

The extraditability of corruption offenders: An analytical study in light of international law and national legislations

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Abstract---The extradition of corruption offenders constitutes one of the mechanisms of international judicial cooperation in the fight against corruption. However, its practical implementation faces numerous legal and procedural challenges, such as the divergence in the legal characterization of corruption among national systems, the existence of extradition bars due to the political nature of the offense, and the absence of the principle of dual criminality between the requesting and the requested states. This study aims to clarify the legal and theoretical frameworks of extradition and to identify the key general principles governing it. Additionally, it analyzes the legal nature of corruption offenses in order to determine their classification among extraditable crimes. The study concludes that corruption offenses are indeed subject to extradition, provided that the conditions for such a procedure are met and in the absence of any contrary provision in bilateral agreements.

Keywords---corruption, extradition, international cooperation, offenders.

Introduction

The phenomenon of corruption has significantly evolved in the modern era, with a marked increase in the number of individuals involved in such offenses. This serious criminal phenomenon has become a global concern, particularly in its transnational forms. In this context, the issue of extraditing corruption offenders arises as one of the most prominent tools of international judicial cooperation. Extradition is considered an effective means to combat impunity. However, its application to corruption offenses raises several issues, particularly regarding the legal classification of such crimes and whether they fall within the category of extraditable offenses, especially given the divergence in national legislations and the differing positions of states concerning whether corruption constitutes an ordinary or a political crime.

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International conventions, foremost among them the 2003 United Nations Convention against Corruption, have sought to establish a unified framework for addressing such crimes by emphasizing the need to deny safe haven to corrupt individuals and by recognizing corruption as a serious and extraditable offense. Nonetheless, practical implementation reveals that some states remain reluctant, especially when corruption is linked to political positions or sovereign institutions. Accordingly, this article aims to analyze the legal framework governing the extradition of individuals accused of corruption, by examining the theoretical and legal foundations of this mechanism and determining the status of corruption offenses within the system of extraditable crimes, while also highlighting the main practical challenges and recent trends in comparative law. The central research question posed in this context is: To what extent do international and bilateral agreements contribute to establishing an effective legal framework for the extradition of corruption offenders?

To answer this question, the study adopts a comparative analytical methodology, primarily through the analysis of relevant international legal texts, while also resorting, where necessary, to other methods such as the descriptive approach. Based on this methodology, the study is divided into two sections: the first addresses the theoretical and legal foundations of extradition, while the second examines the position of corruption offenses among extraditable crimes.

Section One: The Theoretical and Legal Foundations of Extradition

The system of extradition is considered one of the most important mechanisms of international cooperation in the pursuit of criminal offenders, particularly those who have committed serious crimes, with the aim of suppressing and deterring criminal acts and preventing perpetrators from evading justice.

What is the definition of the extradition system? What are its foundations under international law and the legal conditions that must be observed? These are the questions we shall address in detail as follows:

Subsection One: The Conceptual Framework of Extradition

Jurists have differed in their definitions of the extradition system. Some have defined it as: “A legal procedure undertaken by one state against a person present in the territory of another state, in order to surrender him for the purpose of prosecution or the execution of a sentence. It constitutes a form of repressive international cooperation.”¹

It has also been defined as: “The formal procedural act by which one jurisdiction requests another jurisdiction to return a person located within the requested jurisdiction, who is accused or convicted of committing one or more criminal offenses in violation of the laws of the requesting jurisdiction, in order for that person to face trial or serve a sentence for such offense(s) in the requesting jurisdiction”² Some view extradition as the apprehension of the perpetrator of a criminal act and the act of bringing him to justice for prosecution and punishment. This procedure is usually carried out by competent domestic authorities. However, when the offender flees abroad, it becomes necessary to submit a formal request to the state to which the offender has escaped. This reality has driven the international community to establish treaties aimed at codifying the procedures of extradition, the legal framework for bringing fugitives to justice, and the specific crimes that may be subject to extradition³.

