradition shall not be granted, if:

a) it does not comply with the conditions provided by Article 2 of this Treaty or contradicts the laws or international obligations of the Requested Party;

b) the person has been judged or received pardon or amnesty; or criminal prosecution in respect of him/her was suspended in the Requested Party for the same offence for which extradition is requested;

c) the person to be extradited has been convicted or is due to be judged in the territory of the Requesting Party by an extraordinary Court or Tribunal;

d) the statute of limitations has been verified according to the law of any of the Parties;

e) the person whose extradition is requested is prosecuted on the territory

of the Requested Party for the same facts that served as the basis of the extradition request;

f) the crime is considered political;

g) the crime is of a military nature;

h) the Requested Party has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of his/her race, religion, nationality or political opinion or that the person's position may be prejudiced for any of these reasons;

i) the person whose extradition is requested is a national of the Requested Party;

j) the person whose extradition is requested is granted asylum in the Requested Party.

2. Determining the crime as of a political or military nature shall be carried out exclusively by the Requested Party.

3. Alleging political motives or purpose shall not impede extradition when the act corresponds to an ordinary crime. In this case extradition shall be granted on condition that the Requesting Party makes a formal statement that no political aims or motives shall aggravate the sentence when it is imposed.

4. Alleging political motives for committing a crime shall not qualify it as a political crime.

5. For the purposes of this Treaty the following acts shall not be deemed as being of a political nature:

a) attempts on the life, health or liberty of a Head of State or Head of Government or members of their family;

b) genocide or crimes against humanity;

c) acts of terrorism such as:

i) attempts on the life, health or liberty of individuals that enjoy the right to international protection;

ii) taking hostages or kidnapping people;

iii) attacks on persons or property using explosives and explosive devices;

iv) acts of seizing boats or aircrafts;

v) attempting to commit the crimes set forth in this Article or participating as co-author; and

vi) any kind of violent act not included in this Article that is directed against the life, health or liberty of individuals or intended to affect the constitutional order.

**Article 5**  
**Criminal prosecution of nationals**

1. The Party that does not hand over its national upon request of the Requesting Party shall take the necessary measures to criminally prosecute its national.

2. For the purposes of this Article the nationality of the person shall be determined according to the law of the Requested Party at the moment of the decision on extradition and provided that nationality has not been acquired for fraudulent purpose of impeding extradition.

**Article 6**  
**Rule of speciality**

1. The extradited person shall not be subject to detention or conviction on the territory of the Requesting Party for any crime committed prior to the extradition which was not specified in the request, except the cases when:

- a) being able to leave the territory of the Requesting Party the extradited person voluntarily either remains there for over 45 (forty five) days after being definitively liberated or returns to the territory of the Requesting Party;
- b) the Requested Party gives consent to this.

2. For execution of subparagraph b) of paragraph 1 of this Article, the Requesting Party shall forward to the Requested Party a formal request accompanied by the documents set out in Article 10 of this Treaty.

**Article 7**  
**Re-extradition to a third state**

The extradited person may only be re-extradited to a third State with the consent of the Requested Party except for the cases foreseen in subparagraph a) of Article 6 of this Treaty. The request on obtaining such a consent shall be forwarded in the manner prescribed in Article 10 of this Treaty.

**Article 8**  
**Guarantees**

1. The person whose extradition is requested shall enjoy on the territory of the Requested Party all the rights and guarantees granted by its laws including the right of defense, counsel and, if necessary, an interpreter.

2. The period of detention of the person whose extradition is sought on the territory of the Requested Party associated with the review of a request for extradition is counted to the period of sentence that will be served on the territory of the Requesting Party.

### **Article 9**

#### **Death and perpetual imprisonment penalties**

1. The Requesting Party shall not subject the extradited person to the death penalty or perpetual imprisonment or penalties that threaten his or her health or of inhuman and degrading treatment, such as corporal punishment.

2. When the act that gave rise to the extradition request is liable to the death penalty or perpetual imprisonment on the territory of the Requesting Party, the Requested Party shall grant extradition on previous guarantee given by the Requesting Party that in the case of conviction such penalties shall not be applied but be converted into the maximum severe penalty allowed under the laws of the Requested Party.

### **Article 10**

#### **Extradition request**

1. The extradition request shall be forwarded through diplomatic channels or by the Central Authorities and shall include the following documents:

a) in the case that the person is not yet convicted, the original arrest warrant or an authenticated copy, or an equivalent criminal procedure document according to the laws of the Requesting Party duly issued by the competent authority;

b) in the case that the person is convicted, the original sentence or its authenticated copy and information certifying that the sentence has not been fully served with indication of the time remaining to be served;

c) the legal texts by which the act is considered as a crime and applicable punishment is set; the legal texts that establish the jurisdiction of the Requesting Party as well as the legal provisions regarding the statute of limitation;

d) all known information on the identity, nationality, permanent residence or address of the person whose extradition is sought, and, whenever possible, fingerprints, photographs and other means of identification; and

e) information about the facts constituting the offence in respect of which the request for extradition was made, specifying the date and place of its commission.

