

## Annexe 2

**EXTRADITION TREATY**  
**BETWEEN THE**  
**GOVERNMENT OF THE REPUBLIC OF ITALY AND THE**  
**GOVERNMENT OF THE REPUBLIC OF KOSOVO**

The Government of the Republic of Italy and the Government of the Republic of Kosovo hereinafter referred to as the " Contracting Parties",

desiring to promote an effective judicial cooperation between their two Countries with the intent of preventing crime on the basis of mutual respect for sovereignty, equality and mutual benefit,

considering that this purpose can be achieved by the conclusion of a bilateral treaty establishing a joint action in extradition matters,

have agreed as follows:

**ARTICLE 1**

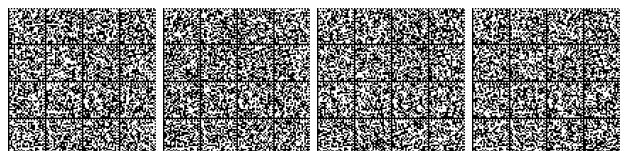
**Obligation to extradite**

Each Contracting Party, in compliance with the provisions of this Treaty and upon request of the Requesting State, undertakes to extradite to the other any person who is on its territory and is wanted by the Requesting State for the purpose of carrying out criminal proceedings or executing a final custodial sentence or any other measure restrictive of personal liberty issued against such person.

**ARTICLE 2**

**Extraditable offences**

1. For the purposes of this Treaty, extradition may be granted when:
  - a) the request for extradition is made to carry out criminal proceedings and the



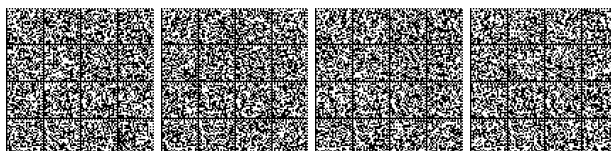
- offence is punishable, pursuant to the laws of both States, with a custodial sentence of at least one year;
- b) the request for extradition is made for executing a final custodial sentence or any other measure restricting personal liberty for an offence punishable pursuant to the laws of both States and, at the moment of submission of the request, the length of sentence or restriction still to be served is of at least six months.
2. When determining whether, in compliance with paragraph 1 of this Article, an act constitutes an offence pursuant to the laws of both States, it shall not matter whether the laws in both States place the act within the same category of offence or describe the offence by the same terminology.
3. In respect of offences relevant to taxes and duties, customs duties and foreign exchange, extradition shall not be refused only on the ground that the laws of the Requested State do not impose the same kind of taxes and duties or do not contain the same type of provisions in connection with taxes, duties, customs duties and foreign exchange as the laws of the Requesting State.
4. Extradition may be granted also if the offence for which it is requested was committed outside of the territory of the Requesting State, provided that the laws of the Requested State allow the prosecution of an offence of the same nature committed outside of its territory.
5. If the request for extradition concerns two or more offences, each of which constitutes an offence pursuant to the laws of both States, and provided that one of them fulfils the conditions provided for in paragraphs 1 and 2 of this Article, the Requested State may grant extradition for all of those offences.

### ARTICLE 3

#### Mandatory Grounds for Refusal

Extradition shall not be granted if:

- a) the offence for which it is requested is considered by the Requested State as a political offence or an offence related to such a category of offence. To this end the following shall not be considered as offences of a political nature:
- 1) homicide or any other offence against the life, physical integrity or freedom



- of a Head of State or Government or any member of his family;
- 2) terrorist offences, nor any other offence not considered as a political offence under any international treaty, convention or agreement to which both States are parties;
- b) the Requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing the person sought for reasons of race, sex, religion, social condition, nationality or political opinion, or that that person's position in the criminal proceedings may be prejudiced for any of those reasons;
- c) the offence for which extradition is requested could be punished by the Requesting State with a punishment prohibited by the laws of the Requested State;
- d) the Requested State has substantial grounds for believing that, in the Requesting State, the person sought has been or will be subjected, for the offence for which extradition is requested, to proceedings which do not ensure the respect of basic defence rights, or to a cruel, inhuman, degrading treatment or to any other act or omission infringing his fundamental rights. In the case the proceedings were held in absence of the defendant, does not constitute *per se* a reason for refusal of the extradition, when the person sought has the right to a new trial upon his request, under the laws of the Requesting State;
- e) in respect to the offence for which extradition is requested, the person sought has already been adjudicated with a final judgment by the competent Authorities of the Requested State;
- f) in respect to the offence for which extradition is requested, there has been in the Requested State an amnesty, a general pardon of sentence or an individual pardon or if it has become statute barred or if there is any other cause for the extinction of the offence or of the sentence;
- g) the offence for which extradition is requested constitutes solely a military offence under the laws of the Requested State;
- h) the Requested State has granted political asylum to the person sought;
- i) the Requested State deems that granting extradition could jeopardize its sovereignty, security, public order or other essential interests of the State or cause effects in contrast with the fundamental principles of its domestic law.



