

Statutory Instrument No. 63 of 1970

THE EXTRADITION ACT, 1968

THE EXTRADITION (REPUBLIC OF PORTUGAL) ORDER, 1970

(Published on 31st July, 1970)

In the exercise of the powers vested in him by section 4 of the Extradition Act, 1968 (No. 53 of 1968) and of all other powers thereunto him enabling the Minister of State makes the following Order —

Citation

1. This Order may be cited as the Extradition (Republic of Portugal) Order, 1970 and shall come into operation on the 1st August, 1970.

Application of Part II of the Act in the case of the Republic of Portugal

2. So long as the Extradition Treaty between the Republic of Botswana and the Republic of Portugal, in respect of which letters were exchanged on the 6th February, 1970 and the terms of which are recited in Schedule 1 to this Order, remains in force, Part II of the Extradition Act, 1968, shall apply in the case of the Republic of Portugal, subject to the condition, exception or qualification that the crimes which shall be deemed to be extradition crimes for the purposes of this Order and the Act shall be such as are specified in Article 2 of the Treaty and set out in Schedule II to this Order.

SCHEDULE I

Your Excellency,

I have the honour to refer to the Treaty between Great Britain and Portugal for the Mutual Surrender of Fugitive Criminals signed at Lisbon, October 17th 1892 and applied to the former Bechuanaland Protectorate and to state that it is the understanding of the Government of Botswana that the Government of Portugal is in agreement:

- (a) that this Treaty should apply between the Republic of Botswana and the Government of Portugal, unless otherwise terminated in terms of Article XVIII, pending the conclusion of a new treaty; and
- (b) that a formal agreement should now be concluded.

I should be grateful for your confirmation that the Government of Portugal is in agreement with the foregoing and that the official publication in both our countries of this letter and of the reply letter of the Government of Portugal, concurring therein and that the lodging of the said letters with the Secretary-General of the United Nations shall constitute an agreement on the Mutual Surrender of Fugitive Criminals between the Government of the Republic of Botswana and the Government of Portugal.

I have the honour to be,

Your Excellency's obedient servant,

E.S. MASISI,
Minister of State

Your Excellency:

I have the honour to acknowledge receipt of your Note Number CP. 8/38, dated 21st January, 1970, the contents which are as follows:

"Your Excellency,

I have the honour to refer to the Treaty between Great Britain and Portugal for the Mutual Surrender of Fugitive Criminals signed at Lisbon, October 17th 1892, and applied to the former Bechuanaland Protectorate and to state that it is the understanding of the Government of Botswana that the Government of Portugal is in agreement:

- (a) that this Treaty should apply between the Republic of Botswana and the Government of Portugal, unless otherwise terminated in terms of Article XVIII, pending the conclusion of a new treaty: and
- (b) that a formal agreement should now be concluded.

I should be grateful for your confirmation that the Government of Portugal is in agreement with the foregoing and that the official publication in both our countries of this letter and of the reply letter of the Government of Portugal concurring therein and that the lodging of the said letters with the Secretary General of the United Nations shall constitute an agreement on the Mutual Surrender of Fugitive Criminals between the Government of the Republic of Botswana and the Government of Portugal.

I have the honour to be,

Your Excellency's obedient servant,

E.S. MASISI,
Minister of State"

I have the honour to state that the Government of Portugal is in agreement with the foregoing, and that Your Excellency's letter and this reply will constitute an agreement on the Mutual Surrender of Fugitive Criminals between the Government of the Republic of Botswana and the Government of Portugal.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

JOSE EUARDO do MENEZES ROSA,
Ambassador of Portugal

SCHEDULE II

The crimes or offences for which the extradition is to be granted are the following:—

1. Murder (including assassination, infanticide and poisoning), or attempt or conspiracy to murder.
2. Manslaughter.
3. Maliciously wounding or inflicting grievous bodily harm.
4. Assault occasioning actual bodily harm.

5. Counterfeiting or altering money, either metallic or of any other kind representing the first named, or uttering counterfeit or altered money of any of those kinds.
6. Knowingly making any instrument, tool, or engine adapted and intended for counterfeiting coin.
7. Forgery, counterfeiting or altering, or uttering what is forged or counterfeited or altered.
8. Embezzlement or larceny.
9. Malicious injury to property, if the offence be indictable.
10. Obtaining money, goods, valuable securities by false pretences.
11. Receiving money, valuable security, or other property, knowing the same to have been stolen, embezzled, or unlawfully obtained.
12. Crimes against Bankruptcy Law.
13. Fraud by a bailee, banker, agent, factor, trustee, or director or member, or public officer, of any Company, made criminal by any law for the time being in force.
14. Perjury, or subornation of perjury.
15. Rape.
16. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age.
17. Indecent assault.
18. Administering drugs or using instrument with intent to procure the miscarriage of a woman.
19. Abduction.
20. Bigamy.
21. Child-stealing.
22. Abandoning children, exposing or unlawfully detaining them.
23. Kidnapping and false imprisonment.
24. Burglary or house-breaking.
25. Arson.
26. Robbery with violence.
27. Any malicious act done with intent to endanger the safety of any person in a railway train.
28. Threats, by letter or otherwise, with intent to extort.
29. Piracy by law of nations.
30. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
31. Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm.
32. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

33. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

Extradition may also be granted, at the discretion of the State applied to, in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

The Portuguese Government will not deliver up any person either guilty or accused of any crime punishable with death.

TREATY SERIES NO. 7

1894

TREATY

between

GREAT BRITAIN AND PORTUGAL for the MUTUAL
SURRENDER OF FUGITIVE CRIMINALS

Signed at Lisbon, October 17,

1892

Ratifications exchanged at Lisbon, November 13,

1893

A. MOGWE,
Permanent Secretary, Office of the President

Office of the President,
GABORONE.
27th July, 1970.