



**AN BILLE UM EISEACHADADH (COINBHINSIÚIN AN
AONTAIS EORPAIGH), 2001
EXTRADITION (EUROPEAN UNION CONVENTIONS)
BILL, 2001**

*Mar a leasaíodh sa Roghchoiste um Dhlí agus Ceart, Comhionannas,
Cosaint agus Cearta na mBan
As amended in the Select Committee on Justice, Equality, Defence
and Women's Rights*

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ACTS REFERRED TO

Criminal Evidence Act, 1992	1992, No. 12
Criminal Justice Act, 1999	1999, No. 10
Extradition Act, 1965	1965, No. 17
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Extradition (Amendment) Act, 1994	1994, No. 6
Extradition (European Convention on the Suppression of Terrorism) Act, 1987	1987, No. 1



**AN BILLE UM EISEACHADADH (COINBHINSIÚIN AN
AONTAIS EORPAIGH), 2001
EXTRADITION (EUROPEAN UNION CONVENTIONS)
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BILL

entitled

AN ACT TO GIVE EFFECT TO THE CONVENTION ON
SIMPLIFIED EXTRADITION PROCEDURES BETWEEN
THE MEMBER STATES OF THE EUROPEAN UNION
DRAWN UP ON THE BASIS OF ARTICLE K.3 OF THE
TREATY ON EUROPEAN UNION BY COUNCIL ACT
DONE AT BRUSSELS ON 10 MARCH 1995; TO GIVE
EFFECT TO THE CONVENTION RELATING TO EXTRA-
DITION BETWEEN THE MEMBER STATES OF THE
EUROPEAN UNION DRAWN UP ON THE BASIS OF
THE SAID ARTICLE K.3 BY COUNCIL ACT DONE AT
BRUSSELS ON 27 SEPTEMBER 1996; AND FOR THOSE
AND OTHER PURPOSES TO AMEND THE EXTRA-
DITION ACT, 1965; AND TO PROVIDE FOR MATTERS
CONNECTED THEREWITH.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Extradition (European Union
Conventions) Act, 2001.

Short title,
collective citation,
construction and
commencement.

(2) The Extradition Acts, 1965 to 1994, and this Act may be cited
together as the Extradition Acts, 1965 to 2001, and shall be construed
together as one Act.

(3) This Act shall come into operation on such day or days as the
Minister may, by order or orders, appoint either generally or with
reference to any particular purpose or provision, and different days
may be so appointed for different purposes or different provisions.

2.—(1) In this Act—

Interpretation.

“Act of 1987” means the Extradition (European Convention on the
Suppression of Terrorism) Act, 1987;

“Act of 1994” means the Extradition (Amendment) Act, 1994;

“Convention of 1995” means the Convention on simplified extradition between the Member States of the European Union drawn up on the basis of Article K.3 of the Treaty on European Union, by Council Act done at Brussels on 10 March, 1995¹;

“Convention of 1996” means the Convention relating to extradition between the Member States of the European Union drawn up on the basis of the said Article K.3, by Council Act done at Brussels on 27 September, 1996²;

“Principal Act” means the Extradition Act, 1965.

(2) The amendments effected by this Act apply, except where otherwise provided, in relation to an offence, whether committed or alleged to have been committed before or after the passing of this Act, other than an offence committed or alleged to have been committed before the commencement of *section 13* of this Act by a person in whose case a court has found that the offence was a revenue offence.

PART 2

CONVENTION OF 1995

Amendment of
section 3 of
Principal Act.

3.—Section 3 of the Principal Act is hereby amended by the insertion of the following subsection: 20

“(1A) For the purposes of the amendments to this Act effected by *Part 2* of the *Extradition (European Union Conventions) Act, 2001*, ‘Convention country’ means a country designated under *section 4(1)* of that Act.”.

Convention
countries.

4.—(1) The Minister for Foreign Affairs may by order designate a country that has adopted the Convention of 1995. 25

(2) The Minister for Foreign Affairs may, by order, amend or revoke an order under this section, including an order under this subsection.

(3) An order under this section shall, as soon as may be after it is made, be laid before each House of the Oireachtas. 30

Provisional arrest.