**ARTICLE 4****Optional Grounds for Refusal**

Extradition may be refused in any of the following circumstances:

- a) the offence for which extradition is requested is subject to the jurisdiction of the Requested State in accordance with its domestic law and the person sought is being prosecuted or is going to be prosecuted by the competent Authorities of that State for the same offence for which extradition is requested;
- b) the Requested State, while taking into consideration the seriousness of the offence and interests of the Requesting State, considers that the extradition would not be compatible with humanitarian considerations in view of the age, health conditions or other type of personal circumstances of the person sought.

**ARTICLE 5****Extradition of Nationals**

1. Each State shall have the right to refuse extradition of its nationals.
2. In case of refusal of the extradition and upon request of the Requesting State, the Requested State shall submit the case to its competent Authorities with a view to start against the person sought criminal proceedings under its domestic law. For this purpose, the Requesting State, through the Central Authorities indicated in Article 6 below, shall provide, free of charge, the Requested State with evidence, documents and any other useful material in its possession.
3. The Requested State shall communicate promptly to the Requesting State the action taken on the request and the outcome of the proceedings.

**ARTICLE 6****Submission of the Request for Extradition and Central Authorities**

1. For the purposes of this Treaty, the Central Authorities designated by the Contracting Parties shall transmit the request for extradition and communicate



- directly between them.
2. The Central Authorities are the Ministero della Giustizia [Ministry of Justice] of the Republic of Italy and Ministria e Drejtësisë (Ministry of Justice) of the Republic of Kosovo.
  3. Each Contracting Party shall communicate with the other, through diplomatic channel, any change of the designated Central Authority.

#### ARTICLE 7

##### Request for Extradition and Required Documents

1. The request for extradition shall be made in writing and contain, in so far as possible, therein or in documents attached thereto, the following:
  - a) the indication of the Requesting Authority;
  - b) the name, date of birth, sex, nationality, occupation, domicile or residence of the person sought, the details of his/her identity document, and any other information that may help to determine that person's identity or to determine his/her location and that person's police identification data, photographs and fingerprints;
  - c) a statement of the facts constituting the offence for which extradition is requested, containing the date and place of their commission and their legal classification;
  - d) the text of the relevant provisions of the applicable laws, including the provisions on the conditions for prosecuting, on the statute of limitations and on the sentence that can be imposed.
  - e) the text of the law provisions conferring jurisdiction to the Requesting State, if the offence for which extradition is requested was committed outside of the territory of that State.
2. In addition to the provisions of paragraph 1 of this Article, the request for extradition shall be accompanied by:
  - a) original or a duly certified copy of the warrant of arrest issued by the competent Authority of the Requesting State when the request is aimed at carrying out criminal proceedings;
  - b) original or a duly certified copy of the enforceable judgment and the indication



of the sentence already served when the request is aimed at executing a conviction against the person sought.

3. The request for extradition, officially signed by the competent Authorities, and relevant supporting documents shall be accompanied by their translation into the language of the Requested State, that is in Albanian or Serbian for the Republic of Kosovo and in Italian for the Republic of Italy.

#### **ARTICLE 8**

##### **Additional Information**

1. If the information provided by the Requesting State in support of a request for extradition is not sufficient to enable the Requested State to reach a decision under this Treaty, such latter State may request that the necessary additional information be submitted within forty days.
2. Failure to submit the additional information within the time limit indicated in paragraph 1 of this Article amounts to renouncing the request for extradition. However, the Requesting State shall not be precluded from making a new request for extradition of the same person and for the same offence.

