

EXTRADITION TREATY

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF THE REPUBLIC OF BULGARIA

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The Government of the United States of America and the Government of the Republic of Bulgaria (hereinafter referred to as "the Parties"),

Recalling the Treaty of Extradition between the United States of America and Bulgaria, signed at Sofia on March 19, 1924, and the Supplementary Extradition Treaty, signed at Washington on June 8, 1934;

Noting that both the Government of the United States of America and the Government of the Republic of Bulgaria currently apply the terms of these Treaties;

Mindful of obligations set forth in the Agreement on Extradition between the United States of America and the European Union signed at Washington on June 25, 2003;

Having due regard for rights of individuals and the rule of law; and

Desiring to provide for more effective cooperation between the Parties in the fight against crime, and, for that purpose, to conclude a new treaty for the extradition of offenders;

Have agreed as follows:

Article 1
Obligation to Extradite

The Parties agree to extradite to each other, pursuant to the provisions of this Treaty, persons sought by authorities in the Requesting State for prosecution or for imposition or execution of a sentence for an extraditable offense.

Article 2
Extraditable Offenses

1. An offense shall be an extraditable offense if it is punishable under the laws in both States by deprivation of liberty for a maximum period of more than one year or by a more severe penalty.

2. An offense shall also be an extraditable offense if it consists of an attempt or a conspiracy to commit, or participation in the commission of any offense described in paragraph 1 of this Article.

3. For the purposes of this Article, an offense shall be considered an extraditable offense:

- (a) regardless of whether the laws in the Requesting and Requested States place the acts or omissions constituting the offense within the same category of offenses or describe the offense by the same terminology;
- (b) regardless of whether the offense is one for which United States federal law requires the showing of such matters as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States Federal court; or

- (c) regardless of whether, in criminal cases relating to taxes, customs duties, currency control and the import or export of commodities, the laws of the Requesting and Requested States provide for the same kinds of taxes, customs duties, or controls on currency or on the import or export of the same kinds of commodities.

4. If the offense has been committed outside the territory of the Requesting State, extradition shall be granted, subject to the other applicable requirements for extradition, if the laws of the Requested State provide for the punishment of an offense committed outside its territory in similar circumstances. If the laws of the Requested State do not provide for the punishment of an offense committed outside its territory in similar circumstances, the executive authority of the Requested State, at its discretion, may grant extradition provided that all other applicable requirements for extradition are met.

5. If extradition has been granted for an extraditable offense, it shall also be granted for any other offense specified in the request even if the latter offense is punishable by one year's deprivation of liberty or less, provided that all other requirements for extradition are met.

6. Where the request is for enforcement of the sentence of a person convicted of an extraditable offense, the deprivation of liberty remaining to be served must be at least four months.

Article 3

Nationality

1. A Party shall not refuse extradition based solely on the nationality of the person sought with respect to offenses falling within the following descriptions:

- (1) participation in a criminal organization;
- (2) terrorism;
- (3) trafficking in persons;
- (4) sexual assault, molestation, and exploitation of children, and child pornography;

- (5) illicit trafficking in narcotic drugs and psychotropic substances;
- (6) illicit trafficking in weapons, munitions and explosives;
- (7) corruption;
- (8) fraud;
- (9) laundering of proceeds of crime;
- (10) counterfeiting currency;
- (11) computer-related crime;
- (12) environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
- (13) facilitation of unauthorized immigration, entry, and residence;
- (14) murder, grievous bodily injury;
- (15) illicit trade in human organs and tissue;
- (16) kidnapping, illegal restraint and hostage-taking;
- (17) organized or armed robbery;
- (18) illicit trafficking in cultural goods, including antiques and works of art;
- (19) racketeering and extortion;
- (20) counterfeiting and piracy of products including intellectual property;
- (21) forgery of administrative documents and trafficking therein;
- (22) forgery of means of payment;
- (23) illicit trafficking in hormonal substances and other growth promoters;
- (24) illicit trafficking in nuclear or radioactive materials;
- (25) trafficking in stolen vehicles;
- (26) rape and sexual assault;
- (27) arson;
- (28) unlawful seizure of aircrafts or ships;
- (29) sabotage; and
- (30) conspiracy or attempt to commit any of the offenses listed in this Article.

2. In addition, with respect to offenses not described in paragraph 1 of this Article, the executive authority of the Requested State shall have the power to extradite its nationals if it decides to do so.

