

Translation from Norwegian

13 June No.39, 1975

ACT RELATING TO EXTRADITION OF OFFENDERS ETC.
(Extradition Act)

Chapter 1 - Conditions for extradition to a foreign state.

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Lov om utlevering av lovbrøttere

§ 1. Any person who is charged, accused or sentenced by a foreign state for a punishable act, and who is in Norway, may be extradited in accordance with the provisions of the present Act.

§ 2. Norwegian nationals shall not be extradited.

§ 3.

1. Extradition may take place only ^{if} the act, or a similar act, is punishable under Norwegian law by imprisonment for more than 1 year. If the person whose extradition is requested has been sentenced for the offence, extradition may take place only if the sentence entails imprisonment or confinement to an institution for a period of not less than 4 months, or if by virtue of the sentence a decision is made or could be made about such confinement.
2. The King-in-Council may enter into agreement with a foreign state on extradition for acts even if the duration of imprisonment imposed or imposable is shorter than provided in sub-section 1.
3. Extradition for prosecution or completion of sentence for more than one act may take place even if the conditions of sub-section 1 are complied with in respect of one of the offences only, provided that the other offences may entail imprisonment or confinement in an institution under the laws both of Norway and of the foreign state in question.

§ 4. Extradition for a breach of military law may take place only if the act is punishable as mentioned in § 3 sub-section 1 under non-military law, unless otherwise provided in the agreement with the foreign state.

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(Chapter I, continued)

§ 5.

1. Extradition may not take place for a political offence.
2. If the offence also comprises an illegal act that is not of a political nature, extradition may take place in respect of the said act if the offence may be deemed to be of a predominantly non-political nature.

§ 6. Extradition may not take place if there may be presumed to be a serious risk, by reason of race, religion, nationality, political opinion or other political circumstances, of the person in question becoming subjected to persecution aimed against his life or freedom or is of an otherwise serious nature.

§ 7. Extradition may not take place if it would conflict with basic humanitarian considerations, particularly of the age, state of health or other personal circumstances affecting the person concerned.

§ 8

1. Extradition may not take place if a judgment has been passed, a summary judgment accepted or court prosecution waived in Norway in respect of the act.
2. If the prosecution of an accused is suspended for lack of evidence, extradition may take place only if the conditions of § 87 sub-section one of the Criminal Procedure Act are met.

(Chapter I § 8 continued)

3. If the liability for punishment for the offence has been determined by final verdict in a foreign state other than that which has applied for extradition, and if this state has ratified the European Extradition Convention of 13 December 1957, the European Convention of 28 May 1970 on the international validity of legal judgments or the European Convention of 15 May 1972 on the transferral of criminal cases, extradition shall be denied provided that

a) he was acquitted;

b) he was found guilty without any punishment being imposed,

c) the punishment imposed has been fully served, or

d) the punishment imposed has lapsed under the rules of the judging state.

The denial of extradition under this sub-section shall, however, not apply if the act was entirely or in part committed on the applicant state's territory or at a place deemed equivalent to an official nature in the applicant state, or if the offender himself held public office in that state.

§ 9. Extradition may not take place if the right to prosecute or execute punishment is statute barred by lapse of time under Norwegian law.

§ 10.

1. If the subject of the extradition application has been sentenced for the offence by the foreign state, extradition may not take place if there are specific grounds for believing that the judgment was not passed on a correct appraisal of the question of the accused's guilt.

(Chapter I §10, continued)

2. In other cases extradition may take place if, in accordance with the laws of the foreign state a warrant has been issued for arrest or imprisonment or other decision having the same effect, and which is based on an assessment as to whether the subject is guilty of the offence. In such cases extradition may not take place unless it is deemed that there are reasonable grounds to suspect that the subject is guilty.
3. An agreement with a foreign state may stipulate that judgments or decisions as mentioned in sub-section two, and which are pronounced by a court of law, shall be approved as grounds for extradition to that state without further trial of the evidence that the accused is guilty of the offence.

§ 11.

1. If the subject of the extradition application has been sentenced in Norway to imprisonment or by sentence or by virtue of sentence condemned to an institution for an act other than that to which the extradition application relates, he may not be extradited until his release, or is being prosecuted in Norway for another act that can entail imprisonment for at least 2 years, or is being detained in prison or being subjected to measures mentioned in § 245 sub-section one of the Criminal Procedure Act in respect of another punishable offence.
2. Nevertheless, extradition for legal prosecution may take place on condition that the person extradited be returned as soon as possible after the prosecution.