#### **ARTICLE 9**

##### **Decision**

1. The Requested State shall decide on the request for extradition in compliance with the procedures provided for in its domestic law and shall inform promptly the Requesting State of its decision.
2. If the Requested State refuses the whole or any part of the request for extradition, the reasons for refusal shall be notified to the Requesting State.

#### **ARTICLE 10**

##### **Rule of Speciality**

1. The person extradited in compliance with this Treaty shall not be prosecuted, tried, detained for the purpose of executing a sentence in the Requesting State, nor subjected to any other measure restricting personal liberty, for any offence

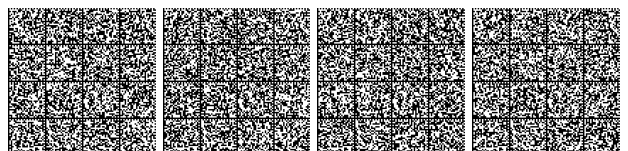


committed before being surrendered and different from the one for which extradition is granted, unless:

- a) the person extradited, after having left the territory of the Requesting State, voluntarily returns to it ;
  - b) the person extradited does not leave the territory of the Requesting State within forty-five days after having had the opportunity to do so. However, such period of time shall not include the time during which said person fails to leave the Requesting State for reasons beyond his/her control;
  - c) the Requested State consents to it. In this case, the Requested State, upon specific request by the Requesting State, may agree to prosecution of the person extradited or execution of a sentence against the person for an offence different from that for which the request for extradition had been made, in compliance with the conditions and restrictions set by this Treaty. In this respect:
    - 1) the Requested State may ask the Requesting State to transmit the documents and information indicated in Article 7;
    - 2) while awaiting the decision on the request made, the person extradited may be kept in detention by the Requesting State for a maximum of forty days from the receipt of the request by the Requested State, provided that this is authorised by this latter State.
2. Except as provided for in letter c) of the paragraph above, the Requesting State may adopt any measure necessary, under its laws, to interrupt the period of limitation.
3. When the legal denomination of the act charged is modified during the proceedings, the person extradited may be prosecuted and tried for the offence differently denominated, provided that extradition is permitted under this Treaty also for this new offence.

## ARTICLE 11

### Re-extradition to a Third State



Except in the cases provided for in paragraph 1, letters a) and b) of Article 10, the Requesting State cannot surrender to a third State, without the consent of the Requested State, the person that has been surrendered to it and is requested by the third State for offences committed before such surrender. The Requested State may ask for the submission of the documents and information indicated in Article 7.

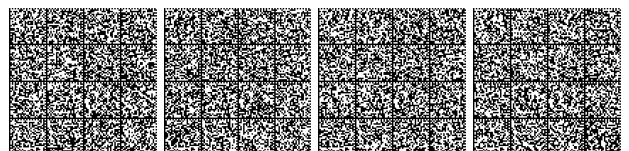
## ARTICLE 12

### Provisional Arrest

1. In case of urgency, the Requesting State may ask for the provisional arrest of the person sought in view of presenting the request for extradition. The request for provisional arrest shall be made in writing to the Central Authorities designated pursuant to Article 6 of this Treaty directly, or through the International Criminal Police Organization (INTERPOL) or other channels agreed upon by both States.
2. The request for provisional arrest shall contain the information indicated in Article 7, paragraph 1, of this Treaty and the indication of the intention to submit a formal request for extradition. The Requested State may ask for additional information pursuant to Article 8.
3. Once the request for provisional arrest is received, the Requested State shall take the measures necessary to ensure the custody of the person sought and shall inform promptly the Requesting State of the outcome of its request.
4. Provisional arrest and any coercive measure that might have been imposed become ineffective if, within forty days after the arrest of the person sought, the Central Authority of the Requested State does not receive the formal request for extradition.
5. A provisional arrest ineffective pursuant to paragraph 4 of this Article shall not prejudice the re-arrest and the extradition of the person sought if the Requested State subsequently receives the formal request for extradition in compliance with the conditions and restrictions of this Treaty.

## ARTICLE 13

### Requests for Extradition made by Several States





If the Requested State receives from the Requesting State and from one or more third States a request for extradition of the same person, for the same offence or for different offences, the Requested State, in determining to which State the person is to be extradited, shall consider all the relevant circumstances, in particular:

- a) the seriousness of the different offences;
- b) the time and place of commission of the offence;
- c) the nationality and the residence of the person sought;
- d) the respective dates of submission of the requests;
- e) the possibility of subsequent re-extradition to a third State.

