

**TREATY ON EXTRADITION BETWEEN AUSTRALIA AND THE CZECH  
REPUBLIC**

Australia and the Czech Republic (hereinafter “the Contracting States”),

DESIRING to deepen and facilitate their legal relations and wishing to  
contribute to the suppression of crime,

HAVE AGREED as follows:

**Article 1****OBLIGATION TO EXTRADITE**

The Contracting States undertake to extradite to each other, subject to the provisions and conditions laid down in this Treaty, any persons against whom the competent authorities of the Requesting State are proceeding for an extraditable offence or who are wanted by the said authorities for the imposition or carrying out of a sentence for an extraditable offence.

## Article 2

### EXTRADITABLE OFFENCES

1. For the purposes of this Treaty, extraditable offences are offences which are punishable under the laws of both Contracting States by imprisonment for a maximum period of at least one year or by a more severe penalty. Where the request for extradition relates to a person convicted of such an offence who is wanted for the enforcement of a sentence of imprisonment, extradition shall be granted only if a period of at least six months of such penalty remains to be served.

2. If the request for extradition includes several separate offences each of which is punishable under the laws of the Requesting State and the Requested State by imprisonment, but of which some do not fulfil the condition with regard to the prescribed penalty or term of imprisonment remaining to be served, the Requested State may, in accordance with its domestic law, also grant extradition for the latter offences.

3. For the purposes of this Article, in determining whether an offence is an offence punishable under the laws of both Contracting States:

a) it shall not matter whether the laws of the Contracting States place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology; and

b) the totality of the acts or omissions alleged against the person whose extradition is sought shall be taken into account and it shall not matter whether, under the laws of the Contracting States, the constituent elements of the offence differ.

4. Where extradition of a person is requested for an offence against a law relating to taxation, customs duties, foreign exchange control or other revenue matter, extradition may not be refused on the ground that the law of the Requested State does not impose the same kind of tax or duty or does not contain a tax, duty, customs, or exchange regulation of the same kind as the laws of the Requesting State.

5. When the offence for which extradition is requested has been committed outside the territory of the Requesting State, extradition may be refused if the laws of the Requested State do not allow prosecution for the same category of offence when committed outside the latter State's territory.

6. Extradition shall be granted pursuant to the provisions of this Treaty irrespective of when the offence in relation to which extradition is requested was committed, provided that:

- a) the acts or omissions in respect of which extradition is requested constituted an offence in the Requesting State at the time of the acts or omissions constituting the offence; and
- b) the acts or omissions alleged would, if they had taken place in the territory of the Requested State at the time the request for extradition is received, have constituted an offence against the laws in force in that State.

### Article 3

#### MANDATORY EXCEPTIONS TO EXTRADITION

Extradition shall not be granted in any of the following circumstances:

- a) if the offence for which extradition is requested is regarded by the Requested State as a political offence. Reference to a political offence shall not include any offence in respect of which the Contracting States have assumed or will assume an obligation to establish jurisdiction or to extradite pursuant to international agreements to which both Contracting States are party;
- b) if there are substantial grounds for believing that a request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, language, ethnic origin, gender, religion, nationality, political opinion or other status, or that the person's position may be prejudiced for any of those reasons;
- c) if the offence for which the extradition is requested is regarded by the Requested State as an offence under military law, but not an offence under the ordinary criminal law of the Requested State;
- d) if the person has been finally acquitted, pardoned, granted an amnesty or had the penalty imposed remitted in the Requested State or has undergone the punishment provided by law of the Requested State in respect of the conduct constituting the offence for which the extradition is sought;
- e) if the offence for which extradition is requested carries the death penalty under the law of the Requesting State unless that State gives such assurances as the Requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out; or
- f) if the Requested State has substantial grounds to believe that the person whose extradition is requested would be in danger of being subjected in the Requesting State to torture or other cruel, inhuman or degrading treatment or punishment.

**Article 4**

**EXTRADITION OF NATIONALS**

1. The Contracting States may refuse the extradition of their nationals.
  
2. If the Requested State refuses to extradite its national it shall, at the request of the Requesting State, submit the case to its competent authorities in order that proceedings may be taken if they are considered appropriate.

## Article 5

### DISCRETIONARY EXCEPTIONS TO EXTRADITION

Extradition may be refused in any of the following circumstances:

- a) if the offence for which extradition is requested is regarded under the laws of the Requested State as having been committed in whole or in part within the territory of that State;
- b) if a prosecution in respect of the offence for which extradition is requested is pending in the Requested State against the person whose extradition is requested;
- c) if the Requested State, while also taking into account the nature of the offence and the interests of the Requesting State, considers that, in the circumstances of the case, including the person's health, age or other personal circumstances, the extradition of the person would be unjust or oppressive;
- d) if prosecution or carrying out of a sentence for the offence for which extradition is requested would be barred by reason of lapse of time under the law of the Requested State;
- e) if the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the Requesting State by an extraordinary or *ad hoc* court or tribunal;
- f) where the person sought is in the Requested State as the result of extradition from a third State and any consent of that third State, if required for re-extradition, is denied; or
- g) if the competent authorities of the Requested State have decided either to terminate or not to institute proceedings against the person for the offence for which the extradition is sought.

**Article 6****COMMUNICATIONS AND LANGUAGE**

1. Each Contracting State shall appoint a Central Authority for the purposes of this Treaty. The Central Authority for Australia shall be the Commonwealth Attorney-General's Department and the Central Authority for the Czech Republic shall be the Ministry of Justice. Each Contracting State shall notify the other in writing of any change of its Central Authority.
  
2. Requests for extradition shall be transmitted directly between the Central Authorities, although communications through diplomatic channels are not excluded.
  
3. Requests for extradition and supporting documents, as well as additional information requested under Article 8, shall be in, or accompanied by, a translation into the official language of the Requested State and shall be authenticated in accordance with paragraph 5 of Article 7.



**Article 7****REQUEST FOR EXTRADITION AND SUPPORTING DOCUMENTS**

1. The request for extradition shall be presented in writing and shall be supported by:
  - a) the details necessary to establish the identity and nationality of the person sought including, when possible, photographs and fingerprints and any other relevant information that may help to identify the person;
  - b) information on the location and place of residence of the person, if known;
  - c) a statement of the acts or omissions alleged to constitute each offence for which extradition is requested;
  - d) a statement of each offence for which extradition is sought;
  - e) the text of the laws establishing each offence and describing the penalty which may be imposed; and
  - f) a statement regarding any applicable time limitations.
  
2. When the request for extradition relates to a person who has not yet been sentenced, it shall be additionally supported by a copy of a warrant of arrest or detention issued by a judge or other competent authority of the Requesting State.
  
3. When the request for extradition relates to a person who has been convicted, it shall be additionally supported by:
  - a) a record of the conviction and sentence imposed, and a statement on the extent to which the sentence has not been carried out; and
  - b) if the person was convicted in her or his absence – the text of any laws describing any legal means to challenge the conviction and a judicial or other document, or a copy thereof, authorising the apprehension of the person.

4. To the extent permitted by the laws of the Requested State, extradition of a person may be granted pursuant to the provisions of this Treaty notwithstanding that the requirements of paragraph 1 of this Article have not been complied with, provided that the person sought consents to being extradited.

5. For the purposes of this Treaty, a document is authenticated if it purports to be signed or certified by an officer of the Requesting State and it purports to be sealed by an official seal of a Minister or a Ministry of the Requesting State.

6. A document that supports a request for extradition shall be admitted, if authenticated, in any extradition proceedings in the territory of the Requested State.

**Article 8****ADDITIONAL INFORMATION**

1. If the Requested State considers that the information furnished in support of a request for extradition is not sufficient in accordance with this Treaty to enable extradition to be granted, it may request that additional information be furnished by the Requesting State within such time as it specifies. In exceptional cases the Requested State, taking into account the circumstances outlined by the Requesting State, may extend the specified time limit.

2. If the person whose extradition is sought is in custody in relation to the offence for which the extradition is sought and the additional information furnished is not sufficient in accordance with this Treaty or is not received within the time specified, the person may be released from such custody. Such release would not preclude the resumption of extradition proceedings if the additional information is subsequently presented, or the making of a fresh request for extradition if required.

3. If the person is released from custody in accordance with paragraph 2 of this Article, the Requested State shall notify the Requesting State as soon as possible.

**Article 9****PROVISIONAL ARREST FOR EXTRADITION**

1. In case of urgency a Contracting State may apply through the facilities of International Criminal Police Organisation (INTERPOL), diplomatic channels, or directly between the Central Authorities for the provisional arrest of the person sought pending the presentation of the request for extradition. The application for the provisional arrest shall be presented in written form and may be transmitted by any means, including electronic means.

