

PRESIDENTIAL DECREE NO 1069

PRESCRIBING THE PROCEDURE FOR THE EXTRADITION OF PERSONS WHO
HAVE COMMITTED CRIMES IN A FOREIGN COUNTRY

WHEREAS, under the Constitution the Philippines adopts the generally accepted principles of international law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation and amity with all nations;

WHEREAS, the suppression of crime is the concern not only of the estate where it is committed but also of any other state to which the criminal may have escaped, because it saps the foundation of social life and is an outrage upon humanity at large, and it is in the interest of civilized communities that crimes should not go unpunished;

WHEREAS, in recognition of this principle the Philippines recently concluded an extradition treaty with the Republic of Indonesia, and intends to conclude similar treaties with other interested countries;

WHEREAS, there is need for rules to guide the executive department and the courts in the proper implementation of the extradition treaties to which the Philippines is a signatory.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree the following:

Section 1. Short-Title. This Decree shall be known as the "Philippine Extradition Law".

Section 2. Definition of Terms. When used in this law, the following terms shall, unless the context otherwise indicates, have meanings respectively assigned to them:

(a) "Extradition" The removal of an accused from the Philippines with the object of placing him at the disposal of foreign authorities to enable the requesting state or government to hold him in connection with any criminal investigation directed against him or the execution of a

penalty imposed on him under the penal or criminal law of the requesting state or government.

(b) "Extradition Treaty or Convention" An extradition agreement between the Republic of the Philippines and one or more foreign states or governments.

(c) "Accused" The person who is, or is suspected of being, within the territorial jurisdiction of the Philippines, and whose extradition has been requested by a foreign state or government.

(d) "Requesting State or Government" The foreign state or government from which the request for extradition has emanated.

(e) "Foreign Diplomat" Any authorized diplomatic representative of the requesting state or government and recognized as such by the Secretary of Foreign Affairs.

(f) "Secretary of Foreign Affairs" The head of the Department of Foreign Affairs of the Republic of the Philippines, or in his absence, any official acting on his behalf or temporarily occupying and discharging the duties of that position.

Section 3. Aims of Extradition. Extradition may be granted only pursuant to a treaty or convention, and with a view to:

(a) A criminal investigation instituted by authorities of the requesting state or government charging the accused with an offense punishable under the laws both of the requesting state or government and the Republic of the Philippines by imprisonment or other form relevant extradition treaty or convention; or

(b) The execution of a prison sentence imposed by a court of the requesting state or government, with such duration as that stipulated in the relevant extradition treaty or convention, to be served in the jurisdiction of and as a punishment for an offense committed by the accused within the territorial jurisdiction of the requesting state or government.

Section 4. Request; By whom made; Requirements.

(1) Any foreign state or government with which the Republic of the Philippines has entered into extradition treaty or convention, only when the relevant treaty or convention, remains in force, may request for the extradition of any accused who is or suspected of being in the territorial jurisdiction of the Philippines.

(2) The request shall be made by the Foreign Diplomat of the requesting state or government, addressed to the Secretary of Foreign Affairs, and shall be accompanied by:

(a) The original or an authentic copy of either -

(1) the decision or sentence imposed upon the accused by the court of the requesting state or government; or

(2) the criminal charge and the warrant of arrest issued by the authority of the requesting state or government having jurisdiction of the matter or some other instruments having the equivalent legal force.

(b) A recital of the acts for which extradition is requested, with the fullest particulars as to the name and identity of the accused, his whereabouts in the Philippines, if known, the acts or omissions complained of, and the time and place of the commission of these acts;

(c) The text of the applicable law or a statement of the contents of said law, and the designation or description of the offense by the law, sufficient for evaluation of the request; and

(d) Such other documents or information in support of the request.

Section 5. Duty of Secretary of Foreign Affairs; Referral of Request: Filing of Petition. (1) Unless it appears to the Secretary of Foreign Affairs that the request fails to meet the requirements of this law and the relevant treaty or convention, he shall forward the request

together with the related documents to the Secretary of Justice, who shall immediately designate and authorize an attorney in his office to take charge of these case.

(2) The attorney so designated shall file a written petition with the proper Court of First Instance of the province or city having jurisdiction of the place, with a prayer that the court take the request under consideration and shall attach to the petition all related documents. The filing of the petition and the service of the summons to the accused shall be free from the payment of docket and sheriff's fees.

(3) The Court of First Instance with which the petition shall have been filed shall have and continue to have the exclusive power to hear and decide the case, regardless of the subsequent whereabouts of the accused, or the change or changes of his place of residence.

Section 6. Issuance of Summons; Temporary Arrest; Hearing, Service of Notices. (1) Immediately upon receipt of the petition, the presiding judge of the court shall, as soon as practicable, summon the accused to appear and to answer the petition on the day and hour fixed in the order. We may issue a warrant for the immediate arrest of the accused which may be served any where within the Philippines if it appears to the presiding judge that the immediate arrest and temporary detention of the accused will best serve the ends of justice. Upon receipt of the answer, or should the accused after having received the summons fail to answer within the time fixed, the presiding judge shall hear the ace or set another date for the hearing thereof.

(2) The order and notice as well as a copy of the warrant of arrest, if issued, shall be promptly served each upon the accused and the attorney having charge of the case.

