TREATY
BETWEEN
THE SOCIALIST REPUBLIC OF VIET NAM
AND
THE REPUBLIC OF KAZAKHSTAN
ON
EXTRADITION

The Socialist Republic of Viet Nam and the Republic of Kazakhstan, hereinafter referred to as "Parties",

Desiring to provide for more effective cooperation in combating crimes and to regulate relations between the two countries in the area of extradition,

Have agreed as follows:

Article 1. Obligation to extradite

In accordance with the provisions of this Treaty, each Party shall extradite to the other Party a sought person, located in the territory of the Requested Party, for the purposes of criminal prosecution or execution of sentence in the territory of the Requesting Party for the extraditable offences.

Article 2. Extraditable offences

1. For the purposes of this Treaty, extraditable crimes are crimes, that at the time of the request are punishable in accordance with the legislation of the Parties and for the commitment of which it is prescribed a penalty of imprisonment of not less than one (1) year or more severe punishment.

2. If the extradition request relates to a person sentenced to imprisonment by a court of the Requesting Party for any extraditable offence, the extradition is possible only if the person is sentenced to imprisonment, and unserved term is not less than 6 (six) months.

3. For the purposes of this Article in order to determine whether an act is a crime according to the legislation of the Parties:

a) It is of no importance whether under the legislation of the Parties acts fall under the same category of crimes or a committed offence is identified by the same or different terminology; and

b) Acts of a person, whose extradition is requested, shall be taken into account as a whole and it is of no importance whether component elements of the offence are different in accordance with the legislation of the Parties.

4. If the extradition is requested for the commitment of crimes relating to the violation of customs and tax legislation, legislation in the sphere of currency regulation, the extradition can not be refused on the grounds that the legislation of the Requested Party does not contain the similar tax or customs norms or norms in the sphere of currency regulation as the legislation of the Requesting Party.

5. In case the offence was committed outside the territory of the Requesting Party, the extradition may be granted if the legislation of the Requested Party provides punishments for offences committed outside its territory in similar circumstances.

6. If the extradition request relates to several offences each of which is punishable under the legislation of the Parties, but some of them do not contain the elements set out in paragraphs 1 and 2 of this Article, the extradition may be granted for these offences taking into account that the person can be extradited at least for one extraditable offence.

Article 3. Refusal of extradition

1. The extradition shall not be granted under this Treaty, if:

a) Extradition contradicts the provisions of this Treaty, legislation or international obligations of the Requested Party;

b) A crime, in regard of which the extradition request is submitted, is punishable by death penalty according to the legislation of the Requesting Party, unless the Requesting Party provides the Requested Party with sufficient assurances that the death penalty for the person sought will not be imposed or if it is imposed, will not be executed;

c) A person sought has been accused, sentenced or acquitted in the territory of the Requested Party for an offence for which extradition is requested or the case concerning this crime was suspended or terminated according to the legislation of the Requested Party;

d) The prosecution is impossible due to expiry of statute of limitations under the legislation of the Requested Party, if the same crime would be committed in its territory. Resolutions that would suspend the statute of limitations under the law of the Requesting Party shall be recognized by the Requested Party, and in this regard the Requesting Party shall provide a certified copy of the relevant resolution and a written statement of the relevant provisions of its law relating to the statute of limitations;

e) A person, in respect of whom extradition is requested, is a citizen of the Requested Party;

f) The Requested Party, taking into account the seriousness of a crime and interests of the Requesting Party, considers that due to personal circumstances of a person sought the extradition will be incompatible with principles of humanism;

g) An act, for the commitment of which the extradition is requested, is a military crime under the legislation of the Requested Party, which is not a crime under ordinary criminal legislation;

h) The Requested Party has substantial reasons to suppose that the extradition request has been presented with a view of accusation or punishment of a person sought due to race, religion, gender, nationality, ethnic, social origin or political motives or that the person may be sentenced based on any of these reasons;

i) The Requested Party has substantial reasons to suppose that the person sought has been or will be subjected to torture or other cruel, inhuman or degrading treatment or punishment in the Requesting Party;

j) The Requested Party considers that the extradition may jeopardize its sovereignty, national security and public order.

2. The Requesting Party shall be notified in writing of reasons of full or

partial refusal of the extradition request.

Article 4. Prosecution of citizens

1. If the extradition is refused only on the ground of citizenship of a person sought, the Requested Party shall prosecute the person upon the request of the Requesting Party. For this purpose, the Requested Party may inquire the Requesting Party to send the relevant documents.

2. The Requested Party timely informs the Requesting Party on the actions taken with regard to the request, and on outcomes of criminal proceeding regarding the case.

Article 5. Postponement of extradition and temporary extradition

1. If a person, whose extradition is requested, is brought to the criminal responsibility or serves a sentence for another crime in the territory of the Requested Party, the extradition may be postponed until the completion of the proceedings, serving the punishment or his/her release from the punishment, the Requesting Party shall be informed about this.

2. If the postponement of the extradition may lead to expiry of statute of limitations of the criminal prosecution or impede the investigation of a crime, the Requested Party may under its legislation temporarily extradite the person, whose extradition is requested upon the request of the Requesting Party.

3. The person extradited temporarily shall be returned to the Requested Party after the completion of the proceeding of the criminal case but not later than ninety (90) days from the day of his/her extradition. The Requested Party may upon the request extend the period of temporary extradition if there are reasonable grounds for such extension.

Article 6. Central authorities

1. Communications on extradition matters between the Parties shall be conducted through their Central Authorities or diplomatic channels.

The Central Authorities mentioned in this Treaty are:

- for the Socialist Republic of Viet Nam – Ministry of Public Security;

- for the Republic of Kazakhstan - Prosecutor General's Office.

2. In case of any changes in the names of the Central Authorities, the Parties shall promptly inform each other about this through diplomatic channels.

Article 7. Extradition request and required documents

1. The extradition request shall be made in writing and sent through Central Authorities of the Parties. All documents, accompanying the extradition request shall be certified in accordance with Article 9 of this Treaty.

The extradition request shall include the following information:

a) Date and place of the request;

b) Brief description of the crime committed which made the basis of sending the extradition request;

c) Name and address of the Central Authorities of the Parties; and

d) Full name, gender, date of birth, citizenship and residence/registration of a sought person and, if available, any other information that will help to identify the person or his/her location;

2. The extradition request shall be accompanied by the following:

a) Information with a statement of facts of the case;

b) Text of a law based on which the act is considered as a crime, text of a law determining the punishment for the crime and the time limit for prosecution or enforcement of the sentence imposed;

c) Documents certifying the citizenship and residence/registration of the person sough (if available); and

d) A copy of identity document, photos and fingerprints of the person sough (if available).

3. If the extradition request relates to a person requested for criminal prosecution, the request shall be accompanied by the documents mentioned in

the paragraph 2 of this Article and a copy of decision of arrest issued by the competent authority of the Requesting Party.

4. When the extradition request relates to a person requested for the execution of the sentence, the request shall be accompanied by the documents mentioned in the paragraph 2 of this Article and the following:

a) Copy of the final sentence issued by a court of the Requesting Party;

b) Information on the served part of the sentence.

5. The request for extradition and its supporting documents shall be accompanied by a certified translation into the official language of the Requested party or in English.

6. The extradition request of a person can be conveyed through technical means of communication. The original copy of the request shall be sent simultaneously by post.

Article 8. Supplementary information

1. If the Requested Party considers that information presented in the extradition request is not sufficient according to this Treaty to grant the extradition request, it may request supplementary information during the agreed period of time.

2. If a person, in respect of whom extradition is requested, is in custody and the presented supplementary information is not sufficient in accordance with this Treaty or has not been received during the agreed period of time, the person may be released from custody. Such release shall not impede the Requesting Party to send a new extradition request.

3. If a person has been released from custody according to paragraph 2 of this Article, the Requested Party shall timely inform the Requesting Party about it.

Article 9. Admissibility of documents

The extradition request and required documents certified by the stamp of the Central Authority of the Party shall be admissible for the extradition

procedure of a person sought without any further certification, authentication and legalization.

Article 10. Arrest for extradition

1. In urgent cases, the Parties may request an extradition arrest of a person sought before submitting the extradition request. The request for extradition arrest may be transferred through diplomatic channels or INTERPOL or directly by the Central Authorities mentioned in Article 6 of this Treaty.

The request for extradition arrest can be conveyed through technical means of communication. The original copy of the request shall be sent simultaneously by post.

2. The request for extradition arrest shall contain the information indicated in paragraph 1 of Article 7 of this Treaty and the assurance that the extradition request will be sent.

3. The Requested Party after receiving such request shall take necessary measures to arrest the person sought and inform the Requesting Party about the results without delay.

4. The arrested person may be released if the Requesting Party can not present the relevant documents mentioned in Article 7 of this Treaty during thirty (30) days from the date of the arrest, provided that such release shall not impede the consideration of the extradition request regarding the person sought if the request has been subsequently received.

5. For the purpose of extradition, detention period of a person shall be accounted for the total term of serving the sentence imposed by decision of the court of the Requesting Party.

Article 11. Re-extradition

Where the person under extradition escapes back to the Requested Party before the criminal proceeding is terminated or his/her sentence is served in the Requesting Party, that person may be re-extradited upon a fresh request for extradition made by the Requesting Party in respect of the same offence. In

such case, the Requesting Party need not submit the documents and material provided for in Article 7 of this Treaty.

Article 12. Concurrent requests

1. If extradition requests of the person are received from two or more states, including the Requesting Party, the Requested Party shall determine to which state the person shall be extradited and inform this state about its decision, as well as the Requesting Party.

2. In determining to which state the person shall be extradited, the Requested Party shall take into account all factors, including the following:

a) Citizenship and place of residence of a person sought;

b) Whether the requests are made in accordance with an international treaty;

c) Time and place of committing the crime;

d) Interests of the requesting states;

e) Seriousness of the committed crime;

f) Citizenship of the victim;

g) Possibility of further extradition between the requesting states;

h) Date of the receipt of requests.

Article 13. Transfer of person

1. The Requested Party shall, upon deciding on the extradition request, promptly inform the Requesting Party of its decision.

2. The Requested Party shall transfer the person sought to the competent authorities of the Requesting Party on the territory of the Requested Party in a place acceptable for both Parties.

3. The Requesting Party shall take out the person from the territory of the Requested Party during the period of time fixed by the Requested Party and if the person has not been brought out within that period of time, the Requested

Party may release the person from the custody and may refuse to extradite him/her for this crime.

4. If exceptional circumstances impede the Requesting Party to take out the extradited person, the other Party shall be informed about it, and in this case, the terms of paragraph 3 of this Article shall not be applied. In such a case, the Parties shall mutually agree on the new date of transfer under this Article.

Article 14. Transfer of property

1. In case of granting the extradition request, all property found in the territory of the Requested Party, which was acquired by the extradited person as a result of a crime or may be required as material evidence, shall, in accordance with the legislation of the Requested Party and taking into account the rights and interests of third parties, be transferred to the Requesting Party upon the request.

2. The above-mentioned property shall be transferred to the Requesting Party upon its request, even if the extradition cannot be granted due to death or escape of the person sought.

3. If the property mentioned in paragraph 1 of this Article is required for the Requested Party to investigate a criminal case, it may temporarily postpone its transfer until the completion of the proceedings.

4. If legislation of the Requested Party or rights and interests of third parties require so, any transferred property shall be returned free of charge to the Requested Party upon its request.

Article 15. The rule of specialty

1. A person extradited according to this Treaty shall not be detained, accused or convicted in the Requesting Party without the consent of the Requested Party for other crime, except for:

a) A crime, for which the extradition has been granted or a crime having another name based on the same facts for which the extradition was granted;

b) A crime committed after the extradition of a person;

c) A crime for which the Requested Party agreed to accuse or sentence the extradited person.

2. In order to implement paragraph 1 of this Article, the Requested Party may require to provide the documents mentioned in Article 7 of this Treaty.

3. A person, extradited according to this Treaty, can not be extradited to the third state for the crime committed prior to his/her extradition without the consent of the Requested Party.

4. Paragraphs 1 and 3 of this Article do not impede the detention, accusation and conviction of an extradited person or his/her extradition to the third state, if:

a) A person leaves the territory of the Requesting Party after his/her extradition and voluntarily returns there;

b) A person does not leave the territory of the Requesting Party within thirty (30) days from the day when the person had the opportunity to leave it. This term does not include the period when the person extradited could not leave the territory of the Requesting Party for reasons beyond his/her control.

Article 16. Notification about results

The Requesting Party shall promptly inform the Requested Party about the results of the investigation on criminal case or execution of sentence relating to the extradited person or transfer of the person to a third state.

Article 17. Transit

1. To the extent permitted by the legislation of the Parties, the transit transportation of a person extradited to one of the Parties by a third state through the territory of the other Party shall be permitted upon written requests, submitted directly through Central Authorities of the Parties or through diplomatic channels or INTERPOL.

The request shall contain information about the person to be transited, including information on his/her citizenship and a brief description of circumstances of the case.

The request for transit can be conveyed through technical means of communication. The original copy of the request shall be sent simultaneously by post.

2. The Central Authorities of the Parties shall agree on the route and other terms of transit transportation.

3. There is no necessity to obtain permission for transit if it is carried out by air transport without temporary landing in the territory of the state of transit. If an unscheduled landing takes place in the territory of one of the Parties, it may require to send a transit request as provided by paragraph 1 of this Article.

4. The state of transit shall keep in custody the transferred person until the transfer is resumed, provided that the transit request will be received within seventy two (72) hours after the unscheduled landing.

Article 18. Costs

1. The Requested Party in accordance with its legislation shall bear the costs of all procedures in its jurisdiction relating to the extradition.

2. The Requesting Party shall bear the costs on the transfer of the person from the territory of the Requested Party, including transit costs.

Article 19. Consultations

1. Upon the request of Central Authority of one of the Parties, the Central Authority may hold consultations concerning the interpretation and application of this Treaty or settlement of particular requests.

2. Disputes and disagreements which have not been settled through consultations and negotiations between the Central Authorities, shall be settled by the Parties through diplomatic channels.

Article 20. Amendments and supplements

Upon the mutual consensus of the Parties amendments and supplements may be made in this Treaty, which are formalized by separate protocols and become integral parts of this Treaty, shall enter into force in accordance with the paragraph 1 of Article 21 of this Treaty.

Article 21. Entry into force and termination of the Treaty

1. This Treaty is subject to ratification. This Treaty enters into force on the sixtieth (60^{th}) day from the date of receipt through diplomatic channels of the last written notification of its ratification.

2. This Treaty is applicable to the person, who committed crime before the date of its entry into force.

3. Either Party has a right to terminate the present Treaty by giving notification about it in writing to the other Party through diplomatic channels. This Treaty shall be terminated six (6) months after the date on which such notification is received by the other Party.

IN WITNESS WHEREOF, the undersigned being duly authorized thereto, have signed this Treaty.

Done in Ha Noi on 15^{th} June 2017 in two copies, each in the Vietnamese, Kazakh and English languages, all texts being equally authentic.

In case of disagreements on interpretation of this Treaty, the English text shall prevail.

FOR THE SOCIALIST REPUBLIC OF VIET NAM	**FOR THE REPUBLIC OF KAZAKHSTAN**
TO LAM	Zhakyp Assanov
Minister of Public Security	Prosecutor General