

LAW OF THE REPUBLIC OF INDONESIA

NUMBER 1, YEAR 1979

ON

EXTRADITION

WITH THE BLESSINGS FO THE ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering:

- a. That the Royal Decree of May 8, 1883, no.26 (State Gazette 1883 –188) on “Extradition of Aliens” is not anymore in accordance with the law-system of the Republic of Indonesia;
- b.

In view of:

1. That therefore the Royal Decree of May 8, 1983 no.26 (State Gazette 1883 -188) Should be revoked and that, as its substitute, a new Law on extradition should be drafted in accordance with the law-system and the legislative provisions of the Republic of Indonesia.
- 2.
3. Article 5, paragraph (1) and article 20, paragraph (1) of the Constitution of 1945;
4. Decree of the Consultative Congress of the Republic of Indonesia, number IV /MPR/ 1978 on Guiding Principles of State policy;
5. Act No.13, year 1961 on Principal Provisions of the State Police (State Gazette year 1961, no.245, Supplement of the State Gazette, no. 2289);

Act no.15, year 1961 on Principal Provisions of the Public Prosecutor of the Republic of Indonesia (State Gazette-, year 1970, no.74, Supplement of the State Gazette, no.2298);

Act no.14, year 1970, on Principal provisions of the Judiciary (State Gazette no.2951).

With the approval of

The House of Representatives of the Republic of Indonesia

HAS DECIDED

on revoking Royal Decree of May 8,

1883, no. 26 (State Gazette 1883 – 188)

on “Extradition of Aliens”

to enact:

LAW ON EXTRADITION

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Law "Extradition" means the Surrender by one State to another state which requests the surrender of a person who is accused or convicted on account of the commission of crime outside the territory of the surrendering state and within the jurisdiction of the territory the state requesting the said surrender based on its right to try and convict the said person.

CHAPTER II

Principles of Extradition

Article 2

- (1) Extradition shall be granted on the basis of a treaty.
- (2) In the absence of a treaty mentioned in paragraph (1), extradition may be granted on the basis of good relationship and if the interest of the State of the Republic of Indonesia so requires.

ARTICLE 3

- (1) Extradition may be granted in respect of a person, who's surrender is requested by the competent authorities of a foreign state on account of his being accused of committing a crime or being wanted for the carrying out of sentence or a warrant of arrest.
- (2) Extradition may also be granted in respect of a person who is accused or convicted on account of abetment, attempt to or conspiracy of committing a crime, mentioned in paragraph (1); in so far as the said abetment, attempt and conspiracy is punishable according to the law of the Republic of Indonesia and to the law the state requesting the extradition.

ARTICLE 4

- (1) Extradition shall be granted in respect of the crimes mentioned in the list of crimes, which is affixed as an Inseparable text to the Act.
- (2) Extradition may also be granted at the discretion of the requested state in respect of a crime not mentioned in the list of crimes
- (3) By Governmental Regulation other kinds of acts, which have been fixed as crimes by law, may be added to the list of crimes, mentioned in paragraph (1).

ARTICLE 5

- (1) Extradition shall not be granted in respect of a political crime.
- (2) A crime, which is principally more an ordinary crime than a political crime, shall not be considered to be a political crime.
- (3) In respect of certain kinds of political crimes the perpetrator may also be extradited in so far as it is stipulated in the treaty between the Republic of Indonesia and the country concerned.
- (4) The taking or attempted taking of the life of a Head of State or a member of his family shall not be deemed to be a political crime.

ARTICLE 6

(1) Extradition for crimes under military criminal law, which are not crimes under ordinary criminal law, shall not be granted, unless it is decided otherwise in a treaty.

ARTICLE 7

(1) A request for the extradition of a national of the Republic of Indonesia shall be refused.

(2) A deviation from the provision of paragraph (1) mentioned above may be made if in view of the circumstances it would be better if the person concerned be tried at the place of commission of the crime.

ARTICLE 8

A request for extradition may be refused if the crime of which the person is accused has been committed in whole or in part in the territory of the Republic of Indonesia.

ARTICLE 9

A request for extradition may be refused if the person claimed is being proceeded against in the Republic of Indonesia respect of the same crime.