#### ARTICLE 14

##### Surrender of the Person

1. If Requested State grants the extradition, the States shall agree promptly on the time, place and any other relevant matter relating to the surrender of the person sought. The Requesting State shall also be informed of duration of the detention suffered for extradition purposes by the person sought.
2. The time limit for surrendering the person sought shall be thirty days from the date on which the Requesting State is informed that the extradition has been granted. Upon the request by the Requesting State or Requested State such time may be extended for another fifteen days.
3. If, within the time limit indicated in paragraph 2 of this Article, the Requesting State does not take over the person to be extradited, the Requested State shall immediately release him from custody and may refuse a new request for extradition made by the Requesting State for that person for the same offence, except as otherwise provided for in paragraph 4 of this Article.
4. If one of the States fails to surrender or take over the person to be extradited within the agreed time limit for reasons beyond its control, the State concerned shall inform the other State and they shall agree together upon a new date for surrender. The consequences indicated in paragraph 3 of this Article shall continue to apply.
5. When the person to be extradited escapes back to the Requested State before the criminal proceedings are concluded or the sentence is served in the Requesting State, that person may be extradited again upon a new request for extradition made



by the Requesting State for the same offence. The Requesting State does not need to submit the documents provided for in Article 7 of this Treaty.

6. The time spent in custody, even under house-arrest, between the date of arrest and the date of surrender, shall be counted by the Requesting State for the purposes of pre-trial custody within the criminal proceedings or of the sentence to be served in the cases provided for in Article 2, paragraph 1.

#### ARTICLE 15

##### Postponed Surrender and Temporary Surrender

1. If the person sought is being prosecuted or is serving a sentence in the Requested State for an offence other than that for which extradition is requested, the Requested State may, after having decided to grant extradition, 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. However, upon request of the Requesting State, the Requested State may, in compliance with its domestic law, temporarily surrender the person sought to the Requesting State in order to enable it to carry out of the ongoing criminal proceedings, agreeing together upon the time and modalities of such temporary surrender. The person so surrendered shall be kept in detention while staying in the territory of the Requesting State and shall be returned to the Requested State within the agreed time. The time spent in detention shall be calculated for the purposes of the sentence to be served in the Requested State.
3. In addition to the case provided for in paragraph 1 of this Article, surrender may be postponed when the transfer, due to the state of health of the person sought, may endanger his/her life or worsen such state. To this end it is necessary that the Requested State submit to the Requesting State a detailed medical report made by one of its competent public health institutions.

#### ARTICLE 16

##### Simplified Extradition Procedure



1. When the person whose extradition is requested declares to agree to it, extradition may be granted on the sole basis of the request for provisional arrest without it being necessary to submit the documents indicated in Article 7 of this Treaty. However, the Requested State may request any further information it deems necessary to grant the extradition.
2. The declaration of consent by the person sought shall be valid if made, with the assistance of a defence counsel, before a competent Authority of the Requested State, who has the obligation to inform the person sought of the right to avail itself of a formal extradition procedure, of the right to avail itself of the protection conferred by the principle of speciality and of the irrevocability of such declaration.
3. The declaration shall be reported in a legal record in which it is acknowledged that the conditions for its being valid have been complied with.

#### ARTICLE 17

##### Surrender of Items

1. Upon request of the Requesting State, the Requested State shall, in compliance with its domestic law, seize the items found on its territory and which the person sought has at his disposal and, when extradition is granted, shall surrender those items to the Requesting State. For the purposes of this Article the following items are subject to seizure and subsequent surrender to the Requesting State:
  - a) the items used to commit the offence or any other item or instrumentality that may serve as evidence;
  - b) the items that, deriving from the offence, have been found to be at the disposal of the person sought or have been discovered later.
2. 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.
3. The Requested State may, for the purpose of carrying out any other pending criminal proceedings, postpone the surrender of the above-mentioned items until the conclusion of such proceedings or temporarily surrender them on condition that the Requesting State undertakes to return them.
4. The surrender of the items indicated in this Article shall not prejudice any legitimate



rights or interests over those items of the Requested State or any third party. Where these rights or interests exist, the Requesting State shall return free of charge to the Requested State or third party the surrendered items, as soon as possible after the conclusion of the proceedings.

## ARTICLE 18

### Transit

1. Each State may authorise transit through its territory of a person surrendered to the other State by a third State in compliance with the provisions of this Treaty, unless reasons of public interest prevent it .
2. The State requesting the transit shall submit to the State of transit, through the Central Authorities, or in particularly urgent cases through the International Criminal Police Organization (INTERPOL), a request containing the personal details of the person in transit and a concise statement of the facts of the case. The request for transit shall be accompanied by a copy of the document granting the extradition.
3. The State of transit shall hold in custody the person in transit while said person is on its territory.
4. No authorisation for transit shall be required when air transportation is used and no landing is scheduled on the territory of the State of transit. If an unscheduled landing occurs in the territory of said State, the State requesting transit shall immediately inform the State of transit and the latter shall hold the person to be transported for a maximum of 96 hours awaiting to receive the request for transit provided for in paragraph 2 of this Article.

## ARTICLE 19

### Expenses

1. The Requested State shall take all necessary measures relevant to the procedure originated by the request for extradition and bear the relevant expenses.
2. The Requested State shall bear the expenses incurred in its territory in arresting the person sought and maintaining said person in custody until the surrender to the



Requesting State, as well as the expenses associated with the seizure and keeping of the items referred to in Article 17.

3. The Requesting State shall bear the expenses incurred in transporting the person extradited and any item seized from the Requested State to the Requesting State, as well as the expenses of the transit indicated in Article 18.

#### **ARTICLE 20**

##### **Subsequent Information**

The Requesting State, upon request by the Requested State, shall provide promptly to the Requested State information on the proceedings or execution of the sentence imposed on the person extradited or information on the extradition of said person to a third State.

#### **ARTICLE 21**

##### **Relationship with Other Treaties**

This Treaty shall not prevent the States from cooperating with one another on extradition in compliance with other treaties to which both States are parties.

#### **ARTICLE 22**

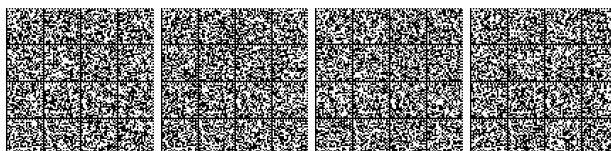
##### **Confidentiality**

1. The States agree to keep the documents and any information used in the extradition procedure, as well as any other information relevant to that extradition and acquired after the surrender of the person extradited.
2. Both States undertake to respect and maintain the confidentiality or secrecy of the documents or information received from or given to the other State when there is an explicit request to do so by the State concerned.

#### **ARTICLE 23**

##### **Settlement of Disputes**

1. Any dispute which may arise in connection with the interpretation or application of the present Treaty shall be settled by means of consultations between



the Central Authorities.

2. Should they not reach an agreement, the dispute shall be settled by means of consultations through diplomatic channels.

#### ARTICLE 24

##### Entry into Force, Amendment and Termination

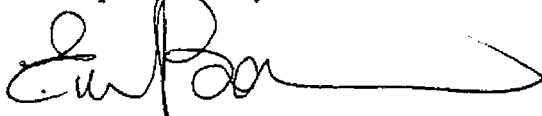
1. This Treaty shall enter into force on the date of receipt of the latter notification by which each Contracting Party officially communicates to the other, through diplomatic channels, that its respective internal procedures of ratification has been completed.
2. This Treaty may be amended at any time by written agreement between the Contracting Parties. Any such amendment will enter into force in compliance with the procedure provided for in paragraph 1 of this Article and will form part of this Treaty.
3. This Treaty shall be of unlimited duration. Either Contracting Party may withdraw from this Treaty at any time by giving written notification to the other Party through diplomatic channels. The termination shall be effective six months after the date of said notification. Termination of the effectiveness of this Treaty shall not affect extradition proceedings commenced prior to the termination.
4. This Treaty shall apply to any request submitted after its entry into force, even if the relevant offences were committed before its entry into force.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

DONE in duplicate at Prishtina on this 13<sup>th</sup> day  
of June (month) 2013 (year), in the Italian, Albanian, Serbian  
and English languages, all texts being equally authentic.

In case of any divergence on the interpretation, the English text shall prevail.

For the Government of  
the Republic of Italy



For the Government of  
the Republic of Kosovo