5.—Section 27 of the Principal Act is hereby amended by the insertion of the following subsections:

“(2A) A request for the provisional arrest of a person made on behalf of a requesting country that is a Convention country shall— 35

(a) state that one of the documents mentioned in paragraph (a) of section 25(1) exists in respect of that person,

(b) be accompanied by a statement of the offences to which the request relates specifying the nature and description under the law of the requesting country of the offences concerned, 40

¹ OJ No. C78 of 30.3.95, p.1

² OJ No. C313 of 23.10.96, p.11

(c) specify the circumstances in which the offences were committed or alleged to have been committed including the time and place of their commission or alleged commission, and the degree of involvement or alleged degree of involvement of the person to whom the request relates in their commission or alleged commission, and

(d) specify the penalties to which that person would be liable if convicted of the offences concerned or, where he has been convicted of those offences, the penalties that have been imposed or, where he has been convicted of those offences but not yet sentenced, the penalties to which he is liable,

hereafter in this section referred to as ‘information furnished under subsection (2A)’.

(2B) A member of the Garda Síochána not below the rank of inspector shall provide a person, who is provisionally arrested pursuant to a warrant issued on foot of a request to which subsection (2A) applies, with the information furnished under subsection (2A) and shall inform him of his right to consent to his surrender under section 29A(1) (inserted by *section 6(b)* of the *Extradition (European Union Conventions) Act, 2001*) and inquire of him whether he wishes to so consent.”.

6.—The Principal Act is hereby amended by—

Consent to
surrender.

(a) the substitution of the following section for section 14:

“14.—Extradition shall not be granted where a person claimed is a citizen of Ireland, unless the relevant extradition provisions or this Act otherwise provide.”,

and

(b) the insertion of the following section:

“29A.—(1) Where a person is brought before the High Court—

(a) under section 26, pursuant to a request from a Convention country for his extradition, or

(b) under section 27, pursuant to a request from a Convention country for his provisional arrest,

he may consent to his being surrendered to the Convention country concerned.

(2) Notwithstanding section 29, where a person is brought before the High Court under section 27, pursuant to a request from a Convention country to which this Part applies for the provisional arrest of that person, and the court is satisfied that—

(a) there has been compliance with subsection (2A) of the said section 27 (inserted by *section 5* of the *Extradition (European Union Conventions) Act, 2001*),

(b) it is intended that a request will be made by or on behalf of the Convention country for the

person's extradition, unless he consents to being surrendered,

- (c) the person consents voluntarily to his being surrendered to the Convention country and is aware of the consequences of his so consenting, 5
- (d) extradition of the person claimed is not prohibited by this Part or by the relevant extradition provisions,
- (e) where the person claimed is a citizen of Ireland, 10 the Minister consents to the person being surrendered to the Convention country concerned,

the court shall make an order committing that person to a prison (or, if he is not more than 21 years of age, to a remand institution) there to await the order of the Minister for his extradition. 15

(3) Notwithstanding section 29, where a person is brought before the High Court under section 26, pursuant to a request from a Convention country for the extradition of that person, and the court is satisfied that— 20

- (a) the extradition of that person has been duly requested,
- (b) this Part applies in relation to that Convention country, 25
- (c) extradition of the person claimed is not prohibited by this Part or by the relevant extradition provisions,
- (d) the documents required to support a request for extradition under section 25 have been produced, 30
- (e) the person consents voluntarily to his being surrendered to the Convention country and is aware of the consequences of his so consenting, and 35
- (f) where the person is a citizen of Ireland, the Minister consents to the person being surrendered to the Convention country concerned,

the court shall make an order committing that person to a prison (or, if he is not more than 21 years of age, to a remand institution) there to await the order of the Minister for his extradition. 40

(4) Where a person consents to his being surrendered under subsection (1), the High Court shall record in writing the giving of such consent and shall cause a copy thereof to be sent forthwith to the Minister. 45

- (5) (a) If a person arrested under section 27 consents under subsection (1) to his being surrendered to the Convention country concerned, the

Minister shall so inform that country not later than 10 days after the person is so arrested.