ARTICLE 10

A request for extradition shall be refused if the judgment passed by the competent court of the Republic of Indonesia in respect of the crime for which extradition is requested has become final.

ARTICLE 11

A request for extradition shall be refused if the person claimed for extradition has been sentenced and discharged or has served his sentence in another state in respect of the crime for which extraditions is requested.

ARTICLE 12

A request for extradition shall be refused if according to the law of the Republic of Indonesia the right to prosecute or the right to execute a penal sentence has expired by reason of lapse of time.

ARTICLE 13

A request for extradition shall be refused if the crime for which extradition is requested is punishable by death under the law of the requesting state, while under the law of the Republic of Indonesia such crime is not punishable by death or the death-penalty is not normally carried out, unless the requesting country sufficiently guarantees that the death-penalty will not be carried out.

ARTICLE 14

A request for extradition shall be refused if according to the competent authorities there are substantial grounds for believing that the person claimed for extradition will be prosecuted, sentenced, or subjected to other measures, on

account of his religion, political opinion or nationality, or because of his belonging to a certain race or group of the population.

ARTICLE 15

A request for extradition shall be refused if the person claimed for extradition will be prosecuted, sentenced or detained on account of the commission of another crime than that for which extradition has been requested, unless with the approval of the President.

ARTICLE 16

A request for extradition shall be refused if the person claimed for extradition will be surrendered to a third state in respect of other crimes, committed before the request for extradition.

Article 17

A request for extradition, which meets the requirement, will be postponed if the person claimed is being proceeded against or sentenced or is serving his sentence in respect of another crime committed in Indonesia.

CHAPTER III

REQUIREMENTS FOR ARREST

REQUESTED BY THE REQUESTING STATE

ARTICLE 18

(1) The Head of Police of the Republic of Indonesia or the Attorney General of the Republic of Indonesia may order the arrest requested by another state in case of urgency provided that the arrest is not contrary to the law of the Republic of Indonesia.

(2) The requesting State shall state in its request for arrest that the documents mentioned in paragraph 22 exist and that the said state will send a request for extradition immediately within the period mentioned in article 21.

ARTICLE 19

(1) The request for arrest shall be sent by the competent authorities of the requesting state to the Head of Police of the Republic of Indonesia or the Attorney General of the Republic of Indonesia through the INTERPOL Indonesia or through the diplomatic channel, or direct by post or telegraph.

(2) The issue of a warrant for the apprehension or the arrest of the person concerned is made according to the provisions of the code of criminal procedure of Indonesia, unless fixed otherwise as regulated in paragraph (3).

(3) Deviating from the provisions of the code of criminal procedure of Indonesia in case the persons committing an extraditable crime according to this Law may be detained.

ARTICLE 20

The decision on the request for arrest shall be communicated to the requesting state by the Head of Police of the Republic of Indonesia or the Attorney General of the Republic of Indonesia through the INTERPOL Indonesia or through the diplomatic channel or direct by post or telegraph.

ARTICLE 21

If the person concerned is detained, the said person shall be released by The Attorney General of the Republic of Indonesia or the Head of Police Indonesia if within a reasonable period starting from The date of detention, the President through the Minister of Justice of Republic Indonesia does not receive the request for extradition accompanied by the documents mentioned in Article 22 from requesting state.

CHAPTER IV

REQUEST FOR EXTRADITION AND REQUIREMENTS TO BE MET BY THE REQUESTING STATE

ARTICLE 22

- (1) The request for extradition shall be considered only if the requirements mentioned in paragraph (2), paragraph (3), and paragraph (4) have been met.
- (2) The request for extradition shall be sent in writing through the diplomatic channel to the Minister of Justice of the Republic of Indonesia in order to be forwarded to the President.
- (3) The request for extradition of the person, claimed for extradition wanted for the carrying out of a sentence shall be supported by:
 - a. The original or an authenticated copy of the sentence of the court, immediately enforceable;
 - b. Statements required for establishing the identity and nationality of the person claimed for extradition;
 - c. The original or an authenticated copy of the warrant of arrest issued by the competent authorities of the requesting state.
- (4) The request for extradition for the person accused of committing a crime shall be supported by:
 - a. The original or an authenticated copy of the warrant of arrest issued by the competent authorities of the requesting state;
 - b. A statement of the crime in respect with extradition is requested, mentioning the time and place of its commission, supported by the required written evidence
 - c. The text of the legal provision of the requesting state which has been violated or, where this is not possible, the contents of the relevant law;
 - d. Statement of witness under oath concerning their knowledge of the committed crime;
 - e. Statements required for establishing the identity and nationality of the person claimed for extradition;
 - f. A request for the seizure of property required as evidence, if any and if necessary.