(Chapter I, continued)

§ 12.

1. Extradition may take place only on the following conditions:
 - a) The person extradited shall not be subjected to prosecution nor punishment be served by him in respect of any punishable offence committed prior to extradition other than that for which he is extradited, unless
 - 1) the Ministry gives its consent under § 21, or
 - 2) he has omitted to leave the country to which he was extradited, despite having been for 45 days unhindered from leaving, or
 - 3) he has voluntarily returned after first having left the country.
 - b) He shall not be extradited further to a third state for any punishable offence committed prior to his extradition from Norway, except in cases as mentioned under letter a) above.
 - c) Without the consent of the Ministry he may not be subjected to prosecution before a purely provisional court or a court that is competent to handle only offences such as the one in question in the individual case or in special emergencies (extraordinary court).
 - d) He may not be subjected to the death penalty.
2. Other justifiable conditions may be attached to the extradition.

Chapter II. - Processing of extradition cases.

§ 13.

1. Applications for extradition shall be made through diplomatic channels, unless otherwise provided by the agreement with the state concerned.
2. The application shall contain information regarding the nationality of the person concerned, his whereabouts in Norway if known, and regarding the nature of and time and place of the offence. If possible, a personal description shall also be given. The application shall also be accompanied by a copy of the provisions relating to punishment that are deemed to apply to the offence. If it is unreasonably difficult to obtain copies, an summary of the relevant penal provisions may be substituted.
3. An application for extradition for prosecution shall be accompanied by the original or attested copy of the arrest warrant or other order issued in conformity with legislation in the applicant state and based on the premise that there are due grounds for suspecting that the person concerned is guilty of the punishable offence.
4. An application for extradition to serve a sentence, shall be accompanied by the original judgment or attested copy thereof.
5. Unless otherwise stipulated in the agreement with the foreign state, the application shall where appropriate be accompanied by such further evidence of the guilt of the accused as will show that there are reasonable grounds for suspicion against him.

(Chapter II, continued)

§ 14.

1. If the Ministry finds that on the basis of the application and accompanying information the application should be refused forthwith, this shall be done.
2. If the application is not refused under sub-section one, the case shall be forwarded to the Public Prosecutor, who shall immediately initiate the necessary investigation.
3. Unless otherwise provided by the present Act, the rules of the Criminal Procedure Act (Norway) shall apply.

§ 15.

1. To further the investigation and to ensure extradition, the coercive measures mentioned in Chapters 17, 18 and 19 of the Criminal Procedure Act may be used to the same extent as in cases of offences of a similar nature prosecuted in Norway. When deciding whether the conditions are present for the use of coercive measures, the judgment accompanying the extradition application may be accepted without further trial of the evidence of the guilt of the person concerned.
2. Unless otherwise determined by the court, its decision to use coercive measures shall apply until the application for extradition has been resolved, and extradition, if granted, implemented, but see § 19 No.2. ~~The subject of the~~ extradition application shall nevertheless be entitled to a re-trial of such decision if more than 3 weeks have elapsed since it was made or last tried.

(Chapter II, continued)

§ 16.

1. When investigations are instituted under § 14, a public defence counsel shall be appointed for the subject of the extradition application, unless he himself chooses a defending counsel. Otherwise, the rules of § 101 of the Criminal Procedure Act shall apply accordingly.
2. The fee of the public defence counsel under this Act shall be paid by the Treasury in accordance with the provisions relating to payment for public defence counsel under § 111 of the Criminal Procedure Act. Other costs of the case will also be borne by the Treasury. The rules in § 303 of the Criminal Procedure Act shall apply accordingly to the summoning of witnesses. In special cases the court may decide that the costs mentioned shall be defrayed by the subject of the extradition application.

§ 17.

1. The court of examination shall determine by ruling whether the conditions are met for extradition under this Act and by agreement, if such exists, with a foreign power. Regarding the right of the court of examination to hear the case in camera, the rules applying to the main proceedings in criminal cases shall apply correspondingly.
2. A ruling may be given as soon as the subject of the extradition application consents in court to extradition. Otherwise, a ruling shall be pronounced on completion of the investigations of the Public Prosecutor. Nevertheless, the court may decide that new evidence shall be obtained, and that the proceedings be postponed.
3. Appeal may be made against the ruling in accordance with the rules in Chapter 29 of the Criminal Procedure Act. The time limit for lodging an appeal is 3 days. An appeal always has the effect of postponement.