2. The extradition request and the documents that accompany it shall be made in the official languages of the Requested Party.

3. If the information or documents accompanying the request for extradition are insufficient to the Requested Party to take a decision in accordance with this Treaty, the Requested Party may request additional information or documents to be submitted within 60 (sixty) days from the date of receipt of the request.

4. If the person whose extradition is requested is under extraditional arrest and requested additional information or documents are not received within the period specified in paragraph 3 of this Article, the person may be released from custody. Such a release shall not impede the Requesting Party to submit a new request for the extradition.

5. If the person has been released from custody pursuant to paragraph 4 of this Article, the Requested Party shall inform the Requesting Party about such release as soon as possible.

#### **Article 11** **Exemption from legalization**

The extradition request and the documents that accompany it pursuant to the provisions of this Treaty shall be exempt from legalization processes or any similar formalities.

#### **Article 12** **Temporary detention**

1. In the light of the legal order of the Requested Party and with due respect to the decisions issued by its competent authorities, the person sought may be arrested upon the request of the Requesting Party before receipt of the official request for extradition. The request shall contain a reference to the decision of the competent authority of the Requesting Party on detention or court sentence, entered into force, and indication that the request for extradition will be further submitted. The request shall contain information about the circumstances of the crime alleged to the person sought and other information that allows to identify the person sought.

2. The request for provisional arrest may be submitted through e-mail, fax or other means of written communication with simultaneous submission of the original document to the Central Authority by mail or through the International Criminal Police Organization (INTERPOL), before the receipt of the extradition

request.

3. The Requested Party shall promptly inform the Requesting Party on the results of the request for provisional arrest.

4. If, at the end of 60 (sixty) days from the date of receipt of notification by the Requesting Party about the temporary arrest of the person sought, the Central Authority or the Ministry of Foreign Affairs of the Requested Party does not receive the request for extradition, the arrested person shall be released.

5. The release of a person in accordance with paragraph 4 of this Article shall not prevent the Requesting Party to request extraditional arrest upon submitting a formal request for extradition.

### **Article 13**

#### **Decision on the request and surrender**

1. The Requested Party shall immediately inform the Requesting Party of the decision concerning the request for extradition.

2. Any decision of total or partial denial of the request for extradition shall be well founded.

3. If within 60 (sixty ) days from the date of receipt of the notification on extradition the Requesting Party fails to remove the extradited person from the territory of the Requested Party, the person shall be released from custody.

4. Civil responsibilities deriving from the crime or any other civil process to which the person to be extradited may be liable shall not impede or complicate the handing over of the person.

5. The Requesting Party may send to the Requested Party its duly authorized officials to render assistance in identifying the person whose extradition is sought or in transportation of the person to the territory of the Requesting Party. Such officials shall comply with the laws of the Requested Party.

### **Article 14**

#### **Postponement and temporary extradition**

1. If the person sought is being prosecuted or is serving a sentence on the territory of the Requested Party for committing other offence that did not serve as a ground for extradition, the Requested Party, after making a decision on extradition, may postpone his/her extradition until the end of the trial or until the full execution of the sentence. In case of such a postponement, the Requested Party shall immediately notify the Requesting Party.

2. However, upon the request of the Requesting Party, the Requested Party in accordance with its laws may temporarily extradite the person sought to allow the Requesting Party to conduct ongoing criminal prosecution by agreeing the terms and conditions of temporary extradition. The person extradited temporarily shall be detained during the period of stay in the territory of the Requesting Party and transferred back to the Requested Party at the agreed period. The time spent in detention is counted to the overall term of execution of the sentence applied in the Requested Party.

3. The surrender may also be postponed when the state of health of the person sought may endanger his or her life or worsen his or her health. In such a case, it is necessary that the Requested Party submit to the Requesting Party a detailed medical report issued by its competent medical authorities.

### **Article 15**

#### **Handing over documents, assets and possessions**

1. In the case that extradition is granted, the documents, assets and possessions that are in the territory of the Requested Party and that have been acquired as the result of criminal acts or that may serve as legal evidence shall be handed over to the Requesting Party, if possible during the surrender of the person. The handing over of the mentioned documents, assets and possessions shall not contradict the laws of the Requested Party and prejudice the rights of third parties.

