



Australian Government

Australian Government response to the
Joint Standing Committee on Treaties Report 177:

Extradition – Jordan; Mutual Legal Assistance – Jordan

August 2018

Australian Government response to the recommendations of the Joint Standing Committee on Treaties inquiry into the Agreement between Australia and the Hashemite Kingdom of Jordan on Extradition and the Agreement between Australia and the Hashemite Kingdom of Jordan on Mutual Legal Assistance in Criminal Matters

The