(Criminal Extradition Act)

(Chapter II, continued)

§ 19.

1. When the final decision on extradition is made, it shall be implemented as soon as practicable.
2. If the person concerned has not already been imprisoned, he may be arrested and remanded in custody in accordance with the rules of § 231 et seq. of the Criminal Procedure Act or be subjected to measures as prescribed in § 245 subsection one of the Criminal Procedure Act until the extradition can be effected. Nevertheless, a decision regarding the use of coercive measures shall apply no longer than 4 weeks from the final decision to extradite being taken. If special grounds exist the court may, at the request of the Ministry, decide that coercive measures may be used for a specific period beyond the set limit. An appeal may be lodged against a ruling to apply coercive measures, under Chapter 29 of, the Criminal Procedure Act.

Chapter III - Other provisions in respect of extradition

§ 20

1. If a person in a foreign state is charged, accused or sentenced for a punishable offence that could justify extradition under this Act, coercive measures may be employed against him in accordance with Chapters 17, 18 and 19 of the Criminal Procedure Act to the same extent as in cases relating to offences of a similar nature prosecuted in Norway, provided that a competent authority in the foreign state so requests before the application for extradition is lodged. The same applies if in the foreign state the accused is wanted for the offence. Regarding the appointment of defence counsel, §§ 100 et seq. of the Criminal Procedure Act shall apply correspondingly. Appeal against the ruling of the court to employ coercive measures may be lodged in accordance with the rules in Chapter 29 of the Criminal Procedure Act.

(§ 20 Chapter III, continued)

2. The Ministry shall be informed forthwith of a decision to use coercive measures in accordance with Item one. The Ministry may decide that the use of compulsion shall cease if it deems that there are no grounds for extradition. If such a decision is not made without delay, the Ministry shall immediately arrange for the foreign state to be informed of the decision to use coercive measures, and that the decision will be rescinded if an application for extradition is not received as soon as possible. If no application for extradition has been received within 4 weeks after notification was sent, coercive measures may no longer be employed. In special circumstances the court may extend this time limit.

§ 21

1. Upon request, the Ministry may give its consent to the prosecution of a person extradited under this Act, or to punishment being completed by him for a punishable offence committed before extradition other than the one for which he is extradited. The same applies to consent to his being extradited further to a third state for some punishable offence committed before his extradition from Norway.
2. Consent may be given only if the offence could have justified extradition under the present Act or under the Act of 3 March 1961 No.1 relating to the extradition of offenders to Denmark, Finland, Iceland and Sweden, in so far as it relates to further extradition to one of these states. This question shall be decided by ruling of the court of examination that made a previous decision in the case. The provisions of § 16 and § 17 sub-section three shall apply correspondingly.

(Chapter III § 21, continued)

3. The application shall contain information regarding the nature, time and place of the punishable act and particulars of the penal provisions deemed applicable to the offence.
4. Upon request the Ministry may also give its consent as mentioned in § 12 subsection one, letter c, but only if this is deemed to be unobjectionable.

§ 22 The Ministry may consent to a person extradited from a foreign state to another foreign state being transported across the territory of Norway, provided the provisions of § 2 or §§ 4-6 would not preclude extradition for the offence from Norway to the foreign state in question. If extradition takes place to Denmark, Finland, Iceland or Sweden, consent may be given except when §§ 2 and 4 of the Act of 3 March 1961 No. 1 relating to extradition to these states would preclude extradition from Norway to the state in question.

Chapter IV - Extradition to Norway

§ 23

1. If the Public Prosecutor deems that an application should be made to a foreign state for the extradition of a person who is charged, accused or sentenced in Norway for a punishable offence, it shall request the Ministry to arrange this, unless some other procedure has been agreed with the foreign state.
2. The Ministry shall examine every aspect of the case to decide whether the request should be complied with. If so, an application for extradition shall be forwarded through diplomatic channels or by some other way approved by the state in question.

Chapter V - Other Legal measures.

