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SENATE

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EXTRADITION TREATY WITH HUNGARY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF HUNGARY ON EXTRADITION, SIGNED AT BUDAPEST ON DECEMBER 1, 1994



MAY 8, 1995.—Treaty was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

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WASHINGTON : 1995

LETTER OF TRANSMITTAL

THE WHITE HOUSE, May 8, 1995.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Hungary on Extradition, signed at Budapest on December 1, 1994. Also transmitted for the information of the Senate is the report of the Department of State with respect to this Treaty.

The Treaty is designed to update and standardize the conditions and procedures for extradition between the United States and Hungary. Most significantly, it substitutes a dual-criminality clause for the current list of extraditable offenses, thereby expanding the number of crimes for which extradition can be granted. The Treaty also provides a legal basis for temporarily surrendering prisoners to stand trial for crimes against the laws of the Requesting State.

The Treaty further represents an important step in combatting terrorism by excluding from the scope of the political offense exception serious offenses typically committed by terrorists, e.g., crimes against a Head of State or first family member of either Party, aircraft hijacking, aircraft sabotage, crimes against internationally protected persons, including diplomats, hostage-taking, narcotics-trafficking, and other offenses for which the United States and Hungary have an obligation to extradite or submit to prosecution by reason of a multilateral treaty, convention, or other international agreement. The United States and Hungary also agree to exclude from the political offense exception major common crimes, such as murder, kidnapping, and placing or using explosive devices.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States. Upon entry into force, it will supersede the Convention for the Mutual Delivery of Criminals, Fugitives from Justice, in Certain Cases Between the Government of the United States of America and the Austro-Hungarian Empire, signed at Washington, July 3, 1856, with certain exceptions.

This Treaty will make a significant contribution to international cooperation in law enforcement. I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, April 14, 1995.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Treaty between the Government of the United States of America and the Government of the Republic of Hungary on Extradition (the "Treaty"), signed at Budapest on December 1, 1994. I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty follows generally the form and content of extradition treaties recently concluded by the United States. It represents a concerted effort by the Department of State and the Department of Justice to modernize the legal tools available for the extradition of serious offenders such as narcotics traffickers and terrorists.

Upon entry into force, this Treaty will supersede the Convention for the Mutual Delivery of Criminals, Fugitives from Justice, in Certain Cases, between the Government of the United States of America and the Austro-Hungarian Empire, signed at Washington, July 3, 1856.

Article 1 obligates each Party to extradite to the other, pursuant to the provisions of the Treaty, any person wanted for prosecution or for the imposition or enforcement of a sentence in respect of an offense described in Article 2.

In Article 2, the Parties agree that an offense punishable by both parties by imprisonment or other form of detention for more than one year, or by a more severe penalty shall be extraditable. The Article also provides that attempts and conspiracies to commit these offenses, and participation in the commission of the offenses, are extraditable. Inclusion of a dual-criminality clause without a list of offenses covered by the Treaty obviates the need to renegotiate or supplement the Treaty as offenses become punishable under the laws of both parties. Among other things, the Article further provides that in determining whether an offense is covered under the Treaty, the offense shall be considered an extraditable offense whether or not the laws in the Contracting Parties place the offenses within the same category of offenses or describe the offense by the same terminology. With regard to offenses committed outside the territory of the Requesting State, the Requested State has discretionary authority under Article 2(4) to refuse extradition if the laws of the Requested State would not provide for jurisdiction in a similar situation.

Article 3 provides that surrender may be refused on the grounds that the person sought is a national of the requested State, but that each party's Executive Authority—in the case of the United States, the Secretary of State—shall have the power to extradite its nationals, unless prohibited by its domestic legislation, if, in its discretion, it deems it appropriate to do so. Article 3(2) provides that in cases in which extradition is so refused, the Requesting State may request that the case be submitted to the competent authorities of the Requested State for prosecution.

