

TREATY BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE RUSSIAN FEDERATION ON EXTRADITION

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The Republic of the Philippines and the Russian Federation, hereinafter referred to as the Contracting States;

DESIRING to provide for more effective cooperation between the Contracting States in the suppression of crimes by concluding a treaty on the reciprocal extradition of criminal offenders on the basis of mutual respect for sovereignty, equality, non-intervention in the internal affairs of the Contracting States and for mutual benefit;

Have agreed as follows:

Article 1

OBLIGATION TO EXTRADITE

The Contracting States agree to extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with, or convicted of, an extraditable offense.

Article 2

EXTRADITABLE OFFENSES

1. An offense shall be an extraditable offense if it is punishable under the laws of both Contracting States by imprisonment or other forms of deprivation of liberty for at least one (1) year or by a more severe penalty.

2. Where the request for extradition relates to a person convicted of such an offense who is wanted for the enforcement of a sentence of imprisonment or other forms of deprivation of liberty, extradition shall be granted if at the time the request is received a period of at least six (6) months of imprisonment or other forms of deprivation of liberty remains to be served.

3. For the purpose of this Treaty:

(a) It shall not matter whether the laws of the Contracting States place the offense within the same category of offenses or denominate the offense by different terminology;

(b) the totality of the acts or omissions alleged against the person whose extradition is requested shall be taken into account in determining the constituent elements of the offense in the Requested State.

4. Where the extraditable offense was committed outside the territory of the Requesting State, extradition shall be granted where the law of the Requested State provides for the punishment of an offense committed outside its territory on similar circumstances, Where the law if the Requested State does not so provide, the Requested State may, in its discretion, grant extradition.

5. When the qualification of the offense charged is altered in the course of the proceedings, the extradited person shall only be proceeded against or sentenced insofar as the offense under its new qualification is shown by its constituent elements to be an offense which is:

a) based on substantially the same facts contained in the extradition request and its supporting documents;

b) punishable by the same maximum penalty as, or a lesser maximum penalty than, the offense for which that

person was extradited.

6. If the request for extradition relates to a number of offenses, each of which is punishable under the law of Contracting States, but some of which do not meet the other requirements of paragraphs 1 and 2 of this Article, the Requested State may grant the extradition request provided that the person is to be extradited for at least one (1) extraditable offense.

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

- (a) it was an offense in the Requesting State at the time of the acts or omissions constituting the offense;
- (b) the acts or omissions alleged would, if they had taken place in the territory of the Requested State, have constituted an offense against the laws in force in that State at the time it received the request for extradition;
- (c) the acts or omissions constituting the offense for which the person is sought are punishable in both Contracting States at the time of the extradition of the person sought.

Article 3

GROUND FOR REFUSAL

1. Extradition shall be refused in any of the following circumstances:

- (a) if the offense for which the extradition is requested is regarded by the Requested State as a political offense;
- (b) if the offense for which extradition is requested is a crime under military law that is not a crime under general criminal law;
- (c) if the Requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, sex, social status, religion, nationality, ethnic origin, political opinions or any other beliefs, or that person's position may be prejudiced for any of those reasons;
- (d) if the person sought has been tried and convicted or acquitted by final judgment in the Requested State of an offense for which extradition is requested;
- (e) if the prosecution or punishment of the person sought would be barred by lapse of time under the law of either Contracting State;
- (f) if the judgment of the Requesting State has been rendered in absentia, unless the convicted person was given sufficient notice of the trial and the opportunity to arrange for his or her defense in accordance with the laws of the Requesting State or is guaranteed by the Requesting State of the right to retrial;
- (g) if the person sought is a national of the Requested State;
- (h) if extradition is barred for any other reason under the law of the Requested State.

2. Extradition may be refused in any of the following circumstances:

- (a) if the person sought has been granted asylum by the Requested State;
- (b) if the person sought is under investigation or judicial proceedings in the Requested State for the same offense for which his or her extradition is requested;
- (c) if the Requested State, while also taking into account the nature of the offense and interests of the Requesting State, considers that, in the circumstances of the case, including the age or health of the person

whose extradition is requested, the extradition of that person would be unjust or incompatible with humanitarian considerations;

(d) if the requested State considers that the extradition of the person would impair its sovereignty, security, or public order;

(e) if any offense, for which extradition is requested, pursuant to applicable laws of the Requested State, was committed fully or partially in the territory of that State.

3. When the offense for which extradition is sought is punishable by death under the laws of the Requesting State, and the laws of the Requested State do not permit such punishment for that offense, extradition may be refused unless the Requesting State gives such assurances as the Requested State considers sufficient, that the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

4. For the purpose of paragraph 1(a) this Article, the following offenses shall not be deemed as political offenses:

(a) an offense against the taking of the life of a Head of State or Government, or a member of the immediate family of a Head of State or Government;

(b) an offense for which both Contracting States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution;

(c) any offense related to terrorism;

(d) a conspiracy or attempt to commit any of the foregoing offenses, or aiding or abetting a person who commits or attempts to commit such offenses.

5. Where the person charged or convicted in one Contracting State is a national of the other Contracting State, or where extradition may be refused in accordance with subparagraph (e), paragraph 2 of the present Article, the former Contracting State may, upon request, provide the latter State, free of charge, with duly certified copies of documents, evidencing the fact of any investigation, and any other documents and evidence relating to the offense, for the purpose of considering the criminal prosecution of that person in accordance with the latter State's laws. The Contracting State which received the documents and evidence shall inform the transmitting Contracting State of the results of any proceedings.

The documents and evidence provided under this paragraph shall, upon request, be returned by the Requesting State after the completion of any proceedings thereat.

Article 4

CENTRAL AUTHORITIES

1. Each Contracting State shall establish a Central Authority.

2. The Central Authority for the Republic of the Philippines shall be the Department of Justice. The Central Authority for the Russian Federation shall be the Office of the Prosecutor General of the Russian Federation. Either Contracting State may change its Central Authority, in which case, it shall notify the other Contracting State of such change through diplomatic channels.

3. For the purpose of this Treaty, the Central Authorities shall communicate through diplomatic channels except in urgent cases, when the Central Authorities shall directly communicate with each other.

Article 5

EXTRADITION PROCEDURES AND REQUIRED DOCUMENTS

1. All requests for extradition shall provide the following information and documents:

- (a) Name and address of the Central Authority;
- (b) As accurate a description as possible of the person sought, together with any other information and/or documents which would help to establish that person's identity, nationality and location;
- (c) A statement of the facts of the offense containing the date and place of its commission and legal qualification;
- (d) the text of the relevant provisions of the applicable laws, including the provisions on the conditions for prosecuting, the statute of limitations and the sentence that can be imposed. If the offense for which extradition is requested was committed outside of the territory of the Requesting State, the text of the law conferring jurisdiction to that State.

2. In addition to the requirements in paragraph 1 of this Article, a request for extradition of a person who is sought for prosecution shall be supported by such evidence, as according to the laws of the Requested State, would satisfy probable cause for his or her arrest and committal for trial if the offense was committed in the Requested State and:

- (a) a copy of the warrant or order of arrest issued by a judge, or other competent authority;
- (b) a copy of the charging document.

3. In addition to the requirements in paragraph 1 of this Article, a request for extradition relating to a person who has been convicted of the offense for which extradition is sought shall be supported by:

- (a) a copy of the judgment, or if a copy is not available, a statement by a judicial authority containing the following information: (i) the reason for its unavailability, (ii) that the person has been convicted, (iii) a summary of the contents of the judgment including the evidence against the person sought, (iv) the penalty imposed;
- (b) a statement of the finality of judgment;
- (c) a statement establishing to what extent the sentence has been carried out; and
- (d) in the case of a person who has been convicted in absentia, the assurances or information as to the conditions specified in subparagraph (f), paragraph 1, Article 3 of this Treaty.

4. The extradition request and all its supporting documents shall be received and admitted as evidence in extradition proceedings if they are attested to by the seal of the Central Authority of the Requesting State and officially transmitted by the diplomatic or consular officer of the Requesting State. No further legalization or authentication shall be required.

Article 6

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 and the laws of the Requested State to enable extradition to be granted, that State may request that additional information be furnished within thirty (30) days. Upon request of the Requesting State, this period may be extended for a period not exceeding thirty (30) days.

2. If the person whose extradition is requested is under arrest in relation to the extradition request and the additional information furnished is not sufficient in accordance with this Treaty and the laws of the Requested State, or is not received within the time specified, the person may be released from custody. The discharge from

custody of the person sought under this Article shall not prejudice his or her re-arrest and extradition.

3. Where 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 7

LANGUAGES

A request for extradition, its supporting documents and additional information forwarded in accordance with this Treaty shall be in English or in the language of either of the Contracting States accompanied by an English translation. The same procedure shall be applied to the documents and information forwarded in response to such request.

Article 8

PROVISIONAL ARREST

1. In case of urgency, the Requesting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through diplomatic channels or directly between the Central Authorities of the Contracting States. The request may be transmitted by post or telegraph or by any other means affording a record in writing. The original of the request for provisional arrest shall be submitted by the Requesting State as soon as possible.

2. The request for provisional arrest shall contain:

- (a) a description of the person sought;
- (b) the location of the person sought, if known;
- (c) a brief statement of the facts of the case, including the date and place of the commission of the offense;
- (d) a description of the laws violated and a statement of the penalty imposed, or that may be imposed;
- (e) where the person sought is wanted for prosecution, a copy of the charging document and warrant of arrest;
- (f) where the person sought has been convicted, a copy of the judgement conviction;
- (g) a statement that a request for the extradition of the person sought will follow within time specified in this Treaty.

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

4. A person who is provisionally arrested under this Treaty may be released from custody upon the expiration of sixty (60) days from the date of his or her provisional arrest if the Requested State has not received the formal request for extradition and the documents supporting the extradition request as required in Article 5 of this Treaty.

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

Article 9

CONCURRENT REQUESTS

1. If the Requested State receives requests from the Requesting State and from any other State or States for the extradition of the same person, either for the same offense or for a different offense, the Requested State shall determine to which State it will surrender the person. In making the decision, the Requested State shall consider

all relevant factors, including but not limited to:

- (a) the time and place where each offense was committed;
- (b) whether the requests were made pursuant to a treaty;
- (c) the nationality of the victim(s);
- (d) the nationality and habitual place of residence of the person sought;
- (e) the respective interests of the Requesting States;
- (f) the gravity of the offenses;
- (g) the chronological order in which the requests were received from the Requesting States;
- (h) whether, in the case of each offense, the person is accused of its commission but not alleged to have been convicted, or has been convicted; or
- (i) the possibility of further extradition between the Requesting States.

Article 10

DECISION AND SURRENDER

1. The Requested State shall promptly notify the Requesting State of its decision on the request for extradition.
2. If the request is denied in whole or in part, the Requested State shall provide information as to the reason for the denial. Where applicable, the Requested State shall provide copies of pertinent judicial decisions upon request.
3. If the request for extradition is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.
4. The Requesting State shall remove the person from the territory of the Requested State within a period not exceeding thirty (30) days from the date on which the Requesting State was informed that the extradition has been granted. If the person sought is not removed from the territory of the Requested State within the agreed time, the Requested State may release that person from detention and refuse his or her extradition for the same offense.
5. If circumstances beyond its control prevent either Contracting State from surrendering or removing the person to be extradited, it shall notify the other Contracting State prior to the expiration of the period stated in paragraph 4 of this Article. The Contracting States shall agree upon a new period of time for surrender, which shall not exceed thirty (30) days from the end of the first thirty (30) day period, and the provisions of the second sentence of paragraph 4 of this Article shall apply.
6. In case the transportation of the person to be surrendered under this Treaty would, due to the state of health of that person, endanger his or her life or worsen his or her state of health, the surrender shall be postponed until his or her state of health allows the surrender. To this end, the Requested State shall submit to the Requesting State a medical certificate issued by a public health institution showing the inability to travel.
7. When the person sought gives written consent to be extradited, the Requested State may surrender the person as expeditiously as possible.

Article 11

POSTPONED OR TEMPORARY SURRENDER

1. If the person sought is under investigation, is being prosecuted or is serving a sentence in the Requested State for an offense other than for which extradition is requested, the said State may postpone the surrender until the

conclusion of the criminal proceedings or the completion of the execution of the sentence. The Requested State shall inform the Requesting State of such postponement.

2. Where the postponement of extradition, as stipulated for in paragraph 1 of this Article, will result in the expiration of the limitation period for the prosecution of the person sought, or will affect the investigation of a crime, or for any other reason considered valid by the Requested State, the person whose extradition is requested may be temporarily surrendered to the Requesting State. The person temporarily surrendered shall be returned to the Requested State as soon as the proceedings for which his or her temporary surrender are completed, which shall not be later than ninety (90) days from the date of his or her temporary surrender. Where necessary, this may, upon request, be extended by the Requested State.

Article 12

SEIZURE AND SURRENDER OF ITEMS

1. The Requested State shall, within the authority of its law and without prejudice to the rights of others, seize the materials stated below and deliver the same to the Requesting State at the time of the extradition of the person or immediately thereafter:

- (a) items used in the commission of the offense or which constitute evidence of the offense;
- (b) items obtained during the commission of the offense if they are in the possession of the person sought at the time of the arrest.

2. If the seized materials, as is stated in paragraph 1 of this Article, are required for an investigation or prosecution of an offense in the Requested State, the delivery of those materials may be delayed, or they may be delivered on condition that they shall be returned after the conclusion of the proceedings in the Requesting State.

3. Where the law of the Requested State or the protection of the rights of third parties so requires, any items so surrendered shall be returned to the Requested State free of charge as soon as possible after the completion of the proceedings, if that State so requests.

4. The surrender of any of the items indicated in paragraph 1 of this Article shall be made even when extradition, although already granted, cannot be effected due to the death, disappearance or escape of the person sought.

Article 13

RULE OF SPECIALITY

1. The person extradited under this Treaty shall not be detained, prosecuted or punished in the Requesting State, except for:

- (a) the offense for which extradition was granted or a differently denominated offense based on the same facts on which extradition was granted, provided such offense is extraditable or is a lesser included offense;
- (b) an offense committed after the extradition of the person; or
- (c) an offense for which the Requested State consents to the person's detention, prosecution or punishment.

2. Where the request for the purpose of sub-paragraph(c), paragraph 1 of this Article is made, the Requested State may require the submission of the documents provided under Article 5 of this Treaty.

3. A person extradited under this Treaty may not be extradited to a third State for an offense committed prior to that person's surrender unless the surrendering State consents.

4. Paragraph 1 of this Article shall not prevent the detention, prosecution or punishment of an extradited person,

or the extradition of that person to a third State, if:

- (a) the person leaves the territory of the Requesting State after the extradition and voluntarily returns to it; or
- (b) the person, having been given the opportunity to leave the territory of the Requesting State, has not done so within thirty (30) days of his or her final discharge in respect of the offense for which he or she was extradited.

Article 14

TRANSIT

1. Either Contracting State may authorize transportation through its territory of a person whose extradition to the other Contracting State was granted by a third State. A request for transit shall be submitted through diplomatic channels or directly between the Central Authorities of the Contracting States. It shall contain a description of the person being transported, a brief statement of the facts of the case, and accompanied by a copy of the documents granting the extradition and such other documents as may be requested by the State of transit.
2. Such authorization is not required for the person extradited from a third State, if the transit transportation is carried out by air and no landing in the territory of the other Contracting State is expected.
3. If an unscheduled landing occurs on the territory of one Contracting State, that State may require that the other Contracting State requests transit as provided in paragraph 1 of this Article. The Contracting State in which the unscheduled landing occurs shall detain the person transported until the request for transit is received and the transit is effected, so long as the request is received within seventy-two (72) hours of the unscheduled landing.
4. A contracting State may refuse to authorize transit for any of the grounds for refusal under paragraph 1 of Article 3 of this Treaty.

Article 15

CONFIDENTIALITY OF THE REQUEST AND THE LIMITED USE OF INFORMATION

1. The Requested State shall keep confidential the receipt of a request for extradition, its contents and supporting documents or any action taken on the request prior to the filing of the initiatory action in court for the extradition of the person sought.
2. The Requested State shall likewise keep confidential the receipt of a request for provisional arrest, its contents and supporting documents or any action taken thereon prior to the filing of the initiatory action in court for the extradition of the person sought based on the request for extradition.
3. The Requested State shall not, without the consent of the Requesting State, use or disclose the information contained in the request for extradition and provisional arrest, as well as the documents and evidence submitted in support thereof, for a purpose other than living effect to the request for the provisional arrest and/or extradition of the person sought.
4. Where the Requesting State needs to disclose and/or use the information or evidence obtained under this Treaty for a purpose other than giving effect to the request for the provisional arrest and/or the extradition of the person sought, it shall seek the consent of the Requested State. The Requested State may either give or refuse to give, fully or partially, such consent, as the case may be.

Article 16

REPRESENTATION AND EXPENSES

1. The Requested State shall advise, assist, appear in court and represent the interests of the Requesting State in all proceedings arising out of a request for extradition under this Treaty

2. The Requesting State shall bear the expenses related to the transport of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition request and proceedings.

3. Neither Contracting State shall make any pecuniary claim against the other Contracting State arising out of the arrest, detention or surrender of persons sought under this Treaty.

Article 17

CONSULTATIONS AND RESOLUTION OF DISPUTES

1. The Central Authorities shall, at the request of either of them, consult, whenever necessary, concerning the interpretation or application of this Treaty, either generally or in relation to a particular request

2. Any dispute arising out of the interpretation or application of this Treaty shall be resolved through diplomatic channels if the Central Authorities are unable to reach an agreement

Article 18

ENTRY INTO FORCE, AMENDMENTS AND TERMINATION

1. This Treaty shall be subject to ratification and shall enter into force thirty (30) days after the date of the receipt of the later written notification by the Contracting States, through diplomatic channels, indicating that their respective requirements for the entry into force of this Treaty have been complied with.

2. Any amendment of this Treaty shall be made by mutual consent of the Contracting States. Any amendment shall enter into force in accordance with paragraph 1 of this Article.

3. Either Contracting State may terminate this Treaty at any time by giving notice to the other Contracting State, through diplomatic channels, of its desire to terminate this Treaty. In that case, the Treaty shall cease to have effect one hundred eighty (180) days after the date of the receipt of the notice. However, the procedures already initiated for a request by either Contracting State shall continue to be governed by this Treaty until their conclusion.

Done in Manila this 13[th] day of November 2017, in duplicate, each in Russian and English languages, both texts being equally authentic.

FOR THE REPUBLIC OF THE PHILIPPINES; FOR THE RUSSIAN FEDERATION:

(Sgd.) (Sgd.)

Entry into Force: March 12, 2020

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