§ 24

1. Upon request it may be determined that for purposes of prosecuting a case in a foreign state, coercive measures mentioned in Chapters 17 and 18 of the Criminal Procedure Act may be employed in the same manner as in cases of offences of a similar nature when prosecuted in Norway.
2. The request shall be submitted to the Ministry, unless otherwise stipulated in the agreement with the foreign state. The request shall contain information as to the nature, time and place of the punishable offence. It may be complied with only if it is established that a decision has been made to use measures of coercion issued in accordance with the legislation of the state in question.
3. The request may not be complied with if the offence to which the prosecution relates, or an equivalent offence, is not punishable under Norwegian law, or if it does not warrant extradition under the provisions of §§ 4-6. In the case of a request from Denmark, Finland, Iceland or Sweden, instead of the requirements of Item one it shall be required that extradition for the offence cannot justify extradition under the Act of 3 March 1961 No. 1 § 4.
4. The Ministry may reject the request forthwith if it does not comply with the conditions of subsection two, or if it is obvious that it will be rejected. If the request is not refused under this provision, the case shall be sent to the Public Prosecutor. When the court considers whether there is legal justification for coercive measures, it shall also consider whether the conditions of this section are fulfilled. The provisions of §§ 17 subsection three and § 18 subsection one shall apply correspondingly. In connection with the agreement mentioned in the first item of subsection two, it may nevertheless be resolved that the case be decided by an authority other than the Ministry.

(Chapter V § 24, continued)

5. If it is probable that a person staying in Norway, who is not accused in connection with the prosecution, is entitled to a seized object, the surrender of the latter to the authorities of the other country shall take place only on condition that it be returned free of cost when the prosecution is ended.

§ 25.

1. Upon request it may be determined that for purposes of prosecuting a case in a foreign state, a person imprisoned in Norway or sentenced to be deprived of his freedom because of a punishable act shall be sent to a foreign state to be questioned as a witness, or for confrontation.
2. The request shall be submitted to the Ministry, unless otherwise stipulated in the agreement with the foreign state. The request shall contain information as to the nature of the punishable offence.
3. The request shall not be complied with if the offence to which the prosecution relates, or an equivalent offence, is not punishable under Norwegian law, or if it cannot justify extradition under the provisions of §§ 4-6. Furthermore, the request shall be denied if the presence of the person concerned is necessary in Norway in connection with a criminal case, or if there are other strong grounds for not surrendering him to the foreign state. Particular consideration shall be paid to whether the transfer is likely to prolong the period of deprivation of his freedom. In respect of requests from Denmark, Finland, Iceland or Sweden, instead of the conditions of Item one it shall be required that the offence cannot justify extradition under the Act of 3 March 1961 No. 1 § 4.

(Chapter V § 25, continued)

4. If the person in question does not agree to be surrendered, the court of examination shall decide by ruling whether surrender is justified by law. If the person in question is being prosecuted in Norway, the matter falls under the jurisdiction of the court handling the case. The rules in § 17 subsection three and § 18 subsection one shall apply correspondingly. In connection with an agreement as mentioned in subsection two, it may nevertheless be resolved that the case be decided by an authority other than the Ministry. Before the court or the Ministry - as the case may be - makes its decision, statements shall be obtained from the prison or institutional authorities if the person in question is serving imprisonment or is detained in an institution.
5. Surrender may take place only on condition that the person in question be returned as soon as possible, perhaps within a specified time limit, and that during his stay in the foreign state he be not subjected to prosecution, nor punished nor extradited for any act committed before the surrender.

Chapter VI - Agreement with a foreign state.

Relations between the Nordic countries

§ 26.

1. The King-in-Counsel may enter into agreements with foreign states regarding the obligation to extradite and other legal assistance in criminal cases, on specified conditions, which shall not conflict with the present Act.
2. Irrespective of this Act, extradition may take place and other legal aid in criminal cases be given to the extent that Norway is obliged to do so under agreements made with a foreign state before this Act entered into force.
3. Extradition and other aid in criminal cases may take place under this Act, even if no relevant commitment or treaty exists between Norway and the foreign state in question.

(Chapter VI, continued)

§ 27 The provisions regarding extradition in Chapters I, II and IV and the provisions in connection with extradition in Chapter III do not apply to relations with Denmark, Finland, Iceland and Sweden.

Chapter VII - Entrance into force. Amendments to other Acts etc.

§ 28.

1. This Act shall enter into force on the date determined by the King-in-Council.
2. The King-in-Council may issue further provisions for the implementation of the act.
3. As and from the date of entry into force, the Act of 13 June 1908 relating to the extradition of criminals is rescinded.

§ 29. As and from the date of entry into force, § 46, subsection five, item two, of the Act of 13 August 1915 relating to courts of law shall read: - - -

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True translation certified



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