Section 7. Appointment of Counsel de Oficio. If on the date set for the hearing the accused does not have a legal counsel, the presiding judge shall appoint any law practitioner residing within his territorial jurisdiction as counsel de oficio for the accused to assist him in the hearing.

Section 8. Hearing in Public; Exception; Legal Representation.

(1) The hearing shall be public unless the accused requests, with leave of court, that it be conducted in chamber.

(2) The attorney having charge of the case may upon request represent the requesting state or government throughout the proceeding. The requesting state or government may, however, retain private counsel to represent it for particular extradition case.

(3) Should the accused fail to appear on the date set for hearing, or if he is not under detention, the court shall forthwith issue a warrant for this arrest which may be served upon the accused anywhere in the Philippines.

Section 9. Nature and Conduct of Proceedings. (1) In the hearing, the provisions of the Rules of Court insofar as practicable and not inconsistent with the summary nature of the proceedings, shall apply to extradition cases, and the hearing shall be conducted in such a manner as to arrive as a fair and speedy disposition of the case.

(2) Sworn statements offered in evidence at the hearing of any extradition case shall be received and admitted as evidence if properly and legally authenticated by the principal diplomatic or consular officer of the Republic of the Philippines residing in the requesting state.

Section 10. Decision. Upon conclusion of the hearing, the court shall render a decision granting the extradition, and giving his reasons therefor upon showing of the existence of a prima facie case. Otherwise, it shall dismiss the petition.

Section 11. Service of Decision. The decision of the court shall be promptly served on the accused if he was not present at the reading thereof, and the clerk of the court shall immediately forward two copies thereof to the Secretary of Foreign Affairs through the Department of Justice.

Section 12. Appeal by Accused; Stay of Execution

(1) The accused may, within 10 days from receipt of the decision of the Court of First Instance granting extradition cases shall be final and immediately executory.

(2) The appeal shall stay the execution of the decision of the Court of First Instance.

Section 13. Application of Rules of Court. The provisions of the Rules of Court governing appeal in criminal cases in the Court of Appeals shall apply in appeal in Extradition cases, except that the parties may file typewritten or mimeograph copies of their brief within 15 days from receipt of notice to file such briefs.

Section 14. Service of Decision of Court of Appeals. The accused and the Secretary of Foreign Affairs, through the Department of Justice, shall each be promptly served with copies of the decision of the Court of Appeals.

Section 15. Concurrent Request for Extradition. In case extradition of the same person has been requested by two or more states, the Secretary of Foreign Affairs, after consultation with the Secretary of Justice, shall decide which of the several requests shall be first considered, and copies of the former's decision thereon shall promptly be forwarded to the attorney having charge of the case, if there be one, through the Department of Justice.

Section 16. Surrender of Accused. After the decision of the court in an extradition case has become final and executory, the accused shall be placed at the disposal of the authorities of the requesting state or government, at a time and place to be determined by the Secretary of Foreign Affairs, after consultation with the foreign diplomat of the requesting state or government.

Section 17. Seizure and Turn Over of Accused Properties. If extradition is granted, articles found in the possession of the accused who has been arrested may be seized upon order of the court at the instance of the requesting state or government, and such articles shall be delivered to the foreign diplomat of the requesting state or government who shall issue the corresponding receipt therefor.

Section 18. Costs and Expenses; By Whom Paid. Except when the relevant extradition treaty provides otherwise, all costs or expenses incurred in any extradition proceeding and in apprehending, securing and transmitting an accused shall be paid by the requesting state or government. The Secretary of Justice shall certify to the Secretary of Foreign Affairs the amounts to be paid by the requesting state or government on account of expenses and costs, and the Secretary of Foreign Affairs shall cause the amounts to be collected and transmitted to the Secretary of Justice for deposit in the National Treasury of the Philippines.

Section 19. Service of Court Processes. All processes emanating from the court in connection with extradition cases shall be served or executed by the Sheriff of the province or city concerned or of any member of any law enforcement agency;

Section 20. Provisional Arrest. (a) In case of urgency, the requesting state may, pursuant to the relevant treaty or convention and while the same remains in force; request for provisional arrest of the accused pending receipt of the request for extradition made in accordance with Section 4 of this Decree.

(b) A request for provisional arrest shall be sent to the Director of the National Bureau of Investigation, Manila, either through the diplomatic channels or direct by post or telegraph.

(c) The Director of the National Bureau of Investigation or any official acting on his behalf shall upon receipt of the request immediately secure a warrant for the provisional arrest of the accused from the presiding judge of the Court of First Instance of the province or city having jurisdiction of the place, who shall issue the warrant for the provisional arrest of the accused. The Director of the National Bureau of Investigation through the Secretary of Foreign Affairs shall inform the requesting of the result of its request.

(d) If within a period of 20 days after the provisional arrest the Secretary of Foreign Affairs has not received the request for extradition and the documents mentioned in Section 4 of this Decree, the accused shall be released from custody.

(e) Release from provisional arrest shall not prejudice re-arrest and extradition of the accused if a request for extradition is received subsequently in accordance with the relevant treaty of convention.

Section 21. Effectivity. this Decree shall take effect immediately and its provisions shall be in force during the existence of any extradition treaty or convention with, and only in respect of, any foreign state or government.

DONE in the City of Manila , this 13th day of January in the Year of Our Lord nineteen hundred and seventy-seven.