ARTICLE 23

If the Minister of Justice of the Republic of Indonesia is of the opinion that the documents handed over do not meet the requirements of Article 22 or another requirements fixed in the treaty, the authorities of the requested state are given the opportunity to complete the said document within a period considered reasonable by the Minister of Justice of the Republic of Indonesia.

ARTICLE 24

If the requirements and documents mentioned in article 22 and 23 have been satisfied, the Minister of Justice of the Republic of Indonesia shall send the request for extradition supported by its appendixes to the Head of Police of the Republic of Indonesia and the Attorney General of the Republic of Indonesia in order to be examined.

CHAPTER V

INVESTIGATION OF PERSONS

CLAIMED FOR EXTRADITION

ARTICLE 25

If the crime is a crime upon which arrest may be imposed according to the Code of criminal procedure of Indonesia and the provision mentioned in Article 19 paragraph (2) and (3), and if request for the arrest has been lodged by the requesting state, the said person shall be arrested.

ARTICLE 26

(1) If the said arrest has been ordered by the Police of the Republic of Indonesia, after having received the request for extradition, shall investigate the said person on the basis of the statements or evidences given by the requesting state.

(2) The result of the investigation shall be registered in an official report and immediately be sent to the local office of the public prosecutor of the Republic of Indonesia.

ARTICLE 27

Seven days at the latest on receipt of the said official report, the office of the public prosecutor, while forwarding its grounds in writing, shall request the District Court of the region in which the said person is detained to institute proceedings and to decide whether or not the said person may be surrendered.

ARTICLE 28

Cases of extradition fall under priority cases.

ARTICLE 29

The office of the public prosecutor shall summon the person concerned before the court at the day of session and the said summons shall be received by the person concerned 3 (three) days at the latest before the day of session.

ARTICLE 30

At the day of session the person concerned shall appear before the District Court.

ARTICLE 31

(1) The hearing by the District Court shall be held in an open session, unless the chairman of the session deems it necessary to hold a closed session.

(2) The public prosecutor shall attend the session and deliver his opinion.

ARTICLE 32

The District Court shall inquire in an open session whether or not:

- a. the identity and nationality of the person claimed for extradition are in conformity with the statement and evidence forwarded by the requesting country;
- b. the crime concerned is an extradition crime according to paragraph 4 and does not constitute a political crime or a military crime;
- c. the right to prosecute or the right to execute a sentence has expired by reason of lapse of time;
- d. in respect of the crime committed by the person concerned, a sentence which has become final, has been passed by the court;
- e. the said crime is punishable by death in the requesting country whereas in Indonesia it is not punishable by death;
- f. the said person is being proceeded in Indonesia in respect of the same crime.

ARTICLE 33

(1) From the result of the inquiry in article 32 the court decides whether or not the person concerned will be extradited.

(2) The said decision together with the documents concerning the said case shall be delivered immediately to the Minister of Justice in order to be taken into consideration for further disposal.

CHAPTER VI

REVOCATION AND PROLONGATION

OF ARREST

ARTICLE 34

The arrest ordered in pursuance to article 25 shall be revoke if:

- a. ordered so by the court;
- b. 30 (thirty) days have passed, unless prolonged by the court on request of the public prosecutor;
- c. the request for extradition has been refused by the President.

ARTICLE 35

(1) The term of arrest mentioned in article 34 sub b may be prolonged each time for 30 (thirty) days.

(2) Prolongation may only be ordered if:

- a. the court has not yet decided on the request for extradition;
- b. the information mentioned in article 36 paragraph (3) is requested by the Minister of Justice;
- c. extradition has also been requested by another state and the President has not yet decided on the request;
- d. the request for extradition has been granted but it can not yet be executed.

CHAPTER VII

DECISION ON THE REQUEST FOR

EXTRADITION

ARTICLE 36

(1) After having received the decision of the court mentioned in article 33, the Minister of Justice shall immediately send the said decision together with the opinions of the Minister of Justice, the Minister of Foreign Affairs, the Attorney General, and the Head of Police of the Republic of Indonesia, to the President, in order to obtain a decree.

(2) After having received the decision of the court and the opinion mentioned in paragraph (1), the President orders by decree whether or not the person concerned will be extradited.

(3) If pursuant to the decision of the Court the request for extradition may be granted, but if the Minister of Justice of the Republic of Indonesia needs supplementary information, the Minister of Justice of the Republic of Indonesia required the said information from the requesting state within a reasonable period.

(4) The decree of the "President on the request for extradition shall be communicated by the Minister of Justice of the Republic of Indonesia to the requesting state through the diplomatic channel.

Article 37

If extradition of a person is requested concurrently by 2 (two) or more countries either for the same crime or for different crimes, in refusing or granting extradition the President shall in the interest of justice, observe the following circumstances:

- a. the seriousness of the crime;
- b. the place of commission of the crime;
- c. the dates of the requests for extradition;
- d. the nationality of the person claimed;
- e. the possibility of extradition of the person claimed to another state by the requesting state.

Article 38

The decree of the President on the request for extradition mentioned in article 36 Shall be sent immediately by the Minister of Justice to the Minister of Foreign affairs the Attorney General and the Head of Police of the Republic of Indonesia.

Article 39

- (1) In the absence of a treaty between the requesting state and the Republic of Indonesia, the request for extradition shall be communicated through the diplomatic channel, and sent by the Minister of Foreign Affairs of the Republic of Indonesia to the Minister of Justice of the Republic of Indonesia, accompanied by its considerations.
- (2) The Minister of Justice of the Republic of Indonesia shall, after having received the request from the requesting state and the considerations of the Minister of Foreign Affairs of the Republic of Indonesia, report on the request for extradition mentioned in paragraph (1) to the President.
- (3) The President may, after having considered the advise and considerations of the Minister of Foreign Affairs and the Minister of Justice of the Republic of Indonesia the request for extradition mentioned in paragraph (1), grant or refuse the said request.
- (4) In case the request for extradition mentioned in paragraph (1) has been granted, the President shall order Minister of Justice of the Republic of Indonesia to proceed in the same manner as if an extradition treaty exists between the requested state and the Republic of Indonesia.
- (5) In case the request for extradition mentioned in paragraph (1) has been refused, the President shall communicate the refusal to the Minister of Justice so that it will be transmitted to the Minister of Foreign Affairs, who shall inform it to the requested state.

CHAPTER VII

SURRENDER OF THE PERSON

CLAIMED FOR EXTRADITION

Article 40

- (1) If the request for extradition has been granted, the person claimed for extradition shall immediately be surrendered to the authorities concerned of the requesting state at the place and on the date fixed by the Minister of Justice of the Republic of Indonesia.
- (2) If the person claimed for extradition has not been taken over on the appointed date, he may be released after the expiry of 15 (fifteen) days and shall in any case be released after the expiry of 30 (thirty) days.
- (3) The following request for extradition for the same crime, after the expiry of the said 30 (thirty) days may be refused by the President.

Article 41

If circumstances beyond the control of both states prevent the requesting state from taking over, or the requested state from surrendering the person claimed, the state concerned shall notify the other state and the two states shall agree on anew date for the said taking over or surrender. In this case the provisions of article 40 paragraph (3) shall apply, its period being calculated from the date mentioned in the said paragraph.

CHAPTER IX

EVIDENCE

Article 42

- (1) Property, which may be required as evidence, found in the possession of the person, claimed for extradition may be seized at the request of the competent authorities of the requesting state.

(2) In the case mentioned in paragraph (1) the provision of the Penal Code of Indonesia and the Code of Penal Procedure of Indonesia on the seizure of property, as evidence shall apply.

Article 43

(1) In its decision concerning the request for extradition the District Court shall also stipulate property which be handed over to the requesting state and which will be returned to the person concerned.

(2) The district court may stipulate that certain property shall only be handed over to the requesting state on condition that the said property will be returned as soon as it had been used.