3. If extradition is denied solely on the basis of the nationality of the person sought pursuant to paragraph 2 of this Article, the Requested State shall, at the request of the Requesting State, submit the case to its competent authorities for prosecution.

4. The Parties may expand the offenses designated in this Article by mutual agreement and notification made through the diplomatic channel.

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 political offenses:

- (a) an offense for which both Parties 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;
- (b) murder, manslaughter, malicious wounding, inflicting grievous bodily harm, assault with intent to cause serious physical injury, and serious sexual assault;
- (c) an offense involving kidnapping, abduction, or any form of unlawful detention, including the taking of a hostage;
- (d) placing, using, threatening the use of, or possessing an explosive, incendiary or destructive device capable of endangering life, of causing substantial bodily harm, or of causing substantial property damage; and
- (e) a conspiracy or attempt to commit any of the foregoing offenses, or participation in the commission of such 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 may refuse extradition for offenses under military law that are not offenses under ordinary criminal law.

Article 5

Prior Prosecution

1. Extradition shall not be granted when the person sought has been convicted or discharged from proceedings with final and binding effect by the competent authorities in the Requested State for the offense for which extradition is requested. In applying this Article, an acquittal or discharge for lack of jurisdiction shall not constitute an obstacle to extradition.

2. Requests for extradition shall not be refused solely on the basis of the existence of criminal jurisdiction in the Requested State. Provisions of the laws of the Parties, including laws on extradition and prior prosecution, will be applied to give full force and effect to the obligations of Articles 1 and 3 of this Treaty.

Article 6

Lapse of Time

Extradition may be denied if prosecution of the offense or execution of the penalty is barred by lapse of time under the laws of the Requesting State. Acts that would interrupt or suspend the prescriptive period in the Requesting State are to be given effect by the Requested State.

Article 7

Capital Punishment

Where the offense for which extradition is sought is punishable by death under the laws in the Requesting State and not punishable by death under the laws in the Requested State, the Requested State may grant extradition on the condition that the death penalty shall not be imposed on the person sought, or if for procedural reasons such condition cannot be complied with by the

Requesting State, on condition that the death penalty if imposed shall not be carried out. If the Requesting State accepts extradition subject to conditions pursuant to this Article, it shall comply with the conditions. If the Requesting State does not accept the conditions, the request for extradition may be denied.

Article 8

Extradition Procedures and Required Documents

1. Requests for extradition and supporting documents shall be transmitted through the diplomatic channel, which shall include transmission as provided for in Article 11(4).

2. All requests for extradition shall be supported by:

- (a) documents, statements, or other types of information that describe the identity, nationality, and probable location of the person sought;
- (b) information describing the facts of the offense and a brief summary of the procedural history of the case;
- (c) the text of the law or laws describing the essential elements of the offense for which extradition is requested and the applicable penalty or penalties;
- (d) the text of the law or laws describing any time limit on the prosecution or execution of a penalty and a statement describing the application of such law or laws to the offense for which extradition is sought; and
- (e) the documents, statements, or other types of information specified in either paragraph 3 or paragraph 4 of this Article, as applicable.

3. In addition to the requirements in paragraph 2 of this Article, a request for extradition of a person who is sought for prosecution shall also be supported by:

- (a) a copy of the warrant or order of arrest or detention, if any, issued by a judge, court, or other competent authority;
- (b) a copy of the charging document, if any; and
- (c) such information as would provide a reasonable basis to believe that the person sought committed the offense for which extradition is requested.

4. In addition to the requirements in paragraph 2 of this Article, a request for extradition relating to a person who has been convicted or found guilty of the offense for which extradition is sought shall also be supported by:

- (a) a copy of the judgment of conviction, or, if a copy is not available, a statement by a judicial authority that the person has been convicted or found guilty;
- (b) information establishing that the person sought is the person to whom the finding of guilt refers;
- (c) a copy of the sentence imposed and a statement establishing to what extent the sentence has been carried out, if the person sought has been sentenced;
- (d) in the case of a person who has been convicted or found guilty in absentia, the information required by paragraph 3(c) of this Article; and
- (e) in the case of a person who has been convicted or found guilty in absentia,

information regarding the circumstances under which the person was absent from the proceedings.

5. (a) The Requested State may require the Requesting State to furnish additional information within such reasonable length of time as it specifies, if it considers that the information furnished in support of the request for extradition is not sufficient to fulfill the requirements of this Treaty.

(b) Such supplementary information may be requested and furnished directly between the United States Department of Justice and the Ministry of Justice of the Republic of Bulgaria.