¹ -Mohamed Hazit, *Mechanisms for Combating Corruption Crimes in Algerian Legislation*, Dar Belkess for Publishing, First Edition, Algiers – Casablanca, 2023, pp. 231–232, citing: Souleiman Abdelmoumen, *The Formal Aspects of the Legal System of Extradition: A Comparative Study*, University Publishing House, Alexandria, 2007 Edition.

² -*Manual on Mutual Legal Assistance and Extradition*, United Nations Office on Drugs and Crime (UNODC), Vienna, United Nations, New York, 2012, p. 41.

³ - Belkacem Brichi and Mohamed Si Nacer, *International Cooperation in the Field of Extradition: An Analytical Study in Light of International Conventions*, *Al-Mustaqbal Journal for Legal and Political Studies*, University Center of Aflou, Vol. 04, No. 01, June 2020, p. 88.

In the Rome Statute of the International Criminal Court, extradition is addressed under Part 9, titled International Cooperation and Judicial Assistance. Article 102 defines extradition as: “The surrender of a person by a State to another State pursuant to a treaty, agreement, or national legislation for the purposes of this Statute⁴.”

The United Nations General Assembly has defined extradition as: “A set of legal procedures undertaken by one State to surrender a suspect or a convicted individual to another State for the purpose of standing trial or serving a sentence rendered by the courts of that State⁵.”

Based on these various definitions, a comprehensive definition of the extradition system may be formulated as follows: Extradition is a legal procedure employed by a State to ensure the prosecution and punishment of an individual who has committed a crime within its territory and subsequently fled to another State. This procedure can only be completed with the cooperation of the State to which the offender has fled. Therefore, the extradition system is a mechanism of international cooperation aimed at combating impunity and ensuring general deterrence.

Based on the aforementioned definitions of the extradition system, its main objectives can be identified as follows:

- Ensuring equal treatment of offenders and promoting the proper administration of justice and the public interest of all states, so that no crime remains unpunished.
- The proper functioning of justice requires that the offender be tried in the state where the crime was committed, as this facilitates access to evidence and achieves the intended goal of deterrence and the preservation of the state’s legal order.
- Guaranteeing the sovereignty of the state in which the crime was committed by enabling it to apply its national law to all offenses occurring within its territory⁶.

Subsection Two: General Principles and Legal Conditions of Extradition

Section One: General Principles Governing Extradition

In addition to the theoretical definition of the extradition system, it is essential to understand the legal principles that govern it. These principles serve as fundamental guidelines that states must adhere to when applying this mechanism. They reflect the delicate balance between the requirements of international cooperation in combating crime, on the one hand, and the respect for state sovereignty and individual rights, on the other. While these principles may vary from one legal system to another, they generally align in essence without undermining the core legal safeguards.

1. The Principle of Specialty:

This principle means that the requesting State is not permitted to prosecute the extradited individual for any offense other than the one for which extradition was specifically requested and granted. The individual may not be tried for any acts committed prior to the extradition that are unrelated to the original request. This principle is among the oldest foundational rules of the extradition system and has been codified in numerous treaties, including the 1844 Treaty between France and Luxembourg.⁷

The principle of specialty is considered one of the most significant legal safeguards in the context of extradition. It was reaffirmed by the United Nations Convention against Corruption (2003), which, in Article 44, stresses the need to respect the obligations of the surrendering State. Although this principle

⁴ - Rome Statute of the International Criminal Court, adopted on 17 July 1998, available at: [https://legal.un.org/icc/statute/arabic/rome_statute\(a\).pdf](https://legal.un.org/icc/statute/arabic/rome_statute(a).pdf)

⁵ -United Nations General Assembly Resolution No. 45/116, adopted on 14 December 1990.

⁶ -Mohamed Ahmed Abdelrahman Taha, *An Introduction to the Extradition System and Its Distinction from Related Legal Mechanisms*, Quarterly Journal, February 2010, Issue No. 06, p. 14.