CHAPTER X

REQUEST FOR EXTRADITION

BY THE GOVERNMENT OF INDONESIA

Article 44

If a person is accused of committing a crime or has to serve a sentence on account of the commission of a crime which is extraditable within the jurisdiction of the Republic of Indonesia and is suspected of being in an foreign state, the Minister of Justice of the Republic of Indonesia may on behalf of the President, at the request of the Attorney General of the Republic of Indonesia or the Head of the Police of the Republic of Indonesia, request the extradition of the said person through the diplomatic channel.

Article 45

If the person claimed for extradition mentioned in article 44 has been surrendered by the foreign state the said person shall be brought to Indonesia and be surrendered to the competent authorities.

Article 46

The procedure with regard to the request for extradition and the taking over of the person surrendered shall be regulated by Governmental Regulation.

CHAPTER XI

TRANSITIONAL PROVISION

Article 47

On the coming into force of this Law all Extradition treaties, which have been ratified, previously shall be the extradition treaties as mentioned in this Law.

CHAPTER XII

CLOSING PROVISION

Article 48

This Law shall come into force on the date of its promulgation.

In order that everyone may take cognizance, it is here by ordered that this Law be promulgated by inserting it in the State Gazette of the Republic of Indonesia.

Enacted at Jakarta

On the 18th of January 1979

The President of the Republic of Indonesia

SOEHARTO

Promulgated at Jakarta

On the 18th of January 1979

The Minister/Secretary of State of the Republic of Indonesia

SUDHARMONO

STATE GAZETTE OF THE REPUBLIC OF INDONESIA, Year 1979 number 2.

ELUCIDATION

OF

LAW OF THE REPUBLIC OF INDONESIA

NUMBER 1, YEAR 1979

ON

EXTRADITION

A. *GENERAL*

The now existing legislative provisions on extradition i.e. the Royal Decree of 8th May 1883 no.26 (State Gazette 1883 - 188) on "Extradition of Aliens", are still considered to be valid based on Article II of the Transitional Provision of the Constitution of 1945. Considering that the said Royal Decree is a legislative product of the Dutch government in the past and has been issued more than 90 (ninety) years ago, it is obvious that the said Royal Decree is not in accordance any more with the law system and development of the independent Republic of Indonesia.

Therefore the said regulation should be revoked and a national Law should be drafted regulating the extradition of persons accused on account of committing a crime abroad and escaping to Indonesia, or for carrying out a sentence passed by a court.

Besides, this Act should regulate the procedure of the request for extradition of the Government of Indonesia to foreign state.

In this Law general principles known in the field of extradition are regulated, among others:

- a. The principle of Double Criminality, i.e. the act committed should be considered as a crime by the requesting state as well as by the requested state. This principle is mentioned in the list of the extraditable crimes affixed as an appendix of this Law (Article 4);
- b. The principle, that if a certain crime is regarded by the requested state as a political crime, the request for extradition will be refused (Article 5);

- c. The principle, that the requested state has the right to refuse to surrender its nationals (Article 7);
- d. The principle, that if the crime has been committed in whole or in Part in the territory falling or is considered to be falling under the jurisdiction of the requested state, this state may refuse the request for extradition (Article 8);
- e. The principle that a request for extradition may be refused if the Competent authorities of the requested state are proceeding against the person concerned in respect of the crime for which extradition has been requested (Article 9);
- f. The principle that if in respect of a certain crime, the judgment passed by the competent court of the requested state has become final, the request for extradition will be refused (Article 10);
- g. The principle that a person shall not be surrendered if the right to prosecute or the right to execute a penal sentence has expired by reason of lapse of time (Article 12);
- h. The principle that the extradited person shall not be prosecuted, sentenced or detained on account of any other crime committed prior to the extradition, than for the crime for which he has been surrendered, unless the state requested to surrender the said person approves to it (Article 15).

The decision concerning request for extradition is not a decision of the judicial body but is a decision of the executive body, therefore as a last instance the decision lies in the hands of the President after having received a judicial advice from the Minister of Justice based on an order of the court.

The request for extradition is communicated to the President through the Minister of Justice by the competent authorities of the alien state through the diplomatic channel. The said request for "extradition shall be supported by the required documents, among others concerning identity, nationality, statement of the crime for the commission of which he has been accused, the request for provisional arrest.