2. The documents, assets and possessions referred to in paragraph 1 of this Article shall be handed over to the Requesting Party even when extradition is impossible due to the death or escape of the person to be extradited.

3. The Requested Party may, in order to conduct other criminal proceedings, postpone the handing over of the items referred to in paragraph 1 of this Article until the end of such proceeding or temporarily hand them over on condition that it is returned to the Requesting Party after the proceeding is ended.

4. Upon the written request of the Requested Party, the Requesting Party shall return the handed over items, within one 1 (one) month after the trial has ended, unless the Parties agree otherwise in each case.

### **Article 16**

#### **Concurrent requests**

1. If there are requests for extradition regarding the same person from



two or more States, the Requested Party shall determine to which of the States extradition will be granted considering the possibility of subsequent extradition of the person between the requesting States and inform the Requesting Party of the decision.

2. When the concurrent requests refer to the same crime the Requested Party shall give preference to:

- a) the State in whose territory the crime was committed;
- b) the State that first made a request;
- c) the State in whose territory the person to be extradited resided.

3. When the concurrent requests refer to different crimes, the Requested Party, pursuant to its laws and complying with the terms of Paragraph 1 of this Article, shall give preference to the State that has jurisdiction over the most serious of the crimes. If the gravity of the crimes are equal then preference shall be given to the State that first made a request.

#### **Article 17** **Simplified extradition**

In case the person sought notifies the Court or other competent authorities of the Requested Party about his or her consent on the extradition, the Requested Party shall take, in accordance with its legal order, all necessary measures in order to speed up the procedures of extradition.

#### **Article 18** **Return of the extradited person**

An extradited person who flees the territory of the Requesting Party and returns to the territory of the Requested Party shall be detained upon the request made through the Central Authority or through diplomatic channels or through INTERPOL and shall be handed over to the Requesting Party once more without further formalities provided by this Treaty.

#### **Article 19** **Transit of the extradited person**

1. Each Party may, in accordance with its national law, authorize the transit through its territory of persons extradited to the other Party by a third State, if the transit of the person does not threaten its sovereignty, security, public order or does not contradict its Constitution or fundamental principles of

its legislation or national interests.

2. The Requesting Party shall send a request for transit to the Requested Party through the Central Authority or, in particularly urgent cases, through the International Criminal Police Organization (INTERPOL), containing identity information of the person transited, information about his/her nationality, identity of the escort accompanying the extradited person and a copy of the document authorizing the extradition of the person.

3. Custody of the extradited person is carried out by the competent authorities of the Party of transit.

4. Transit authorization is not required if the transit is carried out by air and landing in the Party of transit is not foreseen, except in the case of military aircrafts. In case of unscheduled landing in the territory of the Party of transit, the Party carrying out the transit shall promptly notify the Party of transit.

5. The transit request and the documents that accompany it shall be made in the official languages of the Requested Party.

#### **Article 20**

#### **Notification about results**

The Requesting Party, upon the request of the Requested Party, shall promptly provide information on court proceedings or on the enforcement of the sentence in respect of the extradited person or information about re-extradition of the extradited person to a third State.

#### **Article 21**

#### **Costs**

The Requested Party shall bear the costs incurred within its territory. The Requesting Party shall bear the expenses incurred in transporting the extradited person after the handing over, as well as in transferring documents, assets and possessions.

#### **Article 22**

#### **Settlement of disagreements**

Disagreements arising between the Parties concerning the interpretation or application of the provisions of this Treaty shall be settled by negotiations between the Parties.

**Article 23**

**Compatibility with international treaties**

This Treaty shall not affect the rights and obligations assumed by each Party in accordance with any international Treaty which they are party to.

**Article 24**

**Final provisions**

1. This Treaty shall come into force 30 (thirty) days after the receipt of the last notification through diplomatic channels about the completion by the Parties of the domestic procedures necessary to its entry into force.

2. This Treaty shall remain in force for an indefinite period. It may be terminated by notification in writing, which shall have effects 6 (six) months after the date on which the other Party receives such notification.

3. Upon the Parties consent, this Treaty may be amended through separate Protocols that are inalienable parts of this Treaty which shall enter into force as specified in paragraph 1 of this Article.

4. Any procedures started by the Parties before the termination of this Treaty are executed until their full completion.

5. Requests made under this Treaty may apply to offences committed prior to its entry into force.

DONE in Astana on the 20<sup>th</sup> of June, 2018, in duplicate each in Kazakh, Portuguese and English languages, all texts being equally authentic.

In the case of differences in the texts of this Treaty, the Parties shall refer to the text in English.

**FOR THE REPUBLIC  
OF KAZAKHSTAN**



**FOR THE FEDERATIVE  
REPUBLIC OF BRAZIL**

