

ARTICLE IVDiscretionary refusal of Extradition

Extradition may be refused in any of the following circumstances:

1. when the person whose extradition is requested is a national of the Requested State. Nationality shall be determined as at the time of the request. If the Requested State refuses to extradite a national of that State it shall, at the request of the Requesting State, refer the matter to its competent authorities for prosecution. For this purpose, the files, documents and exhibits relating to the offence shall be transmitted to the Requested State. That State shall inform the Requesting State of the action taken on its request;
2. when the Requested State, while also taking into account the nature of the offence and the interests of the Requesting State, considers that, because of the health or age of the person sought, the extradition would be incompatible with humanitarian considerations;
3. when the person sought is being prosecuted by the Requested State for the offence for which extradition is requested or if the competent authorities of the Requested State have decided, in accordance with the law of that State, not to prosecute or to terminate the prosecution that has been instituted;
4. when the person sought has been convicted by default and the Requesting State does not offer sufficient guarantees that appropriate legal recourse is available to that person;
5. when the offence was committed outside the territory of the Requesting State and the law of the Requested State does not, in corresponding circumstances, provide for the same jurisdiction; or