If the person sought is wanted to carry out a sentence the request for extradition shall be accompanied by the original or an authenticated copy of the sentence of the court and the warrant of arrest. The said documents shall be supported by legal written evidence.

In case of urgency, before the request for extradition is sent, the competent authorities in Indonesia may put the said wanted person under provisional arrest on the request of the requesting country.

As for the said provisional arrest the provisions of the code of Criminal Procedure of Indonesia shall apply. If within a reasonable time the request for extradition is not sent, the said person shall be released.

As it is mentioned above the decision whether or not to surrender said person is taken by the President after having obtained juridical advice from the Minister of Justice based on a decision of the Court. The hearing in the court is not a trial before the court like in a general court proceeding, but the Court bases its findings on written statements and evidences from the requesting state, forwarded by the public prosecutor together with his opinion.

After having investigated the statements and juridical requirements for extradition, the Court decides whether the said person may be extradited or not.

B. ARTICLE BY ARTICLE.

Article 1

"Territory" in this article also includes places considered as a territory pursuant to legislative provisions, such as buildings of the embassy consulate.

Article 2

Paragraph (1)

“Treaty” in this article means a treaty concluded between the Republic of Indonesia and another state, which has been ratified by Law.

Paragraph (2)

Sufficiently clear

Article 3

Paragraph (1)

“Committing a crime” also includes a person who participates in committing a crime, a person who induces another person to commit a crime and a person who instigates to commit a crime.

Paragraph (2)

Sufficiently clear

Article 4

Paragraph (1)

Generally extraditable crimes are serious crimes. Therefore not all crimes may be extradited but it is limited to crimes mentioned in the list of crimes affixed to this Act.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Considering the changing situation the said list of crimes will not always meet our needs, so additions are possible.

Article 5

The refusal to surrender a person who has committed a political crime is connected with the right of the state to grant asylum to political refugees. Because of the broad meaning of a political crime a limitation as mentioned in paragraph (2) is made.

The crime mentioned in paragraph (4) is in fact a pure political crime, but since that crime is considered to cause instability to the community and the state, in the interest of extradition the said crime is not considered to be a political crime.

This provision forms the “Attentatclause”, which is also followed by Indonesia.

Article 6

Sufficiently clear

Article 7

For the protection of one's own nationals it is deemed better if the person concerned will be tried in his own state. However it is possible that the said person may better be tried in the other state (in the requesting state) due to considerations in the interest of the state, law and justice.

The execution of the surrender is based on the principle of reciprocity.

Article 8

Sufficiently clear

Article 9

"Being proceeded against" in this Article, means the proceeding starts from the preliminary investigation, to the prosecution and the trial before the court.

Article 10

This provision is meant to guarantee a person not to be tried twice for the same crime (non bis in idem).

Article 11

"Another State" means a third State.

Article 12

Sufficiently clear

Article 13

Although the Republic of Indonesia recognizes the death penalty in its Criminal Code, yet it is very seldom executed. Therefore if the crime is punishable by the death penalty in the requesting State, while it is not so in Indonesia it is considered to be rightful if the person claimed will not be extradited.

Article 14

This principle guarantees the human rights to adhere to one's own religion and political opinion; moreover it abolishes differences of nationality, race and group of the population.

Article 15

This principle states the rule of specialty that the requested person will only be judged on account of the commission of a crime for which extradition has been requested, unless it is decided otherwise by the requested state.

Article 16

Sufficiently clear

Article 17

Sufficiently clear

Article 18

Paragraph (1)

"In case of urgency" means amongst others if the wanted person feared to escape.

Paragraph (2)

Sufficiently clear

Article 19

Paragraph (1)

INTERPOL Indonesia is a mutual cooperative body of the International Police for Indonesia, which was founded by Decree of the Prime Minister of the Republic of Indonesia, Number 245/PM/1954, dated October 5, 1954. While "telegraph" means a telegrams, which the identity of its sender is known clearly.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 20

Sufficiently clear

Article 21

The "reasonable period" will be fixed in the treaty with another state.

Article 22

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Paragraph (3)

The letters and statements mentioned in the paragraph are for the benefit of the hearing before the Court.

Paragraph (4)

"Written evidence" means documents closely related to the said crime, for instance a deed of property, or if the said evidence consists of a tool, a substance or a weapon, photographs of the said goods will suffice, or also called "copier collation". This is made with the consideration that the hearing by the court in this extradition case is only to confirm if the said persons, based on the existing evidence may stand trial before the court. It is not to decide whether the said person is guilty or not.

Article 23

The opportunity to complete the documents demanded by the Minister of Justice of the Republic of Indonesia is given within a period, which is considered reasonable, taking into account the distance, and extent of the requesting state. The limitation of time may be fixed in the treaty made between the Republic of Indonesia and the requesting state.

Article 24

Sufficiently clear

Article 25

Sufficiently clear

Article 26

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Article 27

The period of 7 (seven) days is considered to be sufficient for the investigation required by the public prosecutor.

Article 28

Cases of extradition should be given priority given because the hearing before the court is not like a common trial.

Article 29

The minimum period of 3 (three) days is meant to give the opportunity to the person concerned to take the necessary preparations.

Article 30

Sufficiently clear

Article 31

Paragraph (1)

This paragraph is to show the principle of the independent administration of justice

Paragraph (2)

Sufficiently clear

Article 32

Sub a, b, c, d, e and f are meant to protect the human rights in case of extradition, "Military crime" in this article means a crime according to the Military Criminal Code, not a crime regulated in the general Criminal Code.

Article 33

Paragraph (1)

Sufficiently clear

Paragraph (2)

The decision mentioned here is the form of a statement of the court of which the contents is the opinion of the court.

"Case" in this article means problems concerning an extradition.

Article 34

b. The arrest during 30 (thirty) days mentioned in sub b includes the arrest by the Police of the Republic of Indonesia and the arrest by the prosecutor according to the Code of Criminal Procedure of Indonesia. If necessary the general prosecutor may apply for a prolongation to the Court.

This is an exception of the Code of Criminal Procedure (*lex specialis*), since the extradition case has to be settled quickly.

Article 35

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Article 36

Paragraph (1)

In deciding to grant or to refuse an application the President receives opinions of officials mentioned in this paragraph, each according to their importance.

Paragraph (2)

Sufficiently clear

Paragraph (3)

The classification of "the reasonable period" is the same as classification of Article 23.

Paragraph (4)

Considering the tight time limit of the request for extradition, the said Presidential Decree is taken within a short time.

Article 37

For the sake of justice the surrender of a requested person the requirements mentioned in this article .sub a up to and including sub e should be observed.

Article 38

Considering the diplomatic relations with the requesting state the Minister of Foreign Affairs of the Republic of Indonesia should be informed of the said Presidential Decree.

The Attorney General and the Head of Police of the Republic of Indonesia are also informed of the said Presidential Decree, since the office of the public prosecutor and the Police are involved from the beginning in the said process, i.e. in the arrest and further investigation procedures of the person requested for extradition.

Article 39

The Minister of Foreign Affairs of the Republic of Indonesia should be asked for his opinion in case there is no extradition treaty, because an extradition-prior to the existence of an extradition treaty should be based on a reciprocal relationship between the states concerned.

Article 40

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Paragraph (3)

These provisions are meant to protect the human rights of the person concerned. The same crime in this paragraph means the crime for which extradition is requested in the proceeding paragraph. The period of 30 (thirty) days in this paragraph is the period mentioned paragraph (2).

Article 41

Sufficiently clear

Article 42

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Article 43

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Article 44

This article regulates the request for surrender to an alien state of a person accused to commit a crime, for which the Republic of Indonesia has the authority to judge according to the provisions on the validity of the Criminal Code of Indonesia or for serving a sentence imposed upon him by a court in Indonesia. "Foreign country" in this article also includes places considered to be a territory of the said foreign state (see further elucidation of Article (1)).

Article 45

Sufficiently clear

Article 46

Sufficiently clear

Article 47

The extradition treaties mentioned in this article are treaties made between the government of the Republic of Indonesia and the government of Malaysia, between the government of the Republic of Indonesia and the government of the Republic of the Philippines, and between the government of the Republic of Indonesia and the Kingdom of Thailand;

Article 48

Sufficiently clear

SUPPLEMENT OF THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 3130