



REPUBLIKA E KOSOVËS – PRESIDENTI
REPUBLIC OF KOSOVO – THE PRESIDENT
REPUBLIKA KOSOVA – PREDSIEDNIK

DECREE FOR RATIFICATION OF THE INTERNATIONAL AGREEMENT

Pursuant to Article 18, paragraph 2 of the Constitution of the Republic of Kosovo and Article 4, paragraph 3 of the Law Nr.03/L-004 for the Ministry of Foreign Affairs and Diplomatic Service, I hereby issue the following;

Decree

On the ratification of the Agreement on Extradition, between the Government of the Republic of Kosovo and the Government of the Republic of Macedonia, signed on April 8, 2011, and received by the Office of the President of the Republic of Kosovo on May 6, 2011.

Pursuant to Article 18, paragraph 3 of the Constitution of the Republic of Kosovo, the ratified agreement shall be forwarded to the Parliament of the Republic of Kosovo as a notification.

The ratified agreement shall enter into force on the day of its publication in the Official Gazette.

Decree No: DMN-008-2011

Prishtina, 9 June 2011

Atifete Jahjaga
President of the Republic of Kosovo

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF KOSOVO
AND
THE GOVERNMENT OF THE REPUBLIC OF MACEDONIA
ON
EXTRADITION

PREAMBLE

The Government of the Republic of Kosovo and the Government of the Republic of Macedonia; hereinafter referred to as the „Parties”;

In their aspiration for further development and reinforcement of the bilateral relations in the spirit of the existing friendship and co-operation relating to the extradition between the two countries;

Taking into consideration the desire to participate actively in the European integration cooperation process;

Have agreed as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1

Obligation to extradite

1. The Parties undertake to surrender to each other, subject to the provisions and conditions laid down in this Agreement, all persons against whom the competent authorities of the requesting Party are proceeding for an offence or who are wanted by the said authorities for the carrying out of a sentence or detention order.
2. For the purposes of this Agreement, the expression "detention order" means any measure involving deprivation of liberty which has been pronounced by a competent court in addition to or instead of a prison sentence.

Article 2

Extraditable offences

1. Extradition shall be granted in respect of offences punishable under the laws of the requesting Party and of the requested Party by deprivation of liberty or under a detention order for at least one year or by a more severe penalty. Where a conviction and prison sentence have occurred or a detention order has been made in the territory of the requesting Party, the punishment awarded must have been for a period of at least four months.
2. If the extradition request refers to several different offences for which under the laws of both Parties a penalty of deprivation of liberty or a detention order of deprivation of liberty is prescribed, but some of them do not meet the condition relating to the length of the penalty, the requested Party may allow extradition for these offences as well.
3. This right shall also apply to offences which are subject only to pecuniary sanctions.

Article 3

Political criminal offences

1. Extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested Party as a political criminal offence or as an offence connected with a political criminal offence.
2. The same rule shall apply if the requested party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purposes 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.

3. The taking or attempted taking of the life of a Head of State or a member of his/her family shall not be deemed to be a political criminal offence for the purposes of this Agreement.
4. This Article shall not affect any obligations which the Contracting Parties may have undertaken or may undertake under any other international agreement.

Article 4 **Military offences**

Extradition for offences under military law which are not offences under ordinary criminal law is excluded from the application of this Agreement.

Article 5 **Fiscal offences**

1. For offences in connection with taxes, duties, customs and exchange extradition shall take place between the Contracting Parties in accordance with the provisions of the Agreement if the offence, under the law of the requested Party, corresponds to an offence of the same nature.
2. Extradition may not be refused on the ground that the law of the requested Party 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 law of the requesting Party.

Article 6 **Extradition of nationals**

1. Every Party shall have the right to refuse extradition of its nationals.
 - 1) Extradition shall be granted if the person claimed who is a national of the requesting Party, requested the citizenship of the requested State, after the initiation of the procedure for extradition.
 - 2) A "national" of the Republic of Kosovo means any person having the Republic of Kosovo citizenship in accordance with applicable law in the Republic of Kosovo.
A "national" of the Republic of Macedonia means any person having the Republic of Macedonia citizenship in accordance with the applicable law in the Republic of Macedonia.
2. If the requested Party does not extradite its national, it shall at the request of the requesting Party submit the case to its competent authorities in order that proceedings

may be taken if they are considered appropriate. For this purpose, the files, information and exhibits relating to the offence shall be transmitted without charge by the means provided for in Article 14, paragraph 1. The requesting Party shall be informed of the result of its request.

Article 7

Place of commission

1. The requested Party may refuse to extradite a person claimed for an offence which is regarded by its law as having been committed in whole or in part in its territory.
2. When the offence for which extradition is requested has been committed outside the territory of the requesting Party, extradition may only be refused if the law of the requested Party does not allow prosecution for the same category of offence when committed outside the latter Party's territory or does not allow extradition for the offence concerned.

Article 8

Pending Proceedings for the same Offences

The requested Party may refuse to extradite the person claimed if the competent authorities of such Party are conducting proceedings against him/her in respect of the offence or offences for which extradition is requested.

Article 9

Non bis in idem

1. Extradition shall not be granted if a final judgment has been passed by the competent authorities of the requested Party upon the person claimed in respect of the offence or offences for which extradition is requested. Extradition may be refused if the competent authorities of the requested party have decided either not to institute or to terminate proceedings in respect of the same offence or offences.
2. Extradition of persons against whom an effective judgment has been passed in a third state for an offence or offences for which a request is made, shall not be granted:
 - 1) when the said judgment is acquitting,
 - 2) when a penalty of deprivation of liberty or another order has been pronounced,
 - is sustained in whole
 - was the subject of pardon or amnesty in whole in the unexecuted part
 - 3) when the judge found the perpetrator of the criminal offence to be guilty, but failed to render a sanction.

3. However, in the cases envisaged in paragraph 2, extradition may be granted:

1) if the offence for which the judgment has been passed has been committed against persons, institutions, or institutions of public character in the requesting Party;

2) if the person against whom the judgment has been passed has a public position in the requesting party;

3) if the offence on grounds of which the judgment has been passed has been committed in whole in the territory of the requesting Party.

4. The provisions referred to in paragraphs 2 and 3 shall not prevent the application of wider national regulations relating to the effect of *non bis in idem* with regard to court decisions made abroad.

Article 10

Statutory limitation

Extradition shall not be granted if the case or the penalty has fallen under statutory limitation, pursuant to the legislation of either the requesting or the requested Party.

Article 11

Capital punishment

If the offence for which extradition is requested is punishable by death penalty under the law of the requesting Party, and if in respect of such offence the death penalty is not provided for by the law of the requested party or is not normally carried out, extradition shall be refused unless the requesting Party gives such assurance as the requested Party considers sufficient that the death penalty will not be carried out.

Article 12

Judgments *in absentia*

1. When a Party requests the extradition of a person for the purposes of carrying out a sentence or detention order imposed by a decision rendered against him/her in absentia, the requested Party may refuse the extradition for this purpose if, in its opinion, the proceedings leading to the judgment did not satisfy the minimum rights of defence recognised as due to everyone charged with a criminal offence. However, extradition shall be granted if the requesting Party gives an assurance considered sufficient to guarantee to the person claimed the right to a retrial which safeguards the rights of defence. This decision will authorise the requesting Party either to enforce the judgment in question if the convicted person does not make an opposition or, if he/she does, to take proceedings against the person extradited.
2. When the requested Party informs the person whose extradition has been requested of the judgment rendered against him/her in absentia, the requesting

Party shall not regard this agreement as a formal notification for the purposes of the criminal procedure in that Party.

Article 13
Amnesty or pardon

Extradition shall not be granted for an offence in respect of which amnesty or pardon has been declared in the requested Party and which that Party had competence to prosecute under its own criminal law.

CHAPTER II
SURRENDER PROCEDURE

Article 14
Request and Supporting Documents

1. The request shall be in writing and shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party. However, the use of diplomatic channels shall not be excluded.
2. The request shall have the following supporting documents:
 - 1) the original or a certified copy of the judgment rendering a penalty or a detention order or a warrant of arrest or any other act with the same legal effect issued in a manner prescribed by the law of the requesting Party;
 - 2) a statement of the offences for which the extradition is requested. The time and place the offences were committed, the legal description; and
 - 3) a copy of the legal provisions applied to the offences or, in case when this is not possible, a statement of the law being applied and as accurate description as possible of the person claimed, together with any other information which will help to establish his/her identity and nationality.
3. The requesting party shall submit the request with the supporting documents to the requested Party:
 - 1) in the Albanian or Serbian language with translation into the Macedonian language, when the requesting party is the Republic of Kosovo.
 - 2) in the Macedonian language with translation into the Albanian or Serbian language, when the requesting Party is the Republic of Macedonia.

Article 15
Supplementary information

If the information communicated by the requesting Party is found to be insufficient to allow the requested Party to make a decision in pursuance of this Agreement, the latter Party shall request the necessary supplementary information and may fix a time-limit for the receipt thereof.

Article 16
Provisional arrest

1. In case of urgency the requesting Party may request the provisional arrest of the person sought. The requested Party shall decide the matter in accordance with its law.
2. The request for provisional arrest shall state that one of the documents mentioned in Article 14, paragraph 2.1), exists and that it is intended to send a request for extradition. It shall also state for what offence extradition will be requested and when and where such offence was committed and shall so far as possible give a description of the person sought.
3. A request for provisional arrest shall be submitted in writing, by telefax or by any other means affording evidence in writing through the Ministry of Justice of both respective countries. The requesting Party shall be informed without delay of the result of its request.
4. Provisional arrest may be terminated if, within a period of 18 days after arrest, the requested Party has not received the request for extradition and the documents mentioned in Article 14. It shall not, in any event, exceed 40 days from the date of such arrest. The possibility of provisional release at any time is not excluded, but the requested party shall take any measures which it considers necessary to prevent the escape of the person sought.
5. Release shall not prejudice re-arrest and extradition if the request for extradition is received subsequently.

Article 17
Conflicting requests

If extradition is requested concurrently by more than one State, either for the same or for different offences, the requested Party shall take its decision having regard to all the circumstances and especially the seriousness and place of commission of the offences, the respective dates of the requests submitted, the nationality of the person claimed, and the possibility of subsequent extradition to another State.

Article 18

Surrender of the person to be extradited

1. The requested Party shall inform the requesting Party by the means mentioned in Article 14, paragraph 1 of its decision with regard to the extradition.
2. Reasons shall be given for any complete or partial rejection.
3. If the request is agreed to, the requesting Party shall be informed of the place and date of surrender and of the length of time for which the person claimed was detained with a view to surrender.
4. Subject to the provisions of paragraph 5 of this Article, if the person claimed has not been taken over on the appointed date, he/she may be released after the expiry of 15 days and shall in any case be released after the expiry of 30 days. The requested Party may refuse to extradite him/her for the same offence.
5. If circumstances beyond its control prevent a Party from surrendering or taking over the person to be extradited, it shall notify the other Party. The two Parties shall agree a new date for surrender and the provisions of paragraph 4 of this Article shall apply.

Article 19

Postponed or conditional surrender

1. The requested Party may, after making its decision on the request for extradition, postpone the surrender of the person claimed in order that he/she may be proceeded against by that Party or, if he/she has already been convicted, in order that he/she may serve his/her sentence in the territory of that Party for an offence other than that for which extradition is requested.
2. The requested Party may, instead of postponing surrender, temporarily surrender the person claimed to the requesting Party in accordance with conditions to be determined by mutual agreements between the Parties.

Article 20

Handing over of property

1. The requested Party shall, in so far as its law permits and at the request of the requesting Party, seize and hand over property:
 - 1) which may be required as evidence or
 - 2) which has been acquired as a result of the offence and which, at the time of the arrest, is found in the possession of the person claimed or is discovered subsequently.

2. The property mentioned in paragraph 1 of this Article shall be handed even if extradition, having been agreed to, cannot be carried out owing to the death or escape of the person claimed.
3. When the said items is liable to seizure or confiscation in the territory of the requested Party, the latter may, in connection with pending criminal proceedings, temporarily retain it or hand it over on condition that it is returned.
4. Any rights which the requested Party or third parties may have acquired in the said property shall be preserved. Where these rights exist, the property shall be returned without charge to the requested Party as soon as possible after the trial.

Article 21 Procedure

Except where this Agreement otherwise provides, the procedure with regard to extradition and provisional arrest shall be governed solely by the law of the requested Party.

CHAPTER III EFFECTS OF THE SURRENDER

Article 22 Rule of speciality

1. A person who has been extradited shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or detention order for any offence committed prior to his/her surrender other than that for which he/she was extradited, nor shall he/she be for any other reason restricted in his/her personal freedom, except in the following cases:
 - 1) when the Party which surrendered him/her consents. A request for consent shall be submitted, accompanied by the documents mentioned in Article 14 and a legal record of any statement made by the extradited person in respect of the offence concerned. Consent shall be given when the offence for which it is requested is itself subject to extradition in accordance with the provisions of this Agreement;
 - 2) when that person, having had an opportunity to leave the territory of the Party to which he/she has been surrendered, has not done so within 45 days of his/her final discharge, or has returned to that territory after leaving it.

2. The requesting Party may, however, take any measures necessary to remove the person from its territory, or any measures necessary under its law, including proceedings by default, to prevent any legal effects of lapse of time.
3. When the description of the offence charged is altered in the course of proceedings, the extradited person shall only be proceeded against or sentenced in so far as the offence under its new description is shown by its constituent elements to be an offence which would allow extradition.

Article 23

Extradition to third states

Except as provided for in Article 22, paragraph 1.2), the requesting Party shall not, without the consent of the requested Party, surrender to a third State a person surrendered to the requesting Party and sought by the third State in respect of offences committed before his/her surrender. The requested Party may request to provide the documents mentioned in Article 14, paragraph 2 of this Agreement.

Article 24

Settlement of disputes

When implementing the provisions of this agreement in case of dispute, the same shall be resolved by diplomatic means.

CHAPTER IV

FINAL PROVISIONS

Article 25

Expenses

Expenses incurred in the territory of the requested Party by reason of extradition shall be borne by that Party.

Article 26

Scope of effect

The provisions of this Agreement shall apply to all the requests for extradition related to the acts or offences which are committed after the date of entry into force of this Agreement.

Article 27

Entry into force and termination

1. This Agreement shall be subject to ratification.
2. This Agreement shall enter into force after the expiration of 30 days from receiving the last of the notes with which the Contracting Parties notify each other about the ratification procedure conducted in accordance with the domestic law.
3. This Agreement shall remain in force for an indefinite period. Each Contracting Party may denounce the Agreement in writing through diplomatic channels. In such a case, the Agreement shall cease to be in force 6 months after the date of such notification.

Done in Prishtinë, on 8 April 2011 in two originals, each in the Albanian, Macedonian and English languages, all texts being equally authentic. In case of any differences in the interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE
REPUBLIC OF KOSOVO



FOR THE GOVERNMENT OF THE
REPUBLIC OF MACEDONIA