(b) Where a person arrested under section 27 does not consent under the said subsection to his being surrendered to the Convention country concerned, the Minister shall so inform that country not later than 10 days after the person is so arrested.

(6) A person who has consented under subsection (1) to his being surrendered to the Convention country concerned may, at any time thereafter but before the making of an order by the Minister under section 33, withdraw his consent and, if he withdraws his consent, the period between the giving of such consent before the High Court and the withdrawal of such consent by him shall not be taken into account for the purpose of calculating the period of 18 days specified in section 27(7).

(7) Where a person in respect of whom the High Court has made an order of committal under subsection (2) withdraws his consent to being surrendered to the Convention country concerned, he shall, as soon as may be after a request for his extradition has been received by the Minister from that Convention country, be brought before the High Court and the court shall affirm the said order of committal provided that, in relation to that request, there has been compliance with this Act.

(8) Subsection (2) of section 29 (inserted by section 9 of the Act of 1994) and subsections (4) and (6) of that section shall apply for the purposes of this section, subject to the modification that references in subsection (4) to subsection (1) shall be construed as references to subsection (2) or (3) of this section.”.

7.—The Principal Act is hereby amended by—

Waiver of rule of specialty.

(a) the substitution in section 20(1)(a) of the following subparagraph for subparagraph (i):

“(i) subject to section 20A (inserted by section 7(b) of the *Extradition (European Union Conventions) Act, 2001*), with the consent of the Minister, or”,

and

(b) the insertion of the following section:

“20A.—The Minister may, where a person whose extradition is sought by a Convention country consents—

(a) under section 29A to his being surrendered to that country, and

(b) voluntarily before the High Court to the Minister giving his consent under section 20(1)(a)(i), and is aware of the consequences of the Minister so doing,

give his consent under the said section 20(1)(a)(i).”.

Surrender.

8.—The Principal Act is hereby amended by the insertion of the following section:

“33A.—(1) Where the High Court makes an order under section 29A (inserted by *section 6(b)* of the *Extradition (European Union Conventions) Act, 2001*) in relation to a person whose surrender is sought by a Convention country, the Minister shall, not later than 20 days after the giving by that person of his consent to being surrendered to that country before that Court, so notify the Convention country in writing.

(2) Subject to subsection (3), the Minister shall make an order under section 33 in respect of a person to whom subsection (1) applies not later than 20 days after the giving of notification to the Convention country concerned under the said subsection (1).

(3) Where, for reasons beyond the control of the Minister, the Minister is unable to comply with subsection (2), he shall so notify the Convention country concerned and shall make an order under the said section 33 on such day as may be agreed by the Minister and that country.

(4) Where a day for the making of an order under section 33 is agreed in accordance with subsection (3), the person whose surrender is sought shall be surrendered to the Convention country concerned not later than 20 days after such day and if surrender is not effected before the expiration of such period of 20 days the person shall be released.

(5) Subsections (1), (2), (3) and (4) shall not apply where the Minister proposes to postpone the surrender of a person claimed in accordance with section 32.”.

PART 3

CONVENTION OF 1996

Amendment of section 3 of Principal Act.

9.—Section 3 of the Principal Act is hereby amended by the insertion of the following subsections:

“(1B) For the purposes of the amendments to this Act effected by *Part 3* of the *Extradition (European Union Conventions) Act, 2001*, ‘Convention country’ means a country designated under *section 10(1)* of that Act.

(1C) For the purposes of this Act and the Convention of 1996, the Central Authority in the State shall be the Minister.”.

Convention countries.

10.—(1) The Minister for Foreign Affairs may by order designate a country that has adopted the Convention of 1996.

(2) The Minister for Foreign Affairs may, by order, amend or revoke an order under this section, including an order under this subsection.

(3) An order under this section shall, as soon as may be after it is made, be laid before each House of the Oireachtas.