Article 9

Admissibility of Documents

Documents that bear the certificate or seal of the Ministry of Justice, or Ministry or Department responsible for foreign affairs, of the Requesting State shall be admissible in extradition proceedings in the Requested State without further certification, authentication, or other legalization. Ministry of Justice shall, for the United States of America, mean the United States Department of Justice; and, for the Republic of Bulgaria, the Ministry of Justice of the Republic of Bulgaria.

Article 10

Translation

The request for extradition and all documents submitted by the Requesting State in support of the request shall be accompanied by a translation into the language of the Requested State, unless otherwise agreed.

Article 11
Provisional Arrest

1. In case of urgency, the Requesting State may request the provisional arrest of the person sought pending presentation of the extradition request and supporting documents. A request for provisional arrest may be transmitted directly between the United States Department of Justice and the Supreme Cassation Prosecutors Office of the Republic of Bulgaria. The facilities of the International Criminal Police Organization (Interpol) also may be used to transmit such a request.

2. The application for provisional arrest shall contain:

- (a) a description of the person sought;
- (b) the location of the person sought, if known;
- (c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;
- (d) a description of the law(s) violated;
- (e) a statement of the existence of a warrant or order of arrest or detention or a finding of guilt or judgment of conviction against the person sought; and
- (f) a statement that the extradition request and supporting documents will follow within the time specified in this Treaty.

3. The Requesting State shall be notified without delay of the disposition of its request for provisional arrest and the reasons for any inability to proceed with the request.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the Executive Authority of the Requested State has not received the extradition request and supporting documents required in Article 8. For purposes of this paragraph, receipt of the extradition request and supporting documents by the Embassy of the Requested State located in the Requesting State shall constitute receipt by the Executive Authority of the Requested State.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent re-arrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 12

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State of its decision on the request for extradition.

2. If the request is denied in whole or in part, the Requested State shall provide an explanation of the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Requesting and Requested States shall agree on the time and place for the surrender of the person sought. The facilities of the International Criminal Police Organization (Interpol) may be used for this purpose.

4. If the person sought is not removed from the territory of the Requested State within the time period prescribed by the law of that State, that person may be discharged from custody, and the Requested State, in its discretion, may subsequently refuse extradition for the same offense(s).

Article 13

Deferral of Extradition Proceedings or Temporary and Deferred Surrender

1. When the person whose extradition is sought is being proceeded against or is serving a sentence in the Requested State, that State may:

- (a) defer the extradition proceedings against the person sought until the proceedings have been concluded or until the sentence has been served; or
- (b) conduct the extradition proceedings, and if extradition is authorized, either
 - (i) postpone the surrender of the person sought until the proceedings have been concluded or until the sentence has been served; or
 - (ii) temporarily surrender the person to the Requesting State for the purpose of prosecution.

2. A person temporarily surrendered shall be kept in the custody of the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with any conditions that may be determined by agreement between the Parties. The time spent in custody in the territory of the Requesting State pending prosecution in that State may be deducted from the time remaining to be served in the Requested State. The return of the person to the Requested State shall not require any further extradition request or proceedings.

Article 14

Requests for Extradition or Surrender Made by Several States

1. If the Requested State receives requests from the Requesting State and from any other State or States for the extradition of the same person, either for the same offense or for different offenses, the Executive Authority of the Requested State shall determine to which State, if any, it will surrender the person. For purposes of this paragraph, the executive authority for the Republic of Bulgaria shall be the Ministry of Justice.

2. If the Republic of Bulgaria receives an extradition request from the United States of

America and a request for surrender pursuant to the European arrest warrant for the same person, either for the same offense or for different offenses, the competent court of law of the Republic of Bulgaria, or such other authority as the Republic of Bulgaria may subsequently designate, shall determine to which country, if any, it will surrender the person.

3. In making its decision under paragraphs 1 and 2 of this Article, the Requested State shall consider all relevant factors, including, but not limited to, the following:

- (a) whether the requests were made pursuant to a treaty;
- (b) the places where each of the offenses was committed;
- (c) the respective interests of the Requesting States;
- (d) the seriousness of the offenses;
- (e) the nationality of the victim;
- (f) the possibility of any subsequent extradition between the Requesting States;
and
- (g) the chronological order in which the requests were received from the Requesting States.

Article 15

Seizure and Surrender of Property

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all items, including articles, documents, evidence, and proceeds, that are connected with the offense in respect of which extradition is granted. The items mentioned in this Article may be surrendered even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought and may be surrendered prior to the extradition.