⁷ -Houria El Sghiyor et al., General Rules of Extradition, Ibn Zohr University, Academic Year 2019–2020, available at: <http://www.abhatoo.net.ma/page-principale/%D9, p. 16>.

was established to protect human rights and to prevent the abuse or manipulation of extradition procedures, certain exceptions may apply. These include cases where treaties or bilateral agreements explicitly allow for its modification or waiver, particularly when the individual commits a new offense after being extradited.

2. The Principle of Reciprocity:

This principle constitutes one of the fundamental pillars upon which judicial cooperation between States is built. It is a widely recognized and practiced international principle, referring to the notion of mutual conduct or reciprocity between two States. In essence, it entails the reciprocal practice of extraditing offenders between two countries in all applicable cases, even in the absence of a prior formal agreement between them⁸.

Accordingly, when a State undertakes extradition procedures in favor of another State in the absence of a prior agreement, it imposes an obligation on the second State to reciprocate in kind.⁹ Although the principle of reciprocity provides flexibility in managing judicial relations between States, it may at times hinder international cooperation in the absence of strong mutual political will or in cases where domestic legal systems significantly diverge.

3. The Principle of Human Rights Protection

The extradition of offenders is considered one of the most sensitive legal procedures, particularly when it may result in serious violations of individual rights. Therefore, any request for extradition must be carried out in full compliance with human rights standards. This principle is grounded in the provisions of international legal instruments, most notably the *International Covenant on Civil and Political Rights*, which emphasizes the right to a fair trial and prohibits torture and arbitrary detention.¹⁰

Accordingly, under no circumstances may an extradition request be executed if there is a proven risk to the life or safety of the individual subject to extradition.

4. The Principle of Territoriality (Personality of the Crime)

The principle of the personality of the crime refers to the notion that the State on whose territory the crime was committed—or whose interests were harmed by the offense—has the primary jurisdiction to prosecute the offender, even if the individual is subject to an extradition request from another State.

This principle is often invoked as a ground for refusing extradition, particularly where the requested State has the capacity and legal authority to prosecute the offender domestically.

This is reflected in **Article 44(11)** of the *United Nations Convention against Corruption*, which provides:

"A State Party may refuse extradition if it has jurisdiction over the offense and decides to prosecute it."

Similarly, **Article 16(11)** of the *United Nations Convention against Transnational Organized Crime* states:

"A State Party may prosecute a person if the offense falls within its jurisdiction, even if the person is not extradited."

Section Two: Legal Conditions for Extradition

Given the serious nature of the extradition process, it is imperative to adhere to legal conditions in order to ensure the legitimacy of the procedure and to prevent any abuse that may infringe upon individual rights or the sovereignty of the State. These conditions fall into various categories, including those related to the **person being requested**, the **nature of the offense**, or the **procedural aspects**.

⁸ -Lakhdari Abdelhak, *The Principle of Extradition and Its Role in Enforcing the Rules of International Criminal Law*, *Al-Babith Journal for Academic Studies*, Vol. 06, No. 01, 2019, p. 511.

⁹ -Houria El Sghiyor et al., op. cit., p. 17.

¹⁰ -Article 7 of the International Covenant on Civil and Political Rights: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

These conditions and safeguards may vary depending on international conventions or domestic legislation of the respective States. However, they generally converge on a common objective: **to strike a balance between the effectiveness of judicial cooperation and the respect for legal principles and fundamental rights.**

1- Personal Conditions for Extradition:

These conditions pertain to the status of the individual whose extradition is requested. If the person holds the nationality of the requesting State or that of a third State, no legal impediment generally arises, and the requesting State may recover the individual, provided that the other conditions for extradition are met.

However, if the person whose extradition is sought is a **national of the requested State**, the principle established under international law applies—namely, that **a State may not be obligated to extradite its own nationals for prosecution abroad**, unless the requesting State is capable of prosecuting them domestically.¹¹

In this regard, international treaties on extradition have stipulated the exclusion of nationals of the requested state, affirming the inadmissibility of extraditing them. This is because the state whose nationality the person holds has a duty to protect its citizens. However, this does not mean impunity for the offender, as they will be prosecuted by their own national state.¹²

However, this condition is not absolute, as exceptions are found—particularly in some bilateral agreements—allowing the extradition of a national provided that the legal safeguards and fundamental rights of the person concerned are respected. This is reflected in the **1957 European Convention on Extradition**, Article 6, which states: "*...A requested Party may avail itself of the right to refuse extradition provided for in paragraph (a) of this article...*"¹³ This provision clearly shows that while the Convention grants states the right to refuse the extradition of their nationals, it does not impose an outright prohibition. This opens the door to possible extradition in exceptional circumstances, especially with the consent of the individual concerned or under the terms of bilateral treaties.

2- Substantive Conditions for Extradition:

The substantive conditions and requirements of the extradition system primarily relate to the nature of the offense committed and attributed to the requested person. Chief among these is the principle of *dual criminality*, which requires that the act for which extradition is requested must constitute a criminal offense in both the requesting and the requested states.

This condition is logically justified, as it would be unreasonable for a state to request the extradition of a person for conduct that is not punishable under its own domestic laws. The legal basis of this condition lies in criminal law principles connected to human rights, especially the principle of *nullum crimen sine lege* (no crime without law), also known as the principle of legality.¹⁴ In addition to the requirement of dual criminality, it is also necessary that the offense be among those crimes that are eligible for extradition—meaning it must not be one of the offenses traditionally excluded from extradition.

¹¹ -Sabah Abdelrahim, Yazid Belabel, "The Extradition System Between the Requirements of International Cooperation and the Justifications of Criminal Immunity", *International Journal of Legal and Political Research*, Vol. 08, No. 02, 2024, p. 221.

¹² -Mohamed Zaid El-Anid and Laila Asmani, "Conditions for Extradition of Offenders in the Algerian Legal System", *Journal of Judicial Ijtihad*, Vol. 13, No. 01, 2021, p. 628.

¹³ - European Convention on Extradition, signed in Strasbourg on 13 December 1957, issued by the Council of Europe, entered into force on 18 April 1960. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/024> (Accessed: 04/06/2025, at 11:32).

¹⁴ - Faiza Belal, *Essential Conditions Related to the Offense in the Extradition System*, Algerian Journal of Law and Justice, Vol. 03, No. 01, 2017, p. 129

Most countries exclude **military** and **political offenses** from the scope of extradition. For example, many extradition treaties explicitly prohibit extradition for the offense of **desertion from military service**. This typically applies to desertion from **land forces**, while **naval desertion** may be subject to extradition due to its potential impact on national economic interests. This distinction was established by the **Institute of International Law** at its **Oxford session in 1880**. As for **ordinary crimes** committed by military personnel, extradition is generally permitted.¹⁵

In addition, extradition is not permitted if the offense is of a political nature. Numerous conventions have affirmed the principle of "*non-extradition for political offenses*", including the **Arab Convention on Judicial Cooperation (Riyadh Arab Agreement)**, which states in Article 41: "*Extradition shall not be granted if the offense for which extradition is requested is considered, under the legal rules in force in the requested Contracting Party, to be an offense of a political nature.*"¹⁶ It is well established under international law that political offenses are not subject to extradition. It is up to the requested state to determine whether the offense is political or not.¹⁷ Among the substantive conditions as well is that an extradition request is not valid if the offense has become time-barred under the laws of either state. **Statute of limitations** is one of the legal reasons justifying the refusal of extradition in many legal systems and international agreements.

3- Procedural Conditions for Extradition:

Procedural or formal requirements for extradition vary depending on the legal systems adopted by each country, as well as the specific agreements contained in bilateral treaties. However, there are generally accepted rules that states typically adhere to, which include the following:

- **Extradition Request and Supporting Documents:**

Every state must notify the requesting state through an official request for the extradition of any person for prosecution. This request must include a set of essential documents to ensure the completeness and legality of the extradition process. However, this requirement is not absolute and may be subject to exceptions. For example, in emergency situations, the request may be transmitted via fax or telephone, and it may also be sent through the International Criminal Police Organization (INTERPOL), by mail, or by any other appropriate means.¹⁸

- **How the Extradition Request is Submitted:**

The request for the extradition of fugitives is usually submitted through **diplomatic channels** between the Ministry of Justice and the Ministry of Foreign Affairs. This method has an administrative character, allowing for swift handling of requests and avoiding lengthy and complex procedures that may incur high costs.

However, if a **bilateral agreement** exists between the two countries, the procedures and provisions stipulated in that agreement shall apply. In this regard, **Article 12 of the European Convention on Extradition** provides:

"The request shall be in writing and shall be communicated through the diplomatic channel. The request shall be supported by:

- a) the original or an authenticated copy of the conviction and sentence, or of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of the requesting Party;

¹⁵ - Lakhdar El-Qaizi, *Substantive Conditions of Extradition*, Journal of Human Sciences - University of Oum El Bouaghi, Vol. 7, No. 02, 2020, p. 138.

¹⁶ - Riyadh Arab Convention on Judicial Cooperation, signed on April 6, 1983, and adopted by the Council of Arab Ministers of Justice, published in the Official Gazette of the League of Arab States, Special Issue, 1983

¹⁷ - Riyadh Arab Convention on Judicial Cooperation, signed on April 6, 1983, and adopted by the Council of Arab Ministers of Justice, published in the Official Gazette of the League of Arab States, Special Issue, 1983

¹⁸ - **Sabah Abdelrahim & Yazid Belabel**, *Previously cited reference*, p. 224.

- b) a statement of the offences for which extradition is requested. The time and place of their commission, their legal description and a reference to the relevant legal provisions shall be set out as accurately as possible;
- c) a copy of the relevant legal provisions or, if this is not possible, a statement of the relevant law;
- d) as accurate a description as possible of the person claimed, together with any other information which may help to establish his identity and nationality."¹⁹

Section Two: The Status of Corruption Offenses within Extraditable Crimes

Corruption offenses are among the most serious types of crimes due to their far-reaching effects at both the national and international levels, as well as the severe harm they cause. Legal questions have arisen regarding whether such crimes are considered ordinary or political crimes, as this classification determines whether extradition can be applied to offenders involved in them. To address and analyze these questions, this section begins by defining corruption as a criminal phenomenon, then identifying its legal nature, and finally examining the approach of comparative legal systems toward recognizing corruption offenses as extraditable crimes, as follows:

First Requirement: The Legal Nature of Corruption Offenses and Their Impact on Extraditability

Corruption is one of the most serious criminal phenomena, as it undermines the core of a state's economy and institutions. It can be defined both linguistically and legally: **Linguistically**, corruption is the opposite of integrity or soundness. In Arabic, the verb *fasada* (فسد) means "to become corrupt," and *fasad* (فساد) refers to deterioration, decay, or deviation from what is proper. It is used to describe things that deviate from their intended or proper state.²⁰

Corruption in language refers to **damage, deterioration, or deviation from propriety**. The verb *fasada* (فسد) in *Mukhtat Al-Sihab* is defined as "*fasada al-shay' yafsuḍu fasaadan*," meaning that a thing becomes spoiled or corrupt. The word carries various meanings in Arabic, such as "*tafaasada al-qawm*"—used when people fall into discord or sever their ties. It also appears in **Surat Al-Rum, verse 41**: "*Corruption has appeared on land and sea...*,"²¹ where it denotes **drought and scarcity**.²²

Conceptually, legal scholars have not agreed on a single, comprehensive definition of corruption, due to its broad scope and numerous forms and manifestations. According to **KUPER**, *administrative corruption* is: "The use of public office for personal gain or illegitimate self-interest."²³

Dr. Asim Al-Aaraji defines it as: "A moral deficiency in individuals that prevents them from fulfilling abstract personal commitments that serve the public interest."²⁴

The **World Bank** defines corruption as *the use of public office for private purposes*. Meanwhile, the **non-governmental organization Transparency International** defines corruption as: *The abuse of entrusted power for private gain*.²⁵

¹⁹ - European Convention on Extradition, signed in Strasbourg on 13 December 1957, entered into force on 18 April 1960.

²⁰ - Gamal El-Din Abu Al-Fadl, Muhammad ibn Mukarram Ibn Manzur, *Lisan Al-Arab*, Vol. 3, Dar Sader, Beirut, n.d., n.p., p. 336.

²¹ - Verse 41, Surat Al-Rum (The Romans), The Holy Qur'an

²² - Mohammed Hamid, Mohammed Abbas, The Phenomenon of Financial and Administrative Corruption and Its Role in the Performance of the Iraqi Economy After 2003, Al-Muhaqqiq Al-Hilli Journal for Legal and Political Sciences, University of Babylon, Iraq, Issue No. 3, 2016, p. 741

²³ - Redouane Doudah, Administrative Corruption: Its Concept, Manifestations, and Means of Addressing It, Journal of Law and Human Sciences – Economic Studies, Ziane Achour University of Djelfa, 2014, p. 157.

²⁴ - Ibid., p. 157.

²⁵ - Abderrahmane Ben Nacib, The High Authority for Transparency and Corruption Prevention under Law No. 22-08 of 05/05/2022, Journal of Law and Human Sciences, Ziane Achour University of Djelfa, Vol. 15, No. 03, p. 324.

Corruption is also defined as: *"the misuse of public influence to achieve private gains and profits."*²⁶ It is also defined as: *"unlawful appropriation of money; corruption is the opposite of interest, as is destruction and sabotage, being a deviation from integrity."*²⁷

It is likewise understood as the exploitation by state officials of their positions and authority to obtain illicit gains or personal benefits that cannot be achieved through legitimate means.²⁸

Regardless of the differing definitions of corruption, the common factor remains the *illegitimate benefit*, whether material or moral, obtained through the misuse of a position or public office. This naturally leads to harm to the public interest in both the public and private sectors.

In this regard, a key issue arises concerning whether corruption crimes fall within the scope of extraditable offenses—particularly in light of international legal standards such as the principle of *excluding political offenses* from extradition.

Section One: Classifying Corruption Offenses as International Criminal Offenses

Most national legislations and international conventions agree that corruption, in essence, constitutes a criminal offense with economic and social dimensions, rather than a political one. This is explicitly affirmed in Article 44, paragraph 4, of the United Nations Convention against Corruption (UNCAC), which states:

"Each offense to which this article applies shall be deemed to be included as an extraditable offense in any extradition treaty existing between the States Parties. A State Party may not refuse a request for extradition on the sole ground that the offense is also considered to involve fiscal matters."

It further clarifies: *"Extradition shall not be refused on the sole ground that the offense is considered a political offense."* From this article, it can be deduced that the Convention considers corruption offenses as extraditable crimes and even prohibits the argument that such offenses are of a political nature. The primary condition remains that extradition must be permissible under the domestic law of both the requesting and requested States.

This position is also echoed in the United Nations Convention against Transnational Organized Crime²⁹, particularly in Article 16, which emphasizes the obligation to extradite offenders involved in transnational crimes, including corruption offenses, especially when committed within the context of an organized criminal group.

In Africa, the African Union Convention on Preventing and Combating Corruption (AUCPCC)³⁰ affirms in Article 13 the necessity of adopting extradition as a key mechanism in the fight against corruption, especially in cases involving influential individuals or substantial financial resources.

Accordingly, based on the above, corruption offenses are considered international crimes and a form of organized crime. Thus, they are subject to extradition unless they are characterized by a political nature.

Section Two: The Impact of Legal Classification on Extradition Requests

Based on the legal classification of corruption crimes as international offenses of an economic and social nature, there are, in practice, many legal and political obstacles that hinder the extradition of

²⁶ - Omar Al-Hadrami, The Phenomenon of Corruption: Danger and Challenge on Political, Economic, and Social Levels, Dar Tareeq Al-Ilm, n.d., 2014, p. 14.

²⁷ - Abdelkrim Tebboun, Lectures on the Law of Corruption Prevention and Combating, Tlemcen, Algeria, New University Publishing, 2021, n.d., p. 13, cited in Osama El-Sayed Abdel-Samee', Economic Corruption and Its Impact on Society, Alexandria, Dar Al-Jameaa Al-Jadida, 2009, p. 17.

²⁸ -Radhi Mohammed Ali, International Methods to combat corruption crimes, Ibn khaldoun Journal for studies and Researches, vol 3, Issue 5, 2023, p 361

²⁹ - United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 2000, opened for signature, ratification and accession.

³⁰ - African Union Convention on Preventing and Combating Corruption, adopted in Maputo (Mozambique) on 11 July 2003, entered into force on 5 August 2006. Available at the official website of the African Union: <https://au.int/en/treaties/african-union-convention-preventing-and-combating-corruption>

offenders. The most prominent among these is the argument that the offense is of a political nature, particularly when the requested person holds a political position — such as a government official. Additionally, some legal systems require **dual criminality**, which may affect the process due to differences between countries in the legal classification of the crime.

Moreover, several national legislations prohibit the extradition of their own nationals to foreign states for prosecution. For example, **Algerian legislation** prohibits the extradition of nationals under Article 695 of the Code of Criminal Procedure.³¹

A relevant example is the **post-revolution Tunisian case (2011)**, in which Tunisian authorities requested the extradition of several former officials and businessmen close to the regime of **Zine El Abidine Ben Ali**, including **Belhassen Trabelsi** (Ben Ali's brother-in-law), who was charged with corruption and embezzlement. However, **France** refused to extradite him for several years, citing the political nature of the charges and concerns about the availability of a fair trial, in addition to Trabelsi's dual nationality (French-Tunisian).³²

All these obstacles hinder the process of extradition, leading to **impunity** for offenders and exacerbating the threat that this type of criminal behavior poses to the economic stability of states.

Deuxième demande: L'orientation des systèmes juridiques comparés vers la reconnaissance de la corruption comme crime extraditable

Ces dernières années ont été marquées par une évolution notable dans les positions des systèmes juridiques nationaux quant à l'inclusion des crimes de corruption parmi les infractions susceptibles de donner lieu à extradition. Cela reflète un engagement croissant envers la lutte contre l'impunité et le renforcement de la coopération judiciaire internationale, malgré les problématiques que soulève ce type de crimes, en lien notamment avec leur caractère politique ou souverain.

Section 1 : Le modèle canadien

Le Canada est l'un des pays qui accorde une grande importance aux droits de l'homme et à la réalisation de la justice dans sa politique en matière d'extradition. La Loi sur l'extradition de 1999 autorise le refus de l'extradition lorsque la demande concerne une infraction à caractère politique. Toutefois, en conformité avec ses engagements internationaux, le Canada considère que des infractions telles que la corruption et le détournement de fonds publics sont des crimes ordinaires et non politiques, et permet donc l'extradition de leurs auteurs, à condition que les conditions légales de l'extradition soient remplies.³³

Section 2 : La France et son attachement au principe de la double incrimination

En France, l'extradition est soumise au principe de la double incrimination, avec la possibilité de rejeter la demande si des motifs politiques sont établis. Le pouvoir judiciaire distingue, de manière générale, entre la corruption en tant qu'infraction financière et la corruption revêtant un caractère politique. Dans le cadre des conventions bilatérales, notamment celle conclue avec l'Algérie, l'extradition repose sur une liste ouverte, ce qui permet de qualifier les crimes de corruption comme des infractions extraditables en fonction des circonstances propres à chaque affaire.³⁴

³¹ -Ordonnance No. 66-155 of 18 Safar 1386, corresponding to June 8, 1966, containing the Code of Criminal Procedure, as amended and supplemented.

³² - French judiciary refuses to extradite the brother-in-law of former Tunisian President Ben Ali, available at: <https://www.lemonde.fr/afrique/article/2021/01/28/la-justice-francaise-refuse-l-extradition-du-beau-frere-de-l-ex-dictateur-tunisien-ben->

³³ - Canada Extradition Act, SC 1999, c. 18

³⁴ - **Décret présidentiel n° 21-166 du 25 avril 2021 portant ratification de la convention d'extradition entre le Gouvernement de la République algérienne démocratique et populaire et le Gouvernement de la République française, signée à Alger le 27 janvier 2019, Journal officiel n° 34, année 2021.**

Section 3 : La réalité des législations arabes

La plupart des pays arabes ont ratifié la Convention des Nations Unies contre la corruption. En outre, ils ont également ratifié la Convention arabe de lutte contre la corruption en 2010. Cette dernière stipule que les infractions de corruption sont considérées comme des infractions passibles d'extradition. Elle encourage également les États parties à extraditer les délinquants et à renforcer les mécanismes de coopération internationale.

La Convention arabe affirme explicitement qu'il ne faut pas considérer la corruption comme une infraction politique dans le but de refuser l'extradition. À cet effet, l'article 23 dispose : *"... L'État partie, dont la législation le permet, ne peut considérer aucune des infractions couvertes par la présente Convention comme une infraction politique si ladite Convention est invoquée comme fondement de l'extradition."*³⁵

It also requires that the act for which extradition is requested be criminalized under the domestic law of both the requesting and the requested states. However, it provides an exception, stating that a State Party whose law allows may agree to an extradition request for any of the offenses covered by the Convention, even if the act is not criminalized under its domestic legislation.

Thus, it can be said that the Arab Convention against Corruption has significantly contributed to developing the legal framework for the extradition of individuals wanted in corruption cases, particularly in the absence of bilateral agreements. This helps prevent their impunity and enhances efforts to combat the phenomenon.³⁶

One real-life example of extradition in such cases is that of businessman Abdelmoumene Rafik Khalifa, whose case involved the embezzlement of over one billion dollars. After all legal appeals were exhausted in Britain and Europe, the British authorities officially extradited Khalifa to Algeria in 2013, where he was tried and sentenced.³⁷

Conclusion

Through the analysis of the legal framework governing the extradition of individuals accused of corruption—whether in light of international or bilateral conventions, or within various national legislations—we have reached a number of key findings, summarized as follows:

- Some countries remain reluctant to extradite individuals accused of corruption, especially when the case involves high-ranking political figures or when the political nature of the crime is invoked.
- The principle of dual criminality remains one of the most prominent barriers used to reject extradition requests, particularly given the varying legal characterizations of corruption across jurisdictions.
- Human rights safeguards may also restrict extradition procedures, even when a clear legal basis exists.

Based on these findings, we propose the following recommendations:

- The need to unify the legal characterization of corruption crimes at the international level and to consider them as extraditable offenses that are not of a political nature.
- Encouraging countries to include explicit provisions in bilateral agreements that list corruption among the extraditable crimes without complex preconditions.
- Enhancing international judicial cooperation through the exchange of best practices and the intensification of technical assistance programs among states in the area of cross-border investigation and prosecution.
- Reviewing national legislations to align with international obligations, in order to close legal loopholes that hinder extradition procedures.

³⁵ - Article 23 of the Arab Convention against Corruption (2010)

³⁶ - Article 23 of the Arab Convention against Corruption (2010)

³⁷ - Nawara Bachouch, "Abdelmoumene Khalifa sentenced to 18 years in prison," available at: <https://www.echoroukonline.com/%D8%A5%D8%AF%D8%A7%D>, accessed on 09/06/2025 at 13:53.

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