

Law No. (14) of 1963
on approving the agreement on judicial notices and letters rogatory, the execution of rulings,
and the extradition of criminals
between the Libyan Republic and the Tunisian Republic

- We, King Idris of the Kingdom of Libya,
- The Senate and House of Representatives have adopted the following law that we have ratified and issued:

Article (1)

Pursuant to the attached agreement on judicial notices and letters rogatory, the execution of rulings, and the extradition of criminals entered into between the Kingdom of Libya and the Tunisian Republic in Tripoli on 14 June 1961.

Article (2)

The Minister of Foreign Affairs shall execute this law and it shall enter into force from the date it is published in the Official Gazette.

Idris – Libya

Issued in Dar al-Salam Palace on 1 Rabi' al-Thani 1382 AH
Corresponding to 20 August 1963 AD

By the order of the King

Mohieddin Fikini
Prime Minister
Mohieddin Fikini
Minister of Foreign Affairs

Agreement on judicial notices and letters rogatory, the execution of rulings, and the
extradition of criminals between the Libyan Republic and the Tunisian Republic

The governments of the United Kingdom of Libya and the Tunisian Republic, out of their desire to make judicial papers and documents available and execute letters rogatory to achieve solid cooperation between them;

Out of the desire to develop strong cooperation in the execution of rulings and the extradition of criminals between the two countries, and to actualise the stipulations of Article (8) of the Treaty on Brotherhood and Good Neighbourliness between them, and in execution of the contents of the two letters between the countries in 1957;

have appointed for this purpose their following two plenipotentiaries:

On behalf of the United Kingdom of Libya: Mr. Suleiman Jerbi, Minister of Foreign Affairs

On behalf of the Tunisian Republic: Dr. Sadok Mokaddem, State Secretary for Foreign Affairs

Who, after exchanging their letters of full authorisation and demonstrating the validity and conformity thereof to the proper form;

agreed on the following:

Part (1)
On Judicial Notices and Letters Rogatory

Article (1)

Notices of judicial papers and documents in the contracting parties shall be delivered in accordance with the stipulations of Article (2) and (4).

Article (2)

Notices shall be delivered in conformity with the procedures prescribed therefor in the laws of the country from which the notice is requested.

If the petitioning country wishes to deliver the notice in accordance with its own legislation, its wish shall be accommodated provided that it is not in violation of the laws of the country from which the notice is requested.

Article (3)

Judicial papers and documents shall be sent through diplomatic channels, subject to the following:

- a. The submitted request shall include all information related to the subject matter of the case and the two parties, especially pertaining to the person that is to be notified (their name, surname, profession, and place of residence). The document whose notice is requested shall be executed in two copies. One of them shall be delivered and the other shall be returned after being signed thereby or after indication thereon of delivery or abstention therefrom.
- b. The employee assigned to the notice shall indicate in customary form the manner in which the notice was delivered or the reason the delivery was not completed.
- c. The country requesting the notice shall collect for its own account the fees payable therefor in accordance with its laws. The petitioned country shall not collect fees therefor.

Article (4)

The country requested to deliver the notice shall not object to the consulate of the country requesting the notice from assuming responsibility for the notice within its jurisdiction, if the person to be notified is a citizen of the petitioning country. The country in which the notice is delivered shall not bear any responsibility in accordance therewith.

Article (5)

The notice received in accordance with the provisions of this part shall be considered equivalent to if it had been received in the territory of the country requesting the notice.

Article (6)

Either of the contracting countries may request of the other country to perform any judicial procedure related to a pending case within its territory on its behalf, in accordance with the provisions of the following two articles:

Article (7)

Letters rogatory requests shall be submitted through diplomatic channels and shall be executed as follows:

- a. The competent judicial authority shall execute the requested letter rogatory under the legal procedures followed thereby. If the petitioning country wishes to execute the letter rogatory in a different way, its desire shall be fulfilled as long as it is not in violation of the laws of the executing country.
- b. The petitioning authority shall be informed of the date and place where the letter rogatory will be executed, in order to allow the relevant party to attend if it wishes, either in person or by appointing a representative.
- c. If the letter rogatory is related to a subject matter or procedure that is prohibited by the law of the country from which execution is requested, it may refuse the execution thereof if it would prejudice the sovereignty, safety, or public order of the country in which it shall be executed or if it is unable to implement the same. In both cases, the country from which execution is requested shall notify the petitioning authority thereof with statement of the reasons.
- d. The country from which the letter rogatory is requested shall bear responsibility for its fees, with the exception of the remuneration of experts, which shall be paid by the petitioning country. A statement thereof shall be sent with the letters rogatory file. The country from which the execution of the letter rogatory is requested shall collect for its own account – in accordance with the laws thereof – the fees prescribed for the papers submitted during the execution of the letter rogatory.

Article (8)

Judicial procedures carried out by means of a letter rogatory in accordance with the foregoing procedures shall have the same legal effect that they would have if they were carried out before the competent authority in the petitioning country.

Article (9)

Citizens of the country requesting the judicial procedure may not be requested to submit any fee, deposit, or guarantee that citizens of the country in which the procedure is to be carried out are not obligated to submit. They also may not be prevented from the right to legal aid or exemption from judicial fees that is enjoyed by said citizens.

Part (2)

On the Execution of Rulings

Article (10)

Every final verdict entered for civil or commercial rights, or compensation awards from the criminal courts or related to personal status issued by a judicial entity in either of the contracting countries shall be enforceable in the other country in accordance with the provisions of this part.

Article (11)

Judicial rulings issued by the courts in Tunisia and Libya in civil and commercial affairs shall have the force of *res judicata* within the territory of the other country, provided that the following conditions are met:

- a. The ruling shall be issued by a competent judicial entity on the basis of the rules of the country in which the ruling was issued, as long as the losing party has not decisively waived this right.
- b. The losing party appeared in person or through a representative, or he received a subpoena in the legal manner and did not appear.
- c. The ruling shall have acquired the force of *res judicata* and become enforceable pursuant to the laws of the country in which it was issued.

- d. The ruling shall not include anything that is in violation of the public order in the country in which its execution is requested, or the principles of public international law in which it is implemented. It shall not be in opposition to a judicial ruling issued in that country that has acquired to force of *res judicata*.
- e. The courts in the country from which enforcement is requested shall not have any cases pending review between the same litigants in the same subject matter, raised before the case was brought before the court that issued the ruling that is to be executed.

Article (12)

Subject to the stipulations of Article (11), the authority requested to execute the arbitration award issued in either of the contracting states shall not re-examine the subject matter of the case for which the arbitration award that is to be executed was issued.

The order to execute shall only be issued after verifying the following:

- a. The law of the country requested to execute the ruling allows resolution of the subject matter of the dispute through arbitration.
- b. The arbitration award is issued pursuant to a valid arbitration clause or contract and has become final.
- c. The arbitration clause or contract has granted jurisdiction to the arbitrators in conformity with the law pursuant to which the arbitration decree was issued.
- d. Fulfilment of the two conditions mentioned in Paragraphs (b) and (d) of the previous article.

Article (13)

The rules prescribed in this part shall in no way apply to the provisions issued against the government of the country from which execution is requested, or against any of the citizens thereof for actions committed only due to their position. They shall also not apply to provisions whose execution would be in contradiction with the international treaties and agreements in effect in the country from which execution is requested.

Article (14)

The following documents must be attached to the execution order:

- 1. An official copy of the ruling that is to be executed, certified by the competent bodies with the writ of execution attached.
- 2. The original notice of the ruling that is to be executed, or an official certificate indicating that the ruling was duly notified.
- 3. A certificate from the competent bodies indicating that the ruling that is to be executed is an enforceable final ruling.
- 4. A certificate indicating that the litigants were duly notified to appear before the bodies and before the arbitration entity, if the ruling or arbitration decree that is to be executed was issued in absentia.

Article (15)

Rulings adopted for execution in the country from which execution is requested shall have the same executive force that they have in the country requesting the execution.