2. The Requested State may condition the surrender of the items upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as

soon as practicable. The Requested State may also defer the surrender of such items if they are needed as evidence in the Requested State.

3. The rights of third parties in such items shall be duly respected in accordance with the laws of the Requested State.

Article 16 Rule of Specialty

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:

- (a) any offense for which extradition was granted, or a differently denominated offense based on the same facts as the offense for which extradition was granted, provided such offense is extraditable, or is a lesser included offense;
- (b) any offense committed after the extradition of the person; or
- (c) any offense for which, the competent authority of the Requested State consents to the person's detention, trial, or punishment; in the case of the United States, its competent authority shall be its Executive Authority. For the purpose of this subparagraph:
 - (i) the Requested State may require the submission of the documentation called for in Article 8; and
 - (ii) the person extradited may be detained by the Requesting State for 90 days, or for such longer period of time as the Requested State may authorize, while the request is being processed.

2. A person extradited under this Treaty may not be the subject of onward extradition or surrender for any offense committed prior to extradition to the Requesting State unless the Requested State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to a third State, if:

- (a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or
- (b) that person does not leave the territory of the Requesting State within 25 days of the day on which that person is free to leave.

Article 17

Simplified Procedures

1. If the person waives extradition, the competent judicial authority before whom such waiver is made may direct the transfer of the person to the requesting Party without further proceedings. The specialty provisions in Article 16 shall not apply if the person sought waives extradition pursuant to this provision.

2. If the person sought consents to be surrendered to the Requesting State, the Requested State may, in accordance with the principles and procedures provided for under its legal system, surrender the person as expeditiously as possible without further proceedings. The consent of the person sought may include agreement to waiver of the specialty provisions in Article 16.

Article 18

Transit

1. The United States of America may authorize transportation through its territory of a person surrendered to the Republic of Bulgaria by a third country, or by the Republic of Bulgaria to a third country. The Republic of Bulgaria may authorize transportation through its territory of a person surrendered to the United States of America by a third country, or by the United States of America to a third country.

2. A request for transit shall be made through the diplomatic channel or directly between the United States Department of Justice and the Supreme Cassation Prosecutors Office of the Republic of Bulgaria. The facilities of Interpol may also be used to transmit such a request. The request shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit shall be detained in custody during the period of transit.

3. Authorization is not required when air transportation is used and no landing is scheduled on the territory of the transit country. If an unscheduled landing does occur, the country in which the unscheduled landing occurs may require a request for transit pursuant to paragraph 2. All measures necessary to prevent the person from absconding shall be taken until transit is effected, as long as the request for transit is received within 96 hours of the unscheduled landing.

Article 19

Representation and Expenses

1. The Requested State shall advise, assist, appear in court on behalf of, and represent the interests of the Requesting State in any proceedings arising out of a request for extradition.

2. The Requesting State shall pay all the expenses related to the translation of extradition documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State in connection with the extradition proceedings.

3. Neither State shall make any pecuniary claim against the other State arising out of

the arrest, detention, examination, or surrender of persons under this Treaty.

Article 20
Consultation

1. The United States Department of Justice and the Ministry of Justice of Bulgaria may consult with each other directly or through the facilities of Interpol in connection with the processing of individual cases and in furtherance of efficient implementation of this Treaty.

2. Where the Requesting State contemplates the submission of particularly sensitive information in support of its request for extradition, it may consult the requested State to determine the extent to which the information can be protected by the Requested State. If the Requested State cannot protect the information in the manner sought by the Requesting State, the Requesting State shall determine whether the information shall nonetheless be submitted.

Article 21
Application

This Treaty shall apply to offenses committed before as well as after the date it enters into force.

Article 22
Ratification and Entry into Force

1. This Treaty shall be subject to ratification.

2. This Treaty shall enter into force on the date of the latter of the diplomatic notes by which the Parties notify each other that their internal legal requirements for the entering into force of the Treaty have been completed.

3. Upon the entry into force of this Treaty, this Treaty shall supersede the Treaty of Extradition between the United States of America and the Republic of Bulgaria signed at Sofia on March 19, 1924, and the Supplementary Extradition Treaty signed at Washington on June 8, 1934 (together, the “prior Treaties”) and apply to all pending requests made under the prior Treaties.

Article 23

Termination

Either State may terminate this Treaty at any time by giving written notice to the other State through the diplomatic channel and the termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

DONE at _____, in duplicate, this _____ day of _____, 20____, in the English and Bulgarian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE REPUBLIC OF BULGARIA: