

المرسوم الاتحادي رقم 12 لسنة 2004

في شأن التصديق على اتفاقية تسليم
المجرمين و اتفاقية اعلان الاوراق
القضائية و غير القضائية وسماع الشهادة و
الاعتراف بالأحكام وتنفيذها في المسائل
المدنية و التجارية

بين حكومة دولة الامارات العربية المتحدة
و حكومة جمهورية باكستان الاسلامية

T R E A T Y

Between

The Government of the United Arab Emirates

AND

The Government of the Islamic Republic of

Pakistan

ON

EXTRADITION

which extradition is requested or the person sought is convicted by the Courts of the Requesting Party.

2. The Requesting party shall not extradite the person to a third State without the consent of the Requested Party. The person may be extradited to a third State, if he has not left the territory of the Requesting Party within forty five days from the day when he has been set free to do so or voluntarily returned to it, in pursuance of the provisions of paragraphs b and c of Article (6) of this Treaty.

Article (4)

1. Extradition shall not be granted under this Treaty, in any of the following cases:
 - a. If the crime for which the extradition is requested is a political crime or a crime of a political nature or when it appears that the request for extradition is made with a view to prosecuting, trying or punishing the person for a political crime;
 - b. If the person sought has been tried and convicted or acquitted by the courts of the Requested Party or of a third State of the crime for which extradition is requested;
 - c. When the prosecution of the person sought would be barred by lapse of time under the laws of the Requested Party;
 - d. If the person has already undergone the punishment for the crime for which extradition is requested whether in the Requested Party or a third State;
 - e. If the person is enjoying political asylum in the Requested party;
 - f. If the crime for which extradition has been requested is a military crime.
2. When the person sought is under investigation or has been prosecuted and is undergoing punishment in the Requested Party for a crime other than that for which extradition is requested, the Requested Party may defer his extradition till he completes his sentence or is discharged.

The Government of the United Arab Emirates and the Government of the Islamic Republic of Pakistan,
Recalling the brotherly and friendly relations that exist between the two countries;

Deeply concerned at the magnitude of and rising trend in acts of international terrorism and organized crime; and
Desirous of strengthening and reinforcing cooperation between the two countries in combating crime;

Have agreed as follows:

Article (1)

The Contracting Parties agree, in accordance with the provisions of this Treaty, to extradite to each other any person, found within the territories of one Party who is wanted by the other Party for offences committed in the Requesting Party or for the execution of penalty for a crime that occurred partially or wholly within the jurisdiction of Requesting Party subject to provisions of Article (2) of this Treaty, provided that the offence is extraditable according to the laws of both the Requesting and the Requested Parties.

Article (2)

1. Extradition shall be granted under this Treaty in the following cases:

If the acts of the accused, according to the laws of the Requesting and Requested Parties, constitute a crime that is punishable for imprisonment for a period not less than one year.
2. If the competent court in the Requesting Party, whether in the presence of or in absentia, has convicted the accused to imprisonment for a period not less than six months.

Article (3)

1. The extradition shall be granted if, prima facie, the evidence available shows that according to the laws of the Requested Party the person required for extradition has committed the crime for

Article (7)

1. All requests for extradition shall be supported by:
 - a. Documents, statements, or other types of information which describe the identity, nationality and probable location of the person sought;
 - b. A statement of facts of the crime and the procedural history of the case;
 - c. A statement of the provisions of the law describing the essential elements of the crime for which extradition is requested;
 - d. A statement of the provisions of law describing the punishment for the crime;
 - e. A statement of the provisions of law describing any time limit on the prosecution or the execution of punishment for the crime;
2. In addition to the documents referred to in paragraph 1, a request for extradition of a person who is sought for prosecution shall be accompanied by such evidence as, according to the law of the Requested Party, would provide probable cause for his arrest and committal for trial, if the crime had been committed there and
 - a. a copy of the warrant or order of arrest issued by a judge or other competent authority; and
 - b. a copy of the charging document.
3. A request for extradition relating to a person who has been convicted of the crime for which extradition is sought shall also be supported by:
 - a. a copy of the judgment of conviction or if such copy is not available, a statement by a judicial authority that the person has been convicted.
 - b. information establishing that the person sought is the person to whom the conviction refers;
 - c. a copy of the sentence imposed, and a statement establishing to what extent the sentence has been carried out; and