Article (16)

Citizens of the country requesting execution may not be requested to submit any fee, deposit, or guarantee that citizens of the country in which the procedure is to be carried out are not obligated to submit. They also may not be deprived of the right to legal aid or exemption from judicial fees that is enjoyed by the citizens thereof.

Article (17)

The execution order shall be issued on the basis of a request from the party concerned and from the competent authority. It shall be based on the laws of the country from which execution is requested and shall be subject in its procedures to the aforementioned law, without prejudice to the provisions of this part.

Article (18)

The provisions of this part shall be applied regardless of the nationality of the litigants.

Part (3) On the Extradition of Criminals

Article (19)

The contracting parties shall be responsible for extraditing to one another any person who is present within the territory of either country and is prosecuted or convicted by the judicial authorities in the other country under the rules and conditions prescribed in the following articles.

Article (20)

The extradition that each country is obligated to fulfil shall not include its own citizens. For this purpose, nationality shall be considered the nationality of the person when he committed the crime for which extradition is requested.

Nevertheless, the party from which extradition is requested shall bear responsibility, within the scope of its jurisdiction, for prosecuting its own citizens that commit crimes within the territory of the other country that are deemed by the law of both countries to be a felony or misdemeanour. This shall be carried out when the other party sends a request for prosecution thereto through diplomatic channels, accompanied by the files, documents, instruments, and publications thereof. The party requesting prosecution shall be informed of the outcome of its request.

Article (21)

Extradition shall include:

1. Individuals who are being prosecuted for felonies or misdemeanours punishable pursuant to the laws of both contracting countries with a sentence of no less than two years of imprisonment or detention.
2. Individuals who are convicted in person or in absentia by the courts of the countries requesting extradition to a sentence of no less than two months of imprisonment or detention due to a felony or misdemeanour punishable pursuant to the laws of the country from which extradition is requested.

Article (22)

Extradition shall not be permitted if the crime for which it is requested is considered by the country from which extradition is requested to be a political crime or related to a political crime.

Article (23)

Extradition shall not be carried out if the wanted person has previously been tried in the country from which extradition is requested for the same crime that he is wanted for, or if he was accused thereof and is still undergoing investigation or trial.

If the person whose extradition is requested is undergoing investigation or trial for a different crime in the petitioned country, then extradition shall be postponed until the completion of his trial and the execution of the sentence that he received. However, the country from which extradition is requested may extradite him temporarily for his trial on the condition that he is returned to the country that permitted his extradition after completion of the trial and before execution of his sentence.

Article (24)

Extradition shall not be permitted if the crime or sentence has expired by prescription in accordance with the law of either the country requesting extradition or the country from which extradition is requested. The above shall not apply if the country requesting extradition does not adhere to the principle of expiration by prescription and the person whose extradition is requested is a citizen of another country that does not adhere to this principle.

Article (25)

Extradition requests shall be submitted through diplomatic channels. The competent authorities shall decide them pursuant to the laws of each country.

Article (26)

The extradition request shall be accompanied by the following documents:

- a. If the request pertains to a person undergoing investigation, attached thereto shall be an arrest warrant issued by the competent authority. It shall indicate the crime and the article under which it is punishable. Also attached thereto shall be a certified copy of the legal text applicable to the crime, and an official copy of the certified investigation papers from the judicial entity that is responsible therefor or that is in possession of the papers.
- b. If the request pertains to a person convicted in absentia or in person, an official copy of the ruling shall be attached thereto.

Article (27)

In all cases, the extradition request must be accompanied by a full notice and description of the prosecuted, accused, or convicted person. The request must also be accompanied by the papers confirming the nationality of the person whose extradition is requested if he is a citizen of the petitioning country.

All extradition papers shall be certified by the Minister of Justice in the petitioning country or his equivalent.

Article (28)

As an exception, the extradition request may be sent by post, by telegraph, or by telephone. In this case, the country from which extradition is requested must initiate the necessary precautions to monitor the person sought until it receives communication in his regard. It may detain him provisionally for a period of no more than thirty days, after which he shall be released, unless a file requesting his extradition or a request to renew the duration of his detainment for a maximum of an

additional thirty days is received in full within this period. The duration of detention shall be deducted from the sentence to which he is convicted in the country requesting extradition. When sending the request by telegraph or by telephone, the authority from which extradition is requested may take the initiative, if necessary, to verify the validity thereof by inquiring from the authority that issued the request.

Article (29)

When extradition is approved, all items resulting from the commission of the crime or that may help in the investigation that are found in the possession of the wanted person at the time of his arrest or thereafter shall be seized and delivered to the petitioning country upon its request.

These items may be delivered even if the wanted person is not extradited due to his flight or death. The rights acquired by a third party over these items shall be maintained. In the event of the existence of these rights, the items shall be returned as quickly as possible and at the expense of the petitioning country to the petitioned country, after the completion of prosecution in the former.

The country from which extradition is requested may temporarily keep the detained items if it considers this a necessity for criminal procedures. When delivering these items, it may also maintain the right to reclaim them for the same aforementioned reason, and at the same time shall undertake the return thereof once it becomes able to do so.

Article (30)

If the country from which extradition is requested receives multiple requests from different countries in regards to the same suspect for the same crime, priority shall be given to the country whose interests were harmed by the crime, then the country in which the crime was committed, then the country of which the person whose extradition is requested is a citizen.

If the extradition requests are related to different crimes, priority shall be given to the country that requested extradition first.

Article (31)

The extradited person may not be prosecuted or tried in person with the intention of executing a sentence he had received due to a crime he committed before the extradition and that is other than the crime for which he was extradited, except in the following cases:

1. If he is granted a means of exit from the territory of the country to which he was extradited and does not leave therefrom within thirty days following his final release, or if he leaves therefrom and returns thereto.
2. If the country that extradited him agrees thereto. In this case, a request shall be submitted thereto accompanied by the documents stipulated in Article (27) and a judicial report containing the statements of the extradited person concerning the extension of the extradition's effect. The report shall indicate that this person was informed of his right to submit a defence memorandum to the authority of the petitioned country.

If the description of the crime attributed to the extradited person is altered during the proceedings, he shall not be prosecuted or tried except to the extent that the elements of the crime based on its new description permit extradition.

Article (32)

If it is necessary for the extradited person to pass through a third country to one of the contracting countries through the territory of the other country, it shall permit this passage on the basis of a request sent through diplomatic channels. Submitted therewith shall be the documents necessary to confirm that the crime constitutes a crime for which extradition is permitted. The conditions prescribed in Article (21) related to the duration of sentences shall be disregarded.

Article (33)

- a. The country requesting extradition shall bear responsibility for the expenses accrued from its procedures. However, the petitioned country shall not claim any expenses for the procedures or for the imprisonment of the person whose extradition is requested. It shall also bear responsibility for the expenses of the return of the extradited person to the place where he was at the time of his extradition, if he is proven innocent.
- b. The country shall bear responsibility for the expenses of passage through the territory of a different country from which permission is requested.

Article (34)

Rulings that issue custodial penalties may be executed in the country in which the convict is present on the basis of a request from the country that issued the ruling, on the condition of the approval of the country from which extradition is requested.

The country requesting extradition shall bear responsibility for all expenses required for executing the ruling.

Part (4)

Final Provisions

Article (35)

This agreement shall enter into force fifteen days after the exchange of its ratification documents in Tunisia. It shall remain in effect for a period of one year and shall be renewed automatically year after year, unless either contracting party requests in writing to amend or cancel it at least three months before the expiration of each term.

Drafted in Western Tripoli on 14 June 1961 AD

Corresponding to 1 Muharram 1381 AH

In two original copies

On behalf of the United Kingdom of Libya:

Suleiman Jerbi

Minister of Foreign Affairs

On behalf of the Tunisian Republic:

Dr. Sadok Mokaddem

State Secretary for Foreign Affairs