2. The application shall contain:

- a) a description of the person sought including, when possible, photographs and fingerprints and any other relevant information that may help to identify the person;
- b) information on the location and place of residence of the person, if known;
- c) a brief statement of the acts or omissions alleged to constitute each offence for which extradition is requested;
- d) a statement of each offence for which extradition is sought and describing the penalty which may be, or has been, imposed for each offence;
- e) a warrant of arrest or detention, or record of conviction, against the person sought;
- f) a statement that request for extradition for the person sought will follow; and
- g) a statement about the reasons for urgency.

3. On receipt of such an application the Requested State shall take the necessary steps to secure the arrest of the person sought. The Requesting State shall be notified as soon as possible of the result of its application, including the date and place of arrest if applicable.

4. A person arrested upon such an application may be released upon the expiration of 60 days from the date of that person's arrest if a request for extradition, supported by the documents specified in Article 7, has not been received by the Requested State.

5. If the person is released from custody the Requested State shall notify the Requesting State as soon as possible.

6. The release of a person pursuant to paragraph 4 of this Article shall not prevent the institution of proceedings with a view to extraditing the person sought if the request is subsequently received.

**Article 10****CONFLICTING REQUESTS**

1. Where requests are received from two or more States for the extradition of the same person, the Requested State shall determine to which of those States the person is to be extradited and shall notify those States of its decision.
  
2. In determining to which State a person is to be extradited, the Requested State shall have regard to all relevant circumstances, including:
  - a) if the requests relate to different offences - the relative seriousness of the offences;
  - b) the time and place of commission of each offence;
  - c) the dates of the receipt of the requests;
  - d) the nationality of the person;
  - e) the ordinary place of residence of the person; and
  - f) the possibility of subsequent extradition to another State.

**Article 11****NOTIFICATION OF DECISIONS**

As soon as a decision on the request for extradition has been made, the Requested State shall communicate that decision to the Requesting State and give reasons for any complete or partial rejection of the request for extradition.

**Article 12****POSTPONED OR TEMPORARY SURRENDER**

1. The Requested State may postpone the surrender of a person in order to proceed against that person, or so that the person may serve a sentence, for an offence other than an offence constituted by an act or omission for which extradition is sought. In such case the Requested State shall advise the Requesting State accordingly.
  
2. When, in the opinion of the competent medical authority in the Requested State, the person whose extradition is sought cannot be transported from the Requested State to the Requesting State without serious danger to the person's life due to grave illness, the surrender of the person shall be postponed until such time as the danger, in the opinion of the competent medical authority, has been sufficiently mitigated.
  
3. When the person is in custody or serving a sentence in the territory of the Requested State for an offence other than an offence constituted by an act or omission for which extradition is sought, the Requested State may temporarily surrender the person to the Requesting State to be proceeded against for an offence for which extradition is sought. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after proceedings against the person have concluded, in accordance with written conditions to be mutually determined by the Contracting States.



**Article 13****SURRENDER**

1. Where extradition is granted, the Requested State shall surrender the person from a point of departure in its territory convenient to the Requesting State and shall, on request, notify that State of the length of time for which the person sought was detained with a view to surrender.

2. The Requesting State shall remove the person from the territory of the Requested State within the period specified by the Requested State. If the person is not removed within that period, the Requested State may release the person from custody and may refuse to extradite the person for the same offence.

3. If circumstances beyond its control prevent a Contracting State from surrendering or removing the person to be extradited it shall notify the other Contracting State. The two Contracting States shall mutually decide upon a new date of surrender, and the provisions of paragraph 2 of this Article shall apply.

**Article 14**

**OUTCOME OF CRIMINAL PROCEEDINGS**

Upon request, the Requesting State shall inform the Requested State of the outcome of the criminal proceedings following the extradition.

**Article 15****SURRENDER OF PROPERTY**

1. To the extent permitted under the laws of the Requested State and subject to the rights of third parties, which shall be duly respected, all property found in the Requested State that has been acquired as a result of the offence or may be required as evidence shall, if the Requesting State so requests, be surrendered if extradition is granted.
  
2. Subject to paragraph 1 of this Article, the above-mentioned property may, if the Requesting State so requests, be surrendered to the Requesting State even if the extradition cannot be carried out.
  
3. Where the laws of the Requested State or the rights of third parties so require, any articles so surrendered shall be returned to the Requested State free of charge if that State so requests.

**Article 16****RULE OF SPECIALITY**

1. Subject to paragraph 3 of this Article, a person extradited under this Treaty shall not be detained or tried, or be subjected to any other restriction of his or her personal liberty, in the territory of the Requesting State for any offence committed before his or her surrender other than:

- a) an offence for which extradition was granted;
- b) any other extraditable offence of which the person could be convicted on the same facts, provided the offence is punishable by the same or lesser penalty for which the extradition was granted; or
- c) any other extraditable offence in respect of which the Requested State consents.

2. For the purposes of sub-paragraph 1(c) of this Article:

- a) the Requested State may require the documents mentioned in paragraph 1 of Article 7; and
- b) if there is a statement of the extradited person relating to the offence, this statement shall be submitted to the Requested State.

3. Paragraph 1 of this Article does not apply if the person has had an opportunity to leave the Requesting State and has not done so within 45 days of being released in respect of the offence for which that person was extradited, or if the person has voluntarily returned to the territory of the Requesting State after leaving it.

**Article 17****EXTRADITION TO A THIRD STATE**

1. Where a person has been surrendered to the Requesting State by the Requested State, the first-mentioned State shall not extradite that person to any third state for an offence committed before that person's surrender unless:

- a) the Requested State consents to that extradition;
- b) the person has had an opportunity to leave the territory of the Requesting State and has not done so within 45 days of being released in respect of the offence for which that person was surrendered by the Requested State; or
- c) the person has voluntarily returned to the territory of the Requesting State after leaving it.

2. Before consenting to extradition in accordance with sub-paragraph 1(a) of this Article, the Requested State may request the production of the documents mentioned in paragraph 1 of Article 7.

**Article 18****TRANSIT**

1. Where a person is to be extradited to a Contracting State from a third state through the territory of the other Contracting State, the Contracting State to which the person is to be extradited shall request the other Contracting State to permit the transit of that person through its territory. A request for transit may be made through the facilities of International Criminal Police Organisation (INTERPOL) or directly between the Central Authorities. The request shall be presented in written form and transmitted by any means including electronic means. Where air transport is to be used and there is no intention to land, a request for transit is not required

2. Upon receipt of such request, which shall contain information required by the Requested State, it shall deal with this request pursuant to procedures provided by its own laws.

3. Permission for the transit of a person shall, subject to the law of the Requested State, include permission for the person to be held in custody during transit.

4. In the event of an unscheduled landing, the State of transit may, at the request of the escorting officer, hold the person in custody for 96 hours pending receipt of the transit request to be made in accordance with this Article.

5. The Contracting State to which the person is being extradited shall, on request, reimburse the transit State for any expenses incurred by that State in connection with the transit.

**Article 19****EXPENSES**

1. The Requested State shall make all necessary arrangements for and meet the costs of any proceedings arising out of a request for extradition and shall otherwise represent the interests of the Requesting State.
  
2. The Requested State shall bear the expenses incurred in its territory in the arrest and detention of the person whose extradition is requested until that person is surrendered to the Requesting State.
  
3. The Requesting State shall bear the expenses incurred in conveying the person from the territory of the Requested State.

**Article 20**

**RELATIONS WITH OTHER TREATIES**

This Treaty shall not affect any rights or obligations of the Contracting States arising from other treaties to which they are both parties.



**Article 21****CONSULTATIONS**

The Central Authorities may consult each other in connection with the processing of individual cases and to maintain and improve procedures for the implementation of this Treaty.

## Article 22

### ENTRY INTO FORCE AND TERMINATION

1. This Treaty is subject to approval in accordance with the legal requirements of both Contracting States. Each Contracting State shall inform the other by diplomatic note that its legal requirements for the entry into force of this Treaty have been complied with. This Treaty shall enter into force on the first day of the third month following the date of the receipt of the later note.
  
2. This Treaty applies only to requests received after its entry into force, and will apply even if the relevant acts or omissions occurred before the entry into force of this Treaty.
  
3. Either Contracting State may terminate this Treaty at any time by diplomatic note to the other State. Termination shall take effect six months after the date on which the note is received. Requests submitted before the termination and still pending at the time when the termination takes effect shall be executed under this Treaty.

In witness whereof the undersigned, being duly authorized thereto, have signed this Treaty.

Done in duplicate at                      on the                      day of  
 Two Thousand                      , each in the English and Czech languages, both texts being  
 equally authentic.

.....  
 For Australia

.....  
 For the Czech Republic