3. When the person whose extradition is requested is a national of the Requested Party it may refuse to extradite him in accordance with its national law. If it decides to refuse extradition, it shall submit the case to its competent authority to initiate the proceedings for the prosecution of the person in respect of all or any of the crimes for which extradition has been sought. The Requested Party shall inform the Requesting Party of any action taken and the outcome of the proceedings. Nationality shall be determined at the time of the commission of the offence for which extradition is requested.

Article (5)

The following shall not be regarded as political crimes:-

- a. Crime of assault or attempted assault against the President of the State, Head of Government or any member of their families. Crimes of assault or attempted assault against a member of the Supreme Council of the United Arab Emirates or any member of his family;
- b. Acts of terrorism.

Article (6)

The Requesting party shall not, except in any of the following circumstances, detain, prosecute, try or punish a person surrendered under this Treaty for any offence other than that for which extradition has been granted:

- a. When the extradited person commits an offence during his prosecution, trial, or during the interim period of serving the sentence;
- b. When he has not left the territory of the Requesting Party within fortyfive days from the day when he has been set free to do so;
- c. When he has left the territory of the Requesting Party after his extradition and has voluntarily returned to it.

the authorities of the Requesting Party. The detention period shall be remitted from the sentence passed against him.

If an order to surrender has been issued by the competent authorities of the Requested Party, it shall specify therein the place and the date of surrender and the length of time the person sought has already been kept in custody and give to the Requesting Party reasonable notice thereof. If the Requesting Party fails to take custody of the requested person within such time as may be stipulated by laws of the Requested Party, the Requested Party may set the person at liberty and may subsequently refuse to extradite such person.

Article (10)

If extradition is requested concurrently by more than one State, of the same person, either for the same offence or for different offences, the Requested Party shall make its decision to which of such State it will extradite the person, having regard to all the circumstances especially the relative seriousness and place of commission of the offence(s), the respective dates of the requests, the nationality of the person claimed and the possibility of subsequent extradition to another State.

Article (11)

1. In case of urgency and on a request by the competent authority in the Requesting Party, the Requested Party shall take prompt and appropriate action, pending the receipt of documents referred to in Article 7.
2. The competent authority in the Requested Party shall terminate the action taken under paragraph (1), if the documents referred to in Article 7 are not delivered to the Requested Party within thirty days from the date of such request.

Article (12)

1. The Requested Party, within the authority of the law and without prejudice to the rights of others acting in good faith shall seize

d. in the case of a person who has been convicted in absentia, the documents required in paragraph 2.

4. The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if:
 - a. they are certified by the diplomatic or consular officers of the Requested Party resident in the Requesting Party or
 - b. they are certified or authenticated in any other manner accepted by the law of the Requested Party.

5. If the executive authority in the Requested Party considers the information given in support of the request is not satisfactory to fulfill the conditions required by this Treaty, the Requesting Party shall be informed of the same so as to submit additional information before a decision is taken on the extradition request. An extension of time limit may be mutually agreed for providing such information. If there are satisfactory reasons for the extension of time limit.

Article (8)

1. The authorities concerned in the Requested Party shall inform the authorities concerned in the Requesting Party, preferably within a period of two months from receipt of the extradition request, of the decision taken in respect of the extradition, whether negative or positive, through the diplomatic channels or by any other mean agreed upon.

2. In case the extradition is granted, the Requested Party shall determine the suitable means and notify the Requesting Party of the time and place where and how the extradition shall take place.

Article (9)

1. Upon receipt of the request for extradition, the Requested Party shall arrest and detain the person sought in accordance with its laws, until the Requested Party decides on the request for extradition. If the request for extradition is granted, the detention period shall continue until the person sought is handed over to

Contracting Party in whose territory such landing occurs, that person shall be handed over to that Contracting Party which shall in turn comply with the provisions of Article 4 of this Treaty.

Article (14)

1. Each of the Contracting Parties undertakes to grant, in accordance with its laws, passage across its territory to the person to be extradited under the provisions of Article 13 on a request to that effect made through the diplomatic channels.
2. The request shall be supported by the documents pertaining to a crime for which extradition can be granted under the provisions of this Treaty.

Article (15)

The Requesting Party shall bear all expenses necessary for the implementation of the extradition request and also pay all expenses for the return of the extradited person to the Requested Party.

Article (16)

1. The Requesting Party shall notify the Requested Party of the outcome of the proceedings against the extradited person.
2. In case of conviction, the Requesting Party shall provide the Requested Party with an authenticated copy of the final judgment.

Article (17)

All the documents provided by the Contracting Parties in accordance with this Treaty shall be translated in Arabic language or in English Language, if and as desired by the Requested Party.

Article (18)

1. This Treaty shall be ratified in accordance with the constitutional procedures of the Contracting Parties and the Instruments of Ratification shall be exchanged through diplomatic channels.

the materials stated below and deliver the same to the Requesting Party at the time of extradition of the person or immediately after that:

- a. Things used to commit the crime or which constitute an evidence of the crime;
 - b. Things obtained by committing the crime if in the possession of the wanted person or found at the time of his arrest;
 - c. things exchanged with other things obtained from the crime.
2. The Requesting Party shall pay all expenses incurred on the delivery of the seized materials.
 3. If the seized materials, as in para (1) of this Article, are required for the investigation of the crime pending in the Requested Party, then the delivery of those materials may be delayed, or be delivered on condition that they shall be returned after the conclusion of the proceedings in the case in the Requested Party.
 4. If the Requested Party or any other State has any legal rights in the seized materials, these rights shall not be affected due to delivery. The Requesting Party shall be obliged to return those materials without any charges whenever the purposes for the delivery are completed.

Article (13)

1. When either of the Contracting Parties is to have a person extradited from third State through territory of the other contracting Party, the former shall request the latter for the permission of such transit.
2. The Requested party shall, in so far as it is not contrary to its national laws, approve the request for transit made by the Requesting Party.
3. No permission is required where air transport is used and no landing is scheduled for.
4. In case of an un-scheduled landing, the contracting Party in whose territory landing occurs shall assist in effecting the transit. If the person who is being extradited, is a national of the

**TREATY
ON THE SERVICE OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS, TAKING OF EVIDENCE AND THE RECOGNITION AND ENFORCEMENT OF JUDGEMENTS IN CIVIL AND COMMERCIAL MATTERS**

BETWEEN

THE GOVERNMENT OF THE UNITED ARAB EMIRATES

AND

**THE GOVERNMENT OF THE ISLAMIC REPUBLIC
OF PAKISTAN**

Desirous to promote fruitful cooperation in judicial and legal matters determined to regulate the service of judicial and extra-judicial documents (hereinafter called documents), taking of evidence, and recognition and enforcement of judgments in civil and commercial matters.

Have decided to conclude this Treaty and have agreed as follows:-

**SERVICE OF JUDICIAL
AND EXTRA-JUDICIAL DOCUMENTS**

Article I

1. Judicial and extra-judicial documents in the Contracting States shall be served through their Ministries of justice in accordance with the procedure provided for in the laws of Requested State relating to the service of summons. The documents served in pursuance of this Treaty shall be deemed as being served in the territory of the Requesting State.
- 2- The provisions of the preceding paragraph shall not preclude the

2. This Treaty shall enter into force 30 days after the receipt of the last instrument of Ratification.

3. This Treaty may be terminated by either Contracting Party at any time upon giving six months notice to the other. However, the procedures already initiated for an extradition request by any of the Contracting Parties shall continue to be governed by this Treaty until their conclusion.

In witness whereof the authorized representatives of the contracting Parties hereby sign this Treaty. This Treaty has been done in two original copies in Arabic & English languages both texts being equally authentic. In case of any discrepancy, the English text shall prevail.

Done at *Islamabad* on this 8th day of *March* in the year 2004.

For the Government of the Islamic Republic of Pakistan (Makhdoom Syed Faisal Saleh Hayat) Minister for Interior & Narcotics	For the Government of the United Arab Emirates (Mohammed Nakhira Al-Dhahiri) Minister for Justice.
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Article 5

- 1- The function of the competent authority in the Requested State shall be limited to the delivery of the documents to the addressee.
- 2- The delivery shall be proved either by the signature of the addressee on the copy of the document or by a certificate issued by the competent authority stating that name of the addressee, the date and mode of delivery, and if not deliver the reason for non delivery.
- 3- A copy of the document signed by the addressee shall be returned to the Requesting State.

Article 6

The Requested State shall not levy fees or costs for the service of documents, provided that if it appears that the execution of the request requires expenses of an extraordinary nature, the Contracting Party shall consult to determine the terms and conditions under which the requested assistance can be provided.

TAKING OF EVIDENCE

Article 7

A contracting State may, in a pending case, request the other Contracting State to obtain evidence or to perform some other judicial action on behalf of the Requesting State.

Article 8

- 1- The request for taking of evidence shall be sent directly by the Ministry of Justice in the Requesting State to the Ministry of Justice in the Requested State.
- 2- This shall not prevent either of the Contracting States from taking the evidence of its nationals, in civil, commercial and personal matters through its diplomatic and consular representatives.

right of a Contracting State to make service of such documents through its diplomatic or consular representatives on its nationals residing in the other Contracting State, and without any responsibility on the latter State.

- 3- In the event of any dispute as to the nationality of the person on whom the documents are to be served the same shall be determined by the law of the State in which the documents are to be served.

Article 2

The request for the service of documents shall include all particulars of the person required to be served particularly his name, surname, nationality (if known) occupation, place of residence, and in the case of a corporate body its office or place of business and a statement of the documents to be served whether original or copy, as the case may be. No authentication or similar action is required in respect of the said documents.

Article 3

- 1- A request for service of documents made in conformity with the provisions of this Treaty may not be declined unless the Requested State considers that the contents of such documents and papers are prejudicial to the interest of public order or public morality in that State.
- 2- Service of documents may not be declined on the ground that the law of the Requested State confers on its courts exclusive jurisdiction to hear the case for which the documents are issued, or that the documents do not support the merit on legal grounds.
- 3- Whenever the service of documents is not effected, the Requested State shall forthwith notify the Requesting State of the reasons thereof.

Article 4

- 1- The competent authority in the Requested State shall serve the documents in accordance with its laws and rules.
- 2- The service of the documents may be made in a special mode specified by the Requesting State, provided that it does not contravene the laws of the Requested State.

Article 12

The Requested State shall bear the expenses for taking of evidence. The fees of witnesses and experts who are not officials shall be borne by the Requesting State. The statement of such fees sent to the Requesting State with the evidence. The Requested State may Levy in accordance with its laws, the prescribed fees due on papers produced during the taking of evidence.

Article 13

The judicial function in relation to taking of evidence performed in Pursuance of the provisions of this Treaty shall have the same legal effect as if it has been performed by a competent authority in the Requesting State.

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 14

1- Each of the Contracting States shall recognize judgments passed by the courts of the other Contracting State in civil, commercial and personal matters, and shall enforce them within its territory, if such judgments are final and enforceable, and passed by the competent courts, according to the principles of International Law in respect of jurisdiction which are applicable in the territory of the Requested State.

2- The judgment as used in this Treaty, whatever its designation, means any final decision taken in judicial proceeding by a court in either of the Contracting States. The provisions of this Treaty shall not apply to interim or provisional measures and in matters of taxation and fees.

Article 15

The court of the Requested State shall when examining the grounds of jurisdiction of the court of the Requesting State, be

3- The nationality of the person to be heard shall be determined in accordance with the Law of the Requested State.

Article 9

1- The request for taking of evidence shall be issued in accordance with the laws of Requesting State. The request and all its appended documents shall be signed and sealed with the seal of the Requesting State without further need for authentication.

2- The request for taking of evidence shall indicate the nature of the case, the issuing authority, particulars relating to the facts of the case, the names of witnesses with place of their residence and the questions to be put to them.

Article 10

1- The Requested State shall act on the request for taking the evidence and shall not refuse to act, except in the following circumstances, namely:-

a) if the judicial authority in the Requested State has no jurisdiction to take the evidence,

b) if the taking of evidence is prejudicial to the sovereignty or security or public order or public morality of the Requested State.

2- If the request for taking of evidence is refused, the Requested State shall forthwith notify the Requesting State of such refusal, and shall return the documents stating the reasons thereof.

Article 11

1- The request for taking of evidence shall be acted upon in accordance with laws and rules in force in the Requested State, if the Requesting State desires and expressly requests for taking of evidence in a special form, the requested State shall meet that desire unless the request contravenes its laws and rules.

2- The Requesting State shall notify, if it desires expressly so, to enable the person interested to appear in person or by an agent.

Article 18

- 1- The competent judicial authority in the Requested State shall not review the merits of the decision and judgment sought to be enforced.
- 2- The competent judicial authority in the Requested State in enforcing a judgment under this Treaty shall take necessary action as if such judgment had been passed by it. The order for enforcement may be made regarding the operative part of the judgment, wholly or in part, in case such part is severable.

Article 19

The Contracting State seeking recognition and enforcement of a judgment shall furnish:-

- (a) an official copy of the judgment,
- (b) Certificate showing that the judgment is final and enforceable, unless that is provided for in the judgment itself; and
- (c) if the judgment has been passed in absentia and the original or an authenticated photostat copy of the summons or any other document showing that the defendant was duly summoned.

Article 20

Together with the documents mentioned in Article 19 shall be filed a certificate from the Court in the Requesting State stating the extent, if any, to which the judgment has been satisfied or adjusted and such certificate shall, for the purposes of proceedings under this Treaty, be conclusive proof of the extend of such satisfaction or adjustment.

Article 21

1- This Treaty shall not exempt either Contracting State from its obligations arising out from other international agreements applicable or through the provisions of national laws, This Treaty shall have priority in application over any other Treaties

bound by the facts stated in the judgment and on which jurisdiction is based, unless the said judgment had been passed in absentia.

Article 16

A judgment shall not be recognized or enforced in the following cases if:-

- a) the judgement is contrary to the definitive Sharia rules or the Constitutional rules or the principles of public order in the Requested State,
- b) the judgment contravenes the rules concerning the legal representation of persons suffering from legal disability, in full or partial, as applicable in the Requested State,
- c) the judgment is passed in absentia and the defaulting party was not duly summoned in person in accordance with the rules applicable in the Requesting State,
- d) the judgment contravenes any provision of this Treaty, or the legal system of the Requested State preserves exclusive jurisdiction for its courts or the courts of a third State to pass such judgment,
- e) the proceedings between the same parties, based on the same facts and having the same purpose:-
 - (i) are pending before a court of the Requested State and those proceedings were the first to be instituted,
 - (ii) have resulted in a decision by a court of the Requested State, or
 - (iii) have resulted in a decision by a court of another State which would be entitled to recognition and enforcement under the laws of the Requested State.

Article 17

Except as otherwise provided in this Treaty, the procedure relating to recognition or enforcement of a judgment shall be subject to the laws of the Requested State.

signed between the Contracting States.

2- In case any difficulty arises from the application of this Treaty, the Ministries of Justice of the Contracting State.

Article 22

This Treaty is subject to ratification and shall come into force upon the exchange of instruments of ratification. It shall be valid for a term of five years and it may be renewed for similar terms by the consent of the Contracting States. Either Contracting State may terminate this Treaty at any time by giving written notice through diplomatic channels to the other Contracting State. The termination shall take effect six months following the date of the notice.

Done at Islamabad, In duplicate, this monday, 8th March 2004, in the Arabic and English language, both texts being equally authentic. However, in case of inconsistency the English text shall prevail.

In witness whereof, the undersigned, being duly authorized by their respective governments, have signed this treaty.

For the Government of
The United Arab Emirates

For the Government of
The Islamic Republic of Pakistan

(Mohammed Nakhira Al-Dhahiri)
Minister of Justice, Islamic
Affairs And Awqaf

(Mohammed Raza Hayat Harraj)
Minister of State for Law, Justice
and Human Rights