(a) the insertion of the following subsection:

5 “(1A) Subject to subsection (2A), extradition to a requesting country that is a Convention country shall be granted only in respect of an offence that is punishable—

(a) under the laws of that country, by imprisonment or detention for a maximum period of not less than one year or by a more severe penalty, and

10 (b) under the laws of the State, by imprisonment or detention for a maximum period of not less than 6 months or by a more severe penalty,

15 and for which, if there has been a conviction and sentence in the requesting country, imprisonment for a period of not less than 4 months or a more severe penalty has been imposed.”,

(b) the insertion of the following subsection:

“ (2A) If a request is made by a Convention country for extradition for—

20 (a) an offence to which subsection (1A) applies, and

(b) an offence punishable under the laws of that country and of the State in respect of which there is a failure to comply with subsection (1A),

25 extradition may, subject to this Part, be granted in respect of the second-mentioned offence, but where extradition is refused for the first-mentioned offence it shall be refused for the second-mentioned offence also.”,

(c) the substitution for subsection (3) of the following:

30 “(3) In this section ‘an offence punishable under the laws of the State’ means—

(a) an act that, if committed in the State on the day on which the request for extradition is made, would constitute an offence, or

35 (b) in the case of an offence under the law of a requesting country consisting of the commission of one or more acts including any act committed in the State (in this paragraph referred to as ‘the act concerned’), such one or more acts, being acts that, if committed in the State on the day on which the act concerned was committed would constitute an offence,

40 and cognate words shall be construed accordingly.”,

45 and

(d) the insertion of the following subsection:

“(4) In this section ‘an offence punishable under the laws of the requesting country’ means an offence punishable under the laws of the requesting country on

(a) the day on which the offence was committed or is alleged to have been committed, and 5

(b) the day on which the request for extradition is made,

and cognate words shall be construed accordingly.”.

Political offences.

12.—Section 3 of the Act of 1987 is hereby amended by the insertion in subsection (2) of the following paragraph: 10

“(aa) the purposes of Part II of the Act of 1965 in relation to any request for the surrender of a person made after the passing of the *Extradition (European Union Conventions) Act, 2001*, by any country that— 15

(i) has adopted the Convention of 1996, and

(ii) is a country to which the said Part II applies.”.

Revenue offences.

13.—The Principal Act is hereby amended by—

(a) the substitution, in section 3(1), of the following definition for the definition of “revenue offence” (inserted by section 3(a) of the Act of 1994): 20

“‘revenue offence’, in relation to any country or place outside the State, means an offence in connection with taxes, duties, customs or exchange control but does not include an offence involving the use or threat of force or perjury or the forging of a document issued under statutory authority or an offence alleged to have been committed by an officer of the revenue of that country or place in his capacity as such officer or an offence within the scope of Article 3 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances done at Vienna on the 20th day of December, 1988;”, 25 30

(b) the substitution of the following section for section 13:

“13.—Extradition shall not be granted for revenue offences unless the relevant extradition provisions otherwise provide.”, 35

(c) the deletion, in subsection (2) of section 44, of—

(i) “or” in paragraph (b), and

(ii) paragraph (c), 40

and

(d) the deletion, in subsection (2)(a) of section 50, of subparagraph (iii).

14.—The Principal Act is hereby amended by the insertion of the Pardon or amnesty.
following section:

5 “18A.—(1) Extradition shall not be granted where the person
claimed has been granted a pardon under Article 13.6 of the
Constitution in respect of an offence consisting of an act that
constitutes in whole or in part the offence under the law of the
requesting country in respect of which extradition is sought.

10 (2) Extradition shall not be granted where the person claimed
has, in accordance with the law of the requesting country,
become immune, by virtue of any amnesty or pardon, from pros-
ecution or punishment for the offence concerned.

15 (3) Extradition shall not be granted where the person claimed
has, by virtue of any Act of the Oireachtas, become immune
from prosecution or punishment for any offence consisting of an
act that constitutes in whole or in part the offence under the
law of the requesting country in respect of which extradition is
sought.”.

15.—Section 20 of the Principal Act is hereby amended by— Rule of specialty.