Article 4 incorporates a political offense exception to the obligation to extradite. Article 4(1) states generally that extradition shall not be granted for political offenses. Article 4(2) expressly excludes from the reach of the political offense exception several categories of offenses:

(i) a murder or other willful crime against the person of a Head of State of one of the Contracting Parties, or of a member of the Head of State's family;

(ii) an offense for which both Parties are obliged pursuant to a multilateral international agreement to extradite the person sought or submit the case for prosecution; (e.g., aircraft hijacking pursuant to The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague December 16, 1970, and entered into force October 14, 1971 (22 U.S.T. 1641; TIAS 7192); aircraft sabotage pursuant to the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal September 23, 1971, and entered into force January 26, 1973, (24 U.S.T. 564; TIAS No. 7570) and the Protocol for the Suppression of Unlawful Acts of Violence at Airports serving International Civil Aviation done at Montreal on February 24, 1988; crimes against internationally protected persons, including diplomats, under the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, done at New York December 14, 1973, and entered into force February 20, 1977 (28 U.S.T. 1975; TIAS No. 8532); hostage-taking, pursuant to the International Convention against the Taking of Hostages, done at New York on December 17, 1979, and entered into force June 3, 1983, and for the United States January 6, 1985 (TIAS No. 11081); and narcotics trafficking under the United Nations Convention against Illicit Traffic in Narcotics Drugs and Psychotropic Substances, done at Vienna December 20, 1988, which entered into force November 11, 1990;

(iii) specified crimes, including murder, manslaughter, other offenses involving substantial bodily harm, kidnapping, and placing of certain explosive, incendiary or destructive devices;

(iv) a conspiracy or attempt to commit the offenses described above, or participation in the commission of those offenses.

Article 4(3) provides that extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated. Article 4(4) provides that the executive authority of the Requested State can refuse extradition for an offense under military law which is not an offense under ordinary criminal law.

Article 5 bars extradition when the person sought has been convicted or acquitted in the Requested State for the same offense, but does not bar extradition if the competent authorities in the Requested State have declined to prosecute or have decided to discontinue criminal proceedings.

Article 6 provides that extradition shall not be granted if at the time the Requested State receives the extradition request the prosecution or the enforcement of the penalty or the detention order has become barred by lapse of time under the law of the Requesting State.

Under Article 7, when an offense for which surrender is sought is punishable by death under the laws of the Requesting State and is not so punishable under the laws of the Requested State, the Requested State may refuse extradition unless the Requesting State provides assurances that the death penalty will not be imposed or, if imposed, will not be carried out.

Articles 8–10 address the procedures by which extradition is to be accomplished. Article 8 describes the documents that are required to support a request for extradition. Article 9 establishes the procedures under which documents submitted pursuant to Article 8 shall be received and admitted into evidence in the Requested State. Article 10 provides that all documents submitted by the Requesting State shall be translated into the language of the Requested State.

Article 11 provides for the provisional arrest and detention of the person sought for no more than sixty days pending receipt by the executive authority of the Requested State of a fully documented extradition request in conformity with Article 8. The discharge of the person sought from custody pursuant to this Article explicitly does not prejudice subsequent rearrest and extradition upon later delivery of the extradition request and supporting documents.

Article 12 provides that the Requested State may request that a Requesting State supplement a request for extradition if the Requested State considers that the information furnished in support of a request for extradition is not sufficient to fulfill the Treaty requirements, and states that a person sought may be released by the Requested State if the evidence sought is not adequate or is not received within the time specified in the request for additional information. Such release shall not preclude the Requesting State from making another request for the same or a different offense.

Article 13 specifies the procedures to govern the surrender and return of fugitives. The Requested State is required to promptly notify the Requesting State of its decision on extradition and, if the request is denied in whole or in part, to provide an explanation. If the request is granted, the person sought must be removed from the territory of the Requested State within the time prescribed by the law of the Requested State or, since Hungary has no such law, within the time set by the decision granting extradition.

Article 14 provides that if a person is being prosecuted or is serving a sentence in the Requested State for a different offense, that State may (a) defer surrender until the proceedings are concluded and the sentence served, or (b) temporarily surrender the person to the Requesting State solely for the purpose of prosecution.

Article 15 sets forth a non-exhaustive list of factors to be considered by the Requested State in determining to which State to surrender a person sought by more than one State.

Article 16 provides, to the extent permitted under the law of the Requested State, for that State to seize and surrender to the Requesting State property related to the offense for which extradition is requested. This obligation, however, is subject to an obligation to duly respect the rights of third parties.

Article 17 sets forth the rule of specialty for this treaty. It provides, subject to specific exceptions, that a person extradited under the Treaty may not be detained, tried, or punished for an offense other than that for which extradition has been granted, unless a waiver of the rule is granted by the executive authority of the Requested State or unless the person extradited fails to leave the Requesting State within ten days of being free to do so or, having left the Requesting State, voluntarily returns to it. Similarly the Requesting State may not surrender or transfer such person beyond its jurisdiction for the offense for which his surrender was granted or for an offense committed prior to the original surrender unless the Requested State consents or unless the individual remains after ten days or leaves and voluntarily returns.

Article 18 permits surrender without further proceedings if the person sought gives his consent. It further provides that the rule of specialty in Article 17 shall not apply to such transfers.

Article 19 governs the transit through the territory of one party of a person being surrendered to the other State by a third State.

Article 20 contains provisions on representation and expenses that are similar to those found in other modern extradition treaties. Specifically, the Requested State bears the expenses for the legal representation of the Requesting State in any proceedings arising out of a request for extradition. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. Article 20(3) clarifies that neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under the Treaty.

Article 21 states that the U.S. Department of Justice and the Hungarian Ministry of Justice may consult with each other directly or through the facilities of the International Criminal Police Organization (INTERPOL) in connection with the processing of individual cases and in furtherance of maintaining and improving the procedures for the implementation of the Treaty. Other ministries, agencies, or government departments competent in extradition matters may be included in the consultations, as appropriate.

Article 22, like the parallel provision in almost all recent United States extradition treaties, states that the Treaty is retroactive, in that it shall apply to offenses committed before as well as after the date the Treaty enters into force.

Article 23 contains final clauses dealing with the Treaty's entry into force and termination. Paragraph 1 states that the Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged as soon as possible. Paragraph 2 states that the Treaty shall enter into force immediately upon the exchange of instruments of ratification. Pursuant to paragraph 3, upon entry into

force of this Treaty, the Convention between the United States and the Austro-Hungarian Empire for the Mutual Delivery of Criminals, Fugitives from Justice, in Certain Cases, signed at Washington July 3, 1856 shall cease to have any effect; nevertheless, the 1856 Convention shall apply to any extradition proceeding in which extradition documents have already been submitted to the courts of the Requested State at the time this Treaty enters into force, except Article 18 of this Treaty (Simplified Extradition) shall be applicable to such proceedings. It further states that Article 17 (Rule of Specialty) shall apply to persons found extraditable under the prior treaty. Under paragraph 4, either party may terminate the Treaty at any time upon written notice to the other Party, and the Treaty would terminate six months after the date of receipt of such notice.

A Technical Analysis explaining in detail the provisions of the Treaty is being prepared by the United States negotiating delegation and will be submitted separately to the Senate Committee on Foreign Relations.

The Department of Justice joins the Department of State in favoring approval of this Treaty by the Senate at an early date.

Respectfully submitted.

STROBE TALBOT.

**TREATY
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF
AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF HUNGARY
ON EXTRADITION**

The Government of the United States of America and the
Government of the Republic of Hungary,

Recalling the Convention for the Mutual Delivery of
Criminals, Fugitives from Justice, in Certain Cases, signed at
Washington July 3, 1856;

Noting that both the Government of the United States of
America and the Government of the Republic of Hungary currently
apply the terms of that Treaty;

Desiring to provide for more effective cooperation between
the two States in the suppression of crime, and for that
purpose, to conclude a new treaty for the extradition of
offenders;

Have agreed as follows:

Article 1

Obligation to Extradite

The Contracting Parties agree to extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with or found guilty of an extraditable offense.

