

EXTRADITION ACT,  
B.E. 2551 (2008)

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BHUMIBOL ADULYADEJ, REX;  
Given on the 30<sup>th</sup> Day of January B.E. 2551;  
Being the 63<sup>rd</sup> Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:  
Whereas it is appropriate to revise the law on extradition;

This Act contains certain provisions in relation to the restriction of rights and liberties of a person, in respect of which section 29 in conjunction with section 32, section 33 and section 34 of the Constitution of the Kingdom of Thailand so permits by the virtue of law;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly as follows:

**Section 1.** This Act is called the “Extradition Act, B.E. 2551 (2008)”.

**Section 2.** This Act shall enter into force after the expiration of one hundred and eighty days from the date of its publication in the Government Gazette.<sup>1</sup>

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\* Translated by Ms. Mattanee Kaewpanya, under contract for the Office of the Council of State of Thailand's Law for ASEAN project. – Initial Version – pending review and approval by the Office of the Council of State.

<sup>1</sup> Published in the Government Gazette, Vol. 125, Part 32 a, Page 36, dated 11<sup>th</sup> February B.E. 2551 (2008).

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**Section 3.** The Extradition Act, B.E. 2472 (1929) shall be repealed.

**Section 4.** This Act shall be applicable to all extraditions that are not contrary to or inconsistent with provisions of extradition treaties between the Government of Thailand and Governments of foreign countries or international organizations.

**Section 5.** In this Act:

“Requesting State” means country, territory or international organization that requests extradition from Thailand;

“Requested State” means country, territory or international organization from which Thailand requests extradition;

“Central Authority” means the Attorney-General or the person designated by the Attorney-General having powers and duties to coordinate an extradition to the Requesting State and a request for extradition to Thailand, including other related activities;

“Competent Authority” means public prosecutor, corrections official, administrative official or police, or other officials having powers and duties relating to executing an extradition as notified by the Central Authority.

**Section 6.** The Minister of Foreign Affairs and the Minister of Justice shall have charge and control of the execution of this Act and shall have the powers to issue Ministerial Regulations for the execution of this Act, in specific areas under their powers and duties.

The Ministerial Regulations shall come into force upon their publication in the Government Gazette.

## CHAPTER I

### GENERAL PRINCIPLES ON EXTRADITION

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**Section 7.** An extraditable offence must be a criminal offence, prescribed by the laws of the Requesting State and Thailand as a criminal offence with a penalty of death or imprisonment or other forms of liberty deprivation for more than one year, no matter if it is prescribed as an offence in the same category or bearing the same name in both countries.

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A commission of other criminal offences, with a penalty of imprisonment or other forms of liberty deprivation for less than one year, may be requested for extradition if it relates to the offence which the extradition has been granted, whether being requested at the same time with the initial request or afterward.

**Section 8.** The extradition shall commence with an extradition request from the Requesting State.

The extradition request from the Requesting State that has an extradition treaty with Thailand shall be transmitted to the Central Authority. Where the Requesting State has no extradition treaty with Thailand, the request shall be transmitted through the diplomatic channels.

The extradition request and accompanying documents and evidence shall be in conformity with rules, methods and conditions set forth in Ministerial Regulation.

The extradition request and the documents and evidence under paragraph three to be submitted to the Court shall be translated into Thai language and certified correct translation.

The Court may admit the extradition request and the documents and evidence under this section without calling for supplementary witness testimony.

**Section 9.** The Government of Thailand may consider surrendering a person to the Requesting State for prosecution or serving punishment in a criminal case by the judgment of the Court of the latter having jurisdiction over the proceedings, in the following cases:

(1) where it is an extraditable offence and not prohibited by the Thai laws or not an offence of political character or military offence;

(2) if there is no extradition treaty with the Requesting State, when that State demonstrates explicitly that an extradition will be granted to Thailand in the same manner if Thailand so requests.

The offence of political character in paragraph one (1) does not include the following offences:

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(1) murder, inflicting bodily harm or depriving liberty of the King, Queen or Heir Apparent;

(2) murder, inflicting bodily harm or depriving liberty of the Head of State, Head of Government, or immediate family members of those persons;

(3) commission of an offence that is not regarded as a political offence for the purpose of extradition according to treaties to which Thailand is a party.

Military offence means specific military criminal offence and not an offence under criminal law in general.

**Section 10.** Where any person being sought for extradition has been tried by the Thai Court or the Court of the Requesting State for the same commission in the request for extradition, and the Thai Court or the Court of the Requesting State passes a final judgment acquitting, or convicting that person and he or she serves the punishment or is pardoned or granted amnesty or the statute of limitations lapses or there arises any other causes barring the proceedings against that person under the laws of the Requesting State, that person shall not be re-extradited in respect of such commission.

**Section 11.** Confinement for proceedings or punishment of an extradited person from the Requested State to Thailand for other offences committed prior to executing the extradition; and surrendering an extradited person from the Requested State to Thailand and further to a third State are prohibited, except for the following cases:

(1) that person departs from the Kingdom of Thailand after completion of the extradition process and voluntarily returns to the Kingdom;

(2) that person does not depart from the Kingdom of Thailand within forty-five days after completion of the extradition process; or

(3) the Requested State grants its consent.

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CHAPTER II  
EXECUTION OF EXTRADITION REQUEST

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PART 1  
GENERAL PROVISIONS

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**Section 12.** Execution of an extradition request of a Thai national may be carried out in the following cases:

- (1) when it is indicated in the extradition treaty between Thailand and the Requesting State;
- (2) that person consents to be extradited; or
- (3) it is the extradition under the condition of reciprocity that Thailand commits with the Requesting State.

**Section 13.** Where an extradition request is submitted through the diplomatic channels, the Ministry of Foreign Affairs may proceed as follows:

- (1) transmit the request to the Central Authority for further action, if it is of the views that the request does not affect the international relation and there is no other reason not to execute it;
- (2) if it is of the views that the request may affect the international relation or there is other reason that the request may not be executed, it shall promptly submit its opinions to the Cabinet for consideration. In case the Cabinet concurs with the opinions, it shall order a course of actions as deemed appropriate. If the Cabinet approves to proceed with the extradition as requested, the Ministry of Foreign Affairs shall accordingly transmit the matter to the Central Authority for further actions in accordance with this Act.

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**Section 14.** The Central Authority, upon receiving an extradition request from the Ministry of Foreign Affairs or the Requesting State, may proceed as follows:

(1) if he or she is of the opinion that the request is eligible for execution in accordance with this Act, he or she shall notify a public prosecutor to file a request to the Court to issue an arrest warrant, and deliver the warrant to the Commissioner-General of the Royal Thai Police or other concerned authorities for further actions;

(2) where the request is not processed in accordance with the procedure, or accompanied with erroneous documents and evidence, or executable subject to certain necessary conditions, he or she shall notify the Requesting State the impediment or the necessary conditions. Nonetheless, if the execution of the extradition request will affect the prosecution of any other cases or on-going criminal proceedings against such person in Thailand, he or she may defer the execution of the extradition request, or proceed upon necessary conditions. In such case, the Requesting State shall be notified accordingly without delay.

(3) where the request is not transmitted through the diplomatic channels, he or she shall send the request to the Ministry of Foreign Affairs for its opinions before taking further actions. The provision of section 13 (2) shall apply *mutatis mutandis*.

(4) where he or she is of the views that the request may affect the international relations, or may not be executed due to any other reasons, or is not eligible for execution under this Act, he or she shall notify the Requesting State or the Ministry of Foreign Affairs, as the case may be, for further actions.

**Section 15.** In case of an urgent necessity, the Requesting State may make a request for provisional arrest and detention of the required person. Such request from the Requesting State that has an extradition treaty with Thailand shall be transmitted to the Central Authority. Where the Requesting State has no extradition treaty with Thailand, the request shall be transmitted through the diplomatic channels.

The request in paragraph one shall be in conformity with regulations stipulated by the Central Authority.

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The provision of section 14 shall apply *mutatis mutandis* to the consideration on the execution of the above-mentioned.

**Section 16.** Upon arresting a person sought for extradition under the provision of section 15, he or she shall be brought to the public prosecutor without delay in order for the latter to file a request to the Court to issue a detention order on the required person while waiting for a formal extradition request as well as accompanying documents and evidence from the Requesting State.

If the Court does not receive the request to proceed with the extradition within sixty days from the day the required person is arrested, or within the period of time specified by the Court but not exceeding ninety days from the day that person is arrested, he or she shall be released.

In case of the release of the required person under paragraph two due to the reasons that the Requesting State does not formally transmit the extradition request and necessary documents and evidence in accordance with section 8 or any other reasons, the request for provisional arrest under section 15 shall be cancelled. In this case, the Requesting State cannot make a request to arrest the required person on the same grounds. However, the refusal or cancellation of such request for provisional arrest does not result in prohibiting the Requesting State from requesting extradition of the person sought.

**Section 17.** Where it is deemed appropriate, the Ministry of Foreign Affairs may submit facts and opinions concerning international cooperation or relations to the Central Authority for its consideration before filing the case before the Court. The Court shall have the power to call upon the Ministry of Foreign Affairs to give opinions for consideration. The same procedure can be also done at an appellate stage.

## PART 2 EXTRADITION PROCEEDINGS

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**Section 18.** Subject to section 27, the public prosecutor, upon an arrest of the person sought for extradition, shall bring the case to the Court without delay.

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The Court shall conduct the hearings continuously, except where it deems appropriate to defer the case as requested by the public prosecutor or the person sought for extradition, in which case, the Court shall order the detention of the required person pending the hearings.

Unless provided otherwise in this Act, the Criminal Procedure Code shall apply, *mutatis mutandis*, to confinement of the required person and conducts of the extradition proceedings. Where there is a petition for a provisional release, the Court shall inquire whether the public prosecutor has any objection. In case the public prosecutor has an objection, the Court shall take it into account when making decision.

The Court, prior to commencing the hearings, shall inquire whether the person sought for extradition has a lawyer. Where he or she has none and requires one, the Court shall appoint a lawyer for him or her, and the Criminal Procedure Code shall apply *mutatis mutandis*.

**Section 19.** The Court shall issue an order to detain a person for extradition, if upon considering the evidence, it finds that there are the following grounds:

- (1) the arrested person is being requested for extradition and not a Thai national, or a Thai national but extraditable under the criteria under section 12;
- (2) there are grounds for admitting the case if the offence is committed in the Kingdom or regarded by the laws to be committed in the Kingdom; and
- (3) the offence sought for extradition is extraditable under this Act and in particular, not a political or military offence.

Where the Court considers that the evidence in paragraph one is not sufficient, it shall issue a release order and release that person at the expiration of seventy-two hours period from the reading of the order, except in case if during such time the public prosecutor notifies its intention to make an appeal. In this case, that person shall be detained pending the appeal, which shall be filed within thirty days from the day the Court reads the release order. If a provisional release request is made during the appellate stage, the provision of section 18 paragraph three shall apply *mutatis mutandis*.

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**Section 20.** In case the Court issues the detention order under section 19 paragraph one on a required person, he or she shall not be extradited before an expiration of thirty days from the day the Court issues the detention order.

Where there is a reasonable ground to defer an extradition of a person, who is being detained for extradition by the Court order, the public prosecutor shall file a request to the Court to issue another order to detain that person for further period as deemed necessary. Such request shall be filed before the expiration of the ninety days period from the day the Court issues the final detention order for extradition.

If the person is not extradited within ninety days from the day the Court issues the final detention order for extradition or within the time period extended by the Court as requested by the public prosecutor in accordance with paragraph two, he or she shall be released.

### PART 3 APPEAL

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**Section 21.** After the Court of First Instance issues a release order or a detention order for extradition against a person, the public prosecutor or that person may file an appeal against the order within thirty days from the day the Court reads that order.

When considering the appeal, the Court of Appeal shall examine the objection, particularly the grounds on which the Court issued the order under section 19, by considering whether or not the Court of First Instance issues the order based on sufficient evidence.

The decision of the Court of Appeal shall be final.

### CHAPTER III SURRENDERING PROCESS

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**Section 22.** After the Court issues the final order to detain a person sought for extradition and the Government of Thailand approves an extradition of that person, the surrendering of that person to the Requesting State shall be completed within ninety days

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from the day the Court issues the final order, or within the time period extended by the Court as requested by the public prosecutor. Details regarding date, time, place and methods of surrendering the required person shall be in accordance with Ministerial Regulation.

**Section 23.** Where the Requesting State fails to take the person sought for extradition within the time period under section 22 without reasonable causes, and if later on, that State seeks an extradition of the person for the same offence, the extradition shall be denied.

The provision of section 25 shall not apply to the denial of extradition under paragraph one.

**Section 24.** Where a person, against whom the Court has issued the final order of detention for extradition, is being prosecuted or serving punishment according to the Court judgment in Thailand for offences other than the offence sought for extradition, the Government of Thailand may consider taking one of the following actions:

- (1) surrendering that person to the Requesting State;
- (2) deferring the surrendering of that person until completion of the court proceedings, or until he or she serves the punishment in whole or in part;
- (3) provisionally surrendering that person to the Requesting State for prosecution according to the agreed conditions with the Requesting State, and after the person is sent back to Thailand, he or she may be re-surrendered to the Requesting State for serving punishment according to the Court judgment.

**Section 25.** Where there is no extradition to the Requesting State, the Central Authority shall notify the Competent Authority to take criminal actions against the person sought for extradition in accordance with the Thai laws.

**Section 26.** Unless decided otherwise by the Cabinet, the Central Authority, if receiving requests from more than two Requesting States to extradite the same person

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regardless of whether for the same or different offences, shall consider to which Requesting State and under what conditions the extradition will be made, or the sequence which the extradition shall be made to each Requesting State. The following grounds may be taken into account when making decision:

- (1) the Requesting State has an extradition treaty with Thailand or not;
- (2) the place where the offence takes place;
- (3) seriousness of the offence and its impacts on the Requesting State and scale of punishment;
- (4) sequence of requests received from the Requesting States;
- (5) nationality of the offender;
- (6) interests and readiness for legal proceedings;
- (7) other reasons relating to international relations according to opinions of the Ministry of Foreign Affairs.

The Central Authority, after making decision, shall inform the Requesting States accordingly and proceed with steps set forth in this Act.

**Section 27.** The Competent Authority, after arresting a person sought for extradition with or without the request under this Act, shall ask that person if he or she consents to be extradited.

If the required person under paragraph one expresses his or her consent, such consent shall be done in writing in accordance with the form prescribed by the Central Authority. The public prosecutor shall then make arrangements to bring that person to the Court in order for the Court to examine the consent without delay. If the Court finds that the person gives consent voluntarily, it shall issue a detention order for extradition in accordance with section 22.

Consent given before the Court may not be revoked.

During its examination, if the required person revokes his or her consent previously given to the Competent Authority, the Court shall issue an order to detain that person for the extradition proceedings as provided in Chapter II, Part 2.

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**Section 28.** Where an extradition case is on-going in any Court and if the person sought for extradition expresses to the Court his or her consent to be extradited, the Court shall suspend the hearings and issue a detention order for extradition according to section 22.

Consent given before the Court may not be revoked.

#### CHAPTER IV REQUEST FOR EXTRADITION BY THAILAND

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**Section 29.** Where Thailand requests an extradition for an offence with a death penalty under the Thai laws but not under the laws of the Requested State and the Government needs to give assurances that the death penalty will not be executed, there may be negotiation to approve such assurances. In this case, if the Court adjudicates for death penalty, the Government shall proceed under the provisions of laws to enforce the judgment by life imprisonment in lieu of death penalty, but that person shall not be granted amnesty for whatever grounds, except for the Royal Pardon.

**Section 30.** The public prosecutor or an agency seeking an extradition shall submit to the Central Authority a request for extradition from the Requested State to Thailand.

Where the Central Authority determines that it is appropriate to make an extradition request to the Requested State, he or she shall transmit the matter to the public prosecutor for preparing the extradition request and accompanying documents.

The extradition request under paragraph one and accompanying documents shall be done in accordance with Regulations prescribed by the Central Authority.

The determination of the Central Authority on the extradition request shall be final, except decided otherwise by the Cabinet.

The Central Authority shall send the extradition request to the Requested State that has no extradition treaty with Thailand through the diplomatic channels.

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The Central Authority shall send the extradition request to the Requested State that has an extradition treaty with Thailand in accordance with that treaty.

**Section 31.** The public prosecutor, in carrying out the duties under section 30, shall have the power to search for facts and collect evidence, take statements of persons, issue an order summoning any person to give statements, and carry out other work as deemed appropriate, including to notify the Competent Authority or officials to carry out any work to support the extradition.

The order under paragraph one shall be deemed a lawful requisition of the public prosecutor under the Penal Code.

## CHAPTER V EXPENSES IN EXTRADITION PROCEEDINGS

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**Section 32.** All expenses relating to the extradition to the Requesting State or the extradition request to Thailand shall be in accordance with rules, methods and conditions set forth in Ministerial Regulation.

## TRANSITORY PROVISIONS

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**Section 33.** All extradition cases filed before the Court by the Public Prosecutor prior to or after the entry into force of this Act shall be continued in accordance with the provisions in the Extradition Act, B.E. 2472 (1929) until their completion.

**Section 34.** Whereas Ministerial Regulations, Rules or Regulations under this Act are not yet published or entered into force, if it is necessary to carry out any work

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relating to extradition, the procedures and provisions of the Extradition Act, B.E. 2472 (1929) and the extradition treaty between Thailand and the Requesting State shall apply.

Countersigned by  
General Surayud Chulanont  
Prime Minister

*Office of the Council of State*

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