20 (a) the substitution in subsection (1) of “Subject to subsection
(1A) (inserted by *section 15(b)* of the *Extradition*
(European Union Conventions) Act, 2001), extradition
shall not be granted unless provision is made by the law
of the requesting country or by the extradition
25 agreement—” for “Extradition shall not be granted
unless provision is made by the law of the requesting
country or by the extradition agreement—”, and

(b) the insertion of the following subsection:

30 “(1A) Extradition to a Convention country of a per-
son claimed shall not be refused on the grounds only that
it is intended—

(a) to proceed against him in that country for an
offence alleged to have been committed by
him before his surrender (other than an
35 offence to which the request for extradition
relates) provided that—

(i) upon conviction he is not liable to a term
of imprisonment or detention, or

40 (ii) in circumstances where upon conviction
he is liable to a term of imprisonment or
detention and such other penalty as does
not involve a restriction of his personal
liberty, the High Court is satisfied that
the said other penalty only will be
45 imposed should he be convicted of the
offence concerned,

(b) to impose in the Convention country concerned
a penalty (other than a penalty consisting of

the restriction of the person's liberty) including a financial penalty in respect of an offence—

- (i) of which the person claimed has been convicted, 5
- (ii) that was committed before his surrender, and
- (iii) that is not an offence to which the request relates,

notwithstanding that where such person fails 10
or refuses to pay the penalty concerned (or, in the case of a penalty that is not a financial penalty, fails or refuses to submit to any measure or comply with any requirements of which the penalty consists), he may under the 15
law of that Convention country be detained or otherwise deprived of his personal liberty, or

- (c) to proceed against or detain him in the Convention country concerned for the purpose of 20
executing a sentence or order of detention in respect of an offence—

- (i) of which the person claimed has been convicted,
- (ii) that was committed before his surrender, 25
and
- (iii) that is not an offence to which the request relates,

or otherwise restrict his personal liberty as a consequence of being convicted of such 30
offence, provided that—

- (I) after his surrender he consents to such execution or to his personal liberty being so restricted and, in the case of an Irish citizen, the Minister so consents also, and 35
- (II) under the law of the Convention country, such consent shall be given before the competent judicial authority in that country and be recorded in accordance with the law of that country.”. 40

Application of rule
of specialty in State.

16.—(1) Section 39 of the Principal Act is hereby amended by—

- (a) the substitution, in subsection (2), of “Subject to subsection (2A) (inserted by *section 16(b)* of the *Extradition (European Union Conventions) Act, 2001*), a person to whom this section applies shall not be proceeded against, 45
sentenced or imprisoned or otherwise restricted in his personal freedom for any offence committed before his surrender other than that for which he was surrendered, except in the following cases—” for “He shall not be proceeded against, sentenced or imprisoned or otherwise 50

restricted in his personal freedom for any offence committed prior to his surrender other than that for which he was surrendered, except in the following cases—”, and

(b) the insertion of the following subsection:

“(2A) A person to whom this section applies, who has been surrendered to the State by a Convention country pursuant to a request for his extradition from the Central Authority in the State, may—

(a) be proceeded against for an offence alleged to have been committed by him before his surrender (other than that for which he has been surrendered) provided that—

(i) upon conviction he is not liable to a term of imprisonment or detention,

(ii) in circumstances where, upon conviction, he would be liable to a term of imprisonment or detention or such penalty as does not involve a restriction of his personal liberty, the said other penalty only shall be imposed should he be convicted of the offence concerned,

(b) be subjected to a penalty (other than a penalty consisting of the restriction of his personal liberty) including a financial penalty, where apart from this section the law so provides in respect of an offence—

(i) of which he has been convicted,

(ii) that was committed before his surrender, and

(iii) that is not an offence for which he has been surrendered,

notwithstanding that where such person fails or refuses to pay the penalty concerned (or, in the case of a penalty that is not a financial penalty, fails or refuses to comply with the order of the court by which the penalty has been imposed), he may in accordance with law and apart from this section be detained or otherwise deprived of his personal liberty, or

(c) be proceeded against or, where apart from this section the law so provides, be detained for the purpose of executing a sentence of imprisonment or detention in respect of an offence—

(i) of which he has been convicted,

(ii) that was committed before his surrender, and

(iii) that is not an offence for which he has been surrendered,

or, where apart from this section the law so provides, be otherwise restricted in his personal liberty as a consequence of being convicted of such offence, provided that he has consented to such execution or his personal liberty being so restricted before the High Court which shall, upon being satisfied that the person so consents voluntarily and is aware of the consequences of his so consenting, record that consent.”.

Authentication.

17.—The Principal Act is hereby amended by—

(a) the insertion of the following subsection in section 25:

“(2) For the purposes of a request for extradition from a Convention country, a document shall be deemed to be an authenticated copy if it has been certified as a true copy by the judicial authority that issued the original or by an officer of the Central Authority of the Convention country concerned duly authorised to so do.”,

and that part of the said section 25 that is in existence immediately before the commencement of this section is hereby designated as subsection (1) of section 25,

(b) the substitution of the following section for section 37:

“37.—(1) In proceedings to which this Part applies, a document supporting a request for extradition from a requesting country (other than a Convention country) shall be received in evidence without further proof if it purports—

(a) to be signed by a judge, magistrate or officer of the requesting country, and

(b) to be certified by being sealed with the seal of a minister of state, ministry, department of state or such other person as performs in that country functions the same as or similar to those performed by the Minister under this Act, as may be appropriate, and judicial notice shall be taken of such seal.

(2) In proceedings to which this Part applies, a document purporting to be a copy of a document supporting a request for extradition from a Convention country shall, subject to subsection (3), be received in evidence without further proof.

(3) In proceedings to which this Part applies, a document that purports to be certified by—

(a) the judicial authority in a Convention country that issued the original, or

(b) by an officer of the Central Authority of such a country duly authorised to so do,

to be a true copy of a conviction and sentence or detention order immediately enforceable or, as the case may be, the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of that country, shall be received in evidence without further proof, and where the seal of the judicial authority or Central Authority concerned has been affixed to the document, judicial notice shall be taken of that seal.”.

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10 **18.**—The Principal Act is hereby amended by the insertion of the following section:

Facsimile
transmission of
documents.

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“23A.—(1) For the purposes of a request for extradition from a Convention country, a facsimile copy of a document to which paragraph (a), (b), (c), (d) or (e) of section 25(1) applies may be transmitted by the Central Authority of the Convention country concerned to the Central Authority in the State by means of the use of a facsimile machine fitted with a cryptographic device that is in operation during the transmission.

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(2) The facsimile copy of a document transmitted in accordance with subsection (1) shall include—

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(a) a copy of a certificate of the Central Authority of the Convention country concerned stating that the copy of the document so transmitted corresponds to the original document,

(b) a description of the pagination of that document, and

(c) a statement that the cryptographic device fitted to the facsimile machine that was used to transmit that facsimile copy was in operation during the transmission concerned.

30

(3) If the Central Authority in the State is not satisfied that the facsimile copy of a document transmitted to him in accordance with subsection (1) corresponds to the document of which it purports to be a facsimile copy, he may require the Central Authority of the requesting country to cause the original document or a true copy thereof to be provided to him by—

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(a) a diplomatic agent of the requesting country, accredited to the State, or

(b) any other means agreed by the Central Authority in the State and the Central Authority of the Convention country concerned,

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within such period as he may specify.”.

19.—Section 40 of the Principal Act is hereby amended by—

Transit.

(a) the substitution of the following subsection for subsection (1):

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“(1) Transit through the State of a person being conveyed from one country to another upon his surrender pursuant to an agreement in the nature of an extradition agreement may, subject to—

- (a) any relevant extradition provisions,
- (b) such conditions, if any, as the Minister thinks proper, and
- (c) in circumstances where the country to which he is being conveyed is a Convention country, compliance with subsection (1A) (inserted by section 19(b) of the *Extradition (European Union Conventions) Act, 2001*),

be granted by the Minister upon a request to that effect by the country to which he is being conveyed.”,

(b) the insertion of the following subsection:

“(1A) Where a request to which subsection (1) applies is made by a Convention country, the following information shall be provided by or on behalf of the Central Authority in that country in writing to the Central Authority in the State, that is to say:

- (a) such information as will enable the person to be identified by the Central Authority in the State,
- (b) whether—
 - (i) there exists an arrest warrant or other document having the same effect as an arrest warrant under the law of the Convention country issued by a judicial authority in that country in respect of the person, or
 - (ii) the person has been convicted in the Convention country of an offence in respect of which he has been surrendered,
- (c) the nature, and description under the law of the Convention country, of the offence in respect of which the person has been surrendered, and
- (d) a description of the circumstances in which the offence—
 - (i) was committed, or
 - (ii) where the person has not yet been convicted of the offence concerned, is alleged to have been committed,

and the date and place of its commission or alleged commission, as may be appropriate.”,

and

(c) the insertion of the following subsection:

“(2A) (a) This subsection applies to an aircraft that has taken off from a place (other than the State) and that is scheduled to land in a place (other

than the State) and on board which there is a person who is being conveyed to a Convention country upon his surrender to that country pursuant to an agreement in the nature of an extradition agreement.

(b) Where an aircraft to which this subsection applies, for whatever reason, lands in the State, the Central Authority of the Convention country referred to in paragraph (a) shall, upon its landing or as soon as may be after it lands, comply with subsection (1A) and the said subsection (1A) shall apply subject to any necessary modifications.

(c) While an aircraft to which this subsection applies is in the State, a person referred to in paragraph (a) who is on board that aircraft shall be deemed to be in transit through the State and subsection (2) shall apply accordingly.”.

PART 4

MISCELLANEOUS PROVISIONS

20.—(1) The Principal Act is hereby amended by—

Proceedings under
Principal Act to be
heard before High
Court.

(a) the substitution of “High Court” for “District Court” in each place that it occurs,

(b) the substitution of “Supreme Court” for “Circuit Court” in each place that it occurs,

(c) the substitution of “judge of the High Court” for “judge of the District Court assigned to the Dublin Metropolitan District” in each place that it occurs,

(d) the deletion, in section 3, of the definition of “judge of the District Court assigned to the Dublin Metropolitan District” (inserted by section 3(b) of the Act of 1994 and amended by the Criminal Justice Act, 1999),

(e) the substitution, in section 27, of the following subsection for subsection (6) (inserted by section 8(b) of the Act of 1994):

“(6) A person arrested under a warrant issued under this section shall, unless the warrant is cancelled under subsection (5), be brought as soon as may be before a judge of the High Court and the judge shall remand the said person in custody or on bail pending—

(a) the receipt by him of a certificate of the Minister under section 26(1)(a) (inserted by section 7(a) of the Act of 1994) stating that the request for extradition has been duly made, or

(b) (in circumstances where the person is remanded in custody) the release of that person under section 35,

and for those purposes the judge shall have the same powers of remand as if that person were brought before him charged with an indictable offence.”,

and

(f) the substitution in section 48 of the following subsection for subsection (2):

“(2) If during the period of 15 days referred to in subsection (1) an application is made by or on behalf of a person to whom that subsection applies for an order of *habeas corpus*, he shall not be delivered up while the application is pending.”.

(2) For the avoidance of doubt, references in the Principal Act to extradition provisions shall include references to the Convention of 1995 and the Convention of 1996.

(3) The amendments effected by *subsection (1)* shall not operate to affect proceedings brought under the Extradition Acts, 1965 to 1994, before the commencement of this section, and accordingly the District Court shall, in relation to any such proceedings, have the same jurisdiction after such commencement that it had immediately before such commencement.

Laying of orders
before Houses of
Oireachtas.

21.—The Principal Act is hereby amended by the substitution of the following section for section 4:

“4.—Every order made by the Government under this Act after the commencement of the *Extradition (European Union Conventions) Act, 2001*, shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

Evidence by
affidavit.

22.—The Principal Act is hereby amended by the insertion of the following section:

“7B.—(1) In proceedings under this Act, evidence as to any matter to which such proceedings relate may be given by affidavit or by a statement in writing that purports to have been sworn—

(a) by the deponent in a place other than the State, and

(b) in the presence of a person duly authorised under the law of the place concerned to attest to the swearing of such a statement by a deponent,

howsoever such a statement is described under the law of that place.

(2) In proceedings referred to in subsection (1), the High Court may, if it considers that the interests of justice so require, direct that oral evidence of the matters described in the affidavit

or statement concerned be given, and the court may, for the purpose of receiving oral evidence, adjourn the proceedings to a later date.”.

23.—Section 8 of the Principal Act is hereby amended by—

Amendment of
section 8 of
Principal Act.

(a) the insertion of the following subsection:

“(1A) Where at any time after the making of an order under subsection (1) a country becomes a party to an extradition agreement to which that order applies, the Government may by order so declare and this Part shall upon the making of the second-mentioned order apply to that country.”,

(b) the substitution of the following subsection for subsection (3):

“(3) An order relating to an extradition agreement (other than an order under subsection (1A) (inserted by section 23(a) of the *Extradition (European Union Conventions) Act, 2001*)) shall recite or embody the terms of the agreement and shall be evidence of the making of the agreement and of its terms.

(3A) An order under subsection (1A) shall in relation to the extradition agreement concerned recite or embody the terms of any reservation or declaration entered to that agreement by a country to which the order applies, and shall be evidence of the reservation or declaration (if any) and of its terms.

(3B) An order under subsection (2) shall recite or embody the terms of the amendment and shall be evidence of the making of the arrangement amending the extradition agreement concerned and of the terms of the amendment.”,

and

(c) the substitution of the following subsection for subsection (8):

“(8) A notice of the making of each order under this section shall be published in *Iris Oifigiúil* as soon as may be after it is made.”.

24.—Section 29 of the Criminal Evidence Act, 1992, is hereby amended by the substitution of the following subsection for subsection (1):

Evidence through
television link by
person outside
State.

“(1) Without prejudice to section 13(1), in any criminal proceedings or proceedings under the *Extradition Acts, 1965 to 2001*, a person other than the accused or the person whose extradition is being sought, as the case may be, may, with the leave of the court, give evidence through a live television link.”.

25.—The Principal Act is hereby amended by—

(a) the substitution in subsection (3) of section 21 of the following paragraph for paragraph (a):

“(a) with the consent of the requested country signified under the seal of a minister of state, ministry or department of state of that country or such other person as performs in that country functions the same as or similar to those performed by the Minister under this Act, as may be appropriate, which seal shall be judicially noticed, or”,

and

(b) the substitution in paragraph (a) of section 39(2) of “a minister of state, ministry or department of state of that country or such other person as performs in that country functions the same as or similar to those performed by the Minister under this Act, as may be appropriate,” for “minister of state of that country”.

Corresponding offence.

26.—The Principal Act is hereby amended by the insertion in section 42 of the following subsections:

“(2) For the purposes of this Part an offence under the law of a place to which this Part applies corresponds to an offence under the law of the State where the act constituting the offence under the law of that place would, if done in the State, constitute an offence under the law of the State punishable—

(a) on indictment, or

(b) on summary conviction by imprisonment for a maximum term of not less than 6 months or by a more severe penalty.

(3) For the purposes of this Part, an offence specified in a warrant corresponds with an offence under the law of the State if—

(a) the act constituting the offence so specified would, if done in the State on the day the warrant is produced under section 43(1)(b), constitute an offence under the law of the State, or

(b) in the case of an offence so specified consisting of one or more acts including any act committed in the State, such act constituted an offence under the law of the State on the day on which it was committed.”.

Amendment of section 3 of Act of 1987.

27.—Section 3 of the Act of 1987 is hereby amended by the insertion in subsection (3)(a) of the following subparagraphs:

“(iia) an offence within the scope of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva on the 12th day of August, 1949,

- (iib) an offence within the scope of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, done at Geneva on the 12th day of August, 1949,
- 5 (iic) an offence within the scope of the Geneva Convention Relative to the Treatment of Prisoners of War done at Geneva on the 12th day of August, 1949,
- 10 (iicd) an offence within the scope of the Geneva Convention Relative to the Protection of Civilian Persons in time of War done at Geneva on the 12th day of August, 1949,”.