Article 2

Extraditable Offenses

1. An offense shall be an extraditable offense if it is punishable under the laws in both Contracting Parties by deprivation of liberty for a period of more than one year, or by a more severe penalty.
2. An offense shall also be an extraditable offense if it consists of an attempt to commit, or participation in the commission of, an offense described in paragraph 1 of this Article. Any type of association to commit offenses described in paragraph 1 of this Article, as provided by the laws of Hungary, and conspiracy to commit an offense described in paragraph 1 of this Article, as provided by the laws of the United States, shall also be extraditable offenses.

3. For the purposes of this Article, an offense shall be an extraditable offense:

- a. whether or not the laws in the Contracting Parties place the offense within the same category of offenses or describe the offense by the same terminology;
- b. whether or not the offense is one for which United States federal law requires the showing of such matters as interstate transportation or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court.

4. If the offense has been committed outside the territory of the Requesting State, extradition shall be granted if the laws of the Requested State provide for the punishment of an offense committed outside of its territory in similar circumstances. If the laws of the Requested State do not so provide, the executive authority of the Requested State may, in its discretion, grant extradition.

5. If extradition has been granted for an extraditable offense, it shall also be granted for any other offense specified in the request even if the latter offense is

punishable by less than one year's deprivation of liberty,
provided that all other requirements of extradition are met.

Article 3
Nationality

1. Neither Contracting Party shall be bound to extradite its own nationals, but the Executive Authority of the Requested State shall have the power to extradite such persons, unless prohibited by domestic legislation, if, in its discretion, it be deemed proper to do so.

2. If extradition is refused solely on the basis of the nationality of the person sought, the Requested State shall, at the request of the Requesting State, submit the case to its authorities for prosecution.

Article 4
Political and Military Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense.

2. For the purposes of this Treaty, the following offenses shall not be considered to be political offenses:

- a. a murder or other willful crime against the person of a Head of State of one of the Contracting Parties, or of a member of the Head of State's family;
- b. an offense for which both Contracting Parties have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution;
- c. murder, manslaughter, or other offense involving substantial bodily harm;
- d. an offense involving kidnapping or any form of unlawful detention, including the taking of a hostage;
- e. placing or using an explosive, incendiary or destructive device capable of endangering life, of causing substantial bodily harm, or of causing substantial property damage; and
- f. a conspiracy or any type of association to commit offenses as specified in Article 2, paragraph 2, or attempt to commit or participation in the commission of, any of the foregoing offenses.

3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the executive authority of

the Requested State determines that the request was politically motivated.

4. The executive authority of the Requested State may refuse extradition for offenses under military law which are not offenses under ordinary criminal law.

Article 5 Prior Prosecution

1. Extradition shall not be granted when the person sought has been convicted or acquitted or the case dismissed by court order with binding and final effect in the Requested State for the offense for which extradition is requested.

2. Extradition shall not be precluded by the fact that the competent authorities in the Requested State have decided not to prosecute the person sought for the acts for which extradition is requested, or to discontinue any criminal proceedings which have been instituted against the person sought for those acts.

Article 6**Lapse of Time**

Extradition shall not be granted if at the time the Requested State receives the request for extradition the prosecution or the enforcement of the penalty or of the detention order, has become barred by lapse of time under the law of the Requesting State.

Article 7**Capital Punishment**

1. When the offense for which extradition is sought is punishable by death under the laws in the Requesting State and is not punishable by death under the laws in the Requested State, the Requested State may refuse extradition unless the Requesting State provides assurances that the death penalty will not be imposed or, if imposed, will not be carried out.
2. In instances in which a Requesting State provides an assurance in accordance with this Article, the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

Article 8

Extradition Procedures and Required Documents

1. All requests for extradition shall be made through the diplomatic channel.
2. The request for extradition shall be supported by:
 - a. documents, statements, or other types of information which describe the identity, nationality, and probable location of the person sought;
 - b. information describing the facts of the offense and the procedural history of the case;
 - c. the text of the law describing the essential elements of the offense for which extradition is requested;
 - d. the text of the law prescribing punishment for the offense; and
 - e. a statement of the provisions of law describing any time limit on the prosecution, or the enforcement of the penalty, or the detention order.
3. A request for extradition of a person who is sought for prosecution shall also be supported by:
 - a. a copy of the warrant or order of arrest issued by a judge or other competent authority;
 - b. a copy of the indictment or other document specifying the charges against the person whose extradition is sought; and

- c. such information as would justify the committal for trial of the person if the offense had been committed in the Requested State.

4. A request for extradition relating to a person who has been found guilty of the offense for which extradition is sought shall also be supported by:

- a. a copy of the judgment of conviction, or, if such copy is not available, a statement by a judicial authority that the person has been found guilty;
- b. information establishing that the person sought is the person to whom the finding of guilt refers;
- c. a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and
- d. in the case of a person who has been found guilty in absentia, the documents required by paragraph 3.

Article 9

Admissibility of Documents

The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if:

- a. they are certified by the principal diplomatic or consular officer of the Requested State; or
- b. they are certified or authenticated in any other manner accepted by the law of the Requested State.

Article 10

Translation

All documents submitted by the Requesting State shall be translated into the language of the Requested State.

Article 11

Provisional Arrest

1. In case of urgency, a Contracting Party may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the Department of Justice in the United States and the

Ministry of Justice in Hungary. The facilities of the International Criminal Police Organization (Interpol) may be used to transmit such a request.

2. The application for provisional arrest shall contain:
 - a. a description of the person sought and information, if available, concerning the person's nationality;
 - b. the location of the person sought, if known;
 - c. a brief statement of the facts of the case, including, if possible, the time and location of the offense;
 - d. a description of the laws violated;
 - e. a statement of the existence of a warrant of arrest or finding of guilt or judgment of conviction against the person sought; and
 - f. a statement that a request for extradition for the person sought will follow.
3. The Requesting State shall be notified without delay of the disposition of its application and the reasons for any denial.
4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest if the executive authority of the

Requested State has not received the formal request for extradition and the supporting documents required in Article 8.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 12

Additional Information

1. If the Requested State considers that the information furnished in support of a request for extradition is not sufficient to fulfill the requirements of this Treaty, that State may request that additional information be furnished within such reasonable length of time as it specifies.

2. If the person sought is under arrest and the additional information furnished is not sufficient or is not received within the time specified, the person may be released from custody. Such release shall not preclude the Requesting State from making another request in respect of the same or any other offense.

3. Where the person is released from custody in accordance with paragraph 2, the Requested State shall notify the Requesting State as soon as practicable.

Article 13

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State of its decision on the request for extradition.
2. If the request is denied in whole or in part, the Requested State shall provide information as to the reasons for the denial of the request. The Requested State shall provide copies of pertinent judicial decisions upon request.
3. If the request for extradition is granted, the competent authorities of the Contracting Parties shall agree on the time and place for the surrender of the person sought.
4. If the person sought is not removed from the territory of the Requested State within the time prescribed either by the law of that State or in the decision granting extradition, that person may be discharged from custody, and the Requested State may thereafter refuse extradition for the same offense.

Article 14

Deferred and Temporary Surrender

1. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.
2. If the extradition request is granted in the case of a person who is being prosecuted or is serving a sentence in the territory of the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by mutual agreement of the Contracting Parties.

Article 15

Requests for Extradition Made by Several States

If the Requested State receives requests from the other Contracting Party and from any other State or States for the extradition of the same person, either for the same offense or

for different offenses, the executive authority of the Requested State shall determine to which State it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including but not limited to:

- a. whether the requests were made pursuant to treaty;
- b. the place where the offense was committed;
- c. the respective interests of the Requesting States;
- d. the gravity of the offense;
- e. the nationality of the victim;
- f. the possibility of further extradition between the Requesting States; and
- g. the chronological order in which the requests were received from the Requesting States.

Article 16

Seizure and Surrender of Property

1. To the extent permitted under its law, the Requested State may seize and surrender all articles, documents, and evidence connected with the offense in respect of which extradition is granted. The items mentioned in this Article may be surrendered even when extradition cannot be effected due to the death, disappearance, or escape of the person sought.

2. The Requested State may condition the surrender of the property upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such property if it is needed as evidence in the Requested State.

3. The rights of third parties in such property shall be duly respected.

Article 17

Rule of Speciality

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:

- a. the offenses for which extradition has been granted or a differently denominated offense based on the same facts on which extradition was granted, provided such offense is extraditable, or is a lesser included offense;
- b. any offense committed after the extradition of the person; or
- c. an offense for which the executive authority of the Requested State has consented to the person's detention, trial, or punishment. For the purpose of this subparagraph:

- i. the Requested State may require the submission of the documents specified in Article 8; and
- ii. the person extradited may be detained by the Requesting State for 90 days, or for such longer time as the Requested State may authorize, while the request under this subparagraph is being processed.

2. A person extradited under this Treaty by a Contracting Party may not be extradited to a third State for an offense committed prior to his surrender unless the surrendering State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to a third State, if:

- a. that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or
- b. that person does not leave the territory of the Requesting State within 10 days of the day on which the person is free to do so.

Article 18
Simplified Extradition

If the person sought consents to surrender to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings. In this case, Article 17 shall not be applicable

Article 19
Transit

1. Either Contracting Party may authorize transportation through its territory of a person surrendered to the other State by a third State. A request for transit shall be made through the diplomatic channel or directly between the United States Department of Justice and the Ministry of Justice in Hungary. The facilities of the International Criminal Police Organization (Interpol) may be used to transmit such a request. It shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.

2. No authorization is required where air transportation is used and no landing is scheduled on the territory of the other

Contracting Party. If an unscheduled landing occurs on the territory of the other Contracting Party, that Contracting Party may require the request for transit as provided in paragraph 1. That State shall detain the person to be transported until the request for transit is received and the transit is effected, so long as the request is received within 96 hours of the unscheduled landing.

Article 20

Representation and Expenses

1. The Requested State shall advise, assist, appear in court on behalf of the Requesting State, and represent the interests of the Requesting State by all legal means within its power, in any proceedings arising out of a request for extradition.
2. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition proceedings.
3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under this Treaty.

Article 21

Consultation

The United States Department of Justice and the Ministry of Justice in the Republic of Hungary may consult with each other directly, or through the facilities of the International Criminal Police Organization (Interpol), in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty. They may include in any consultations such other ministries, agencies, and departments of government competent in extradition matters as they deem appropriate.

Article 22

Application

This Treaty shall apply to offenses committed before as well as after the date it enters into force.

Article 23

Ratification, Entry into Force, and Termination

1. This Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged at Washington as soon as possible.

2. This Treaty shall enter into force immediately upon the exchange of the instruments of ratification.

3. Upon the entry into force of this Treaty, the Convention for the Mutual Delivery of Criminals, Fugitives from Justice, in Certain Cases, signed at Washington July 3, 1856, shall cease to have any effect. Nevertheless, the prior Treaty shall apply to any extradition proceeding in which the extradition documents have already been submitted to the courts of the Requested State at the time this Treaty enters into force, except that Article 18 of this Treaty shall be applicable to such proceedings. Article 17 of this Treaty shall apply to persons found extraditable under the prior Treaty.

4. Either Contracting Party may terminate this Treaty at any time by giving written notice to the other Contracting Party, and the termination shall be effective six months after the date of the receipt of such notice.

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

DONE in duplicate at Budapest, this *first* day of *December*, 1994, in English and Hungarian, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF THE
REPUBLIC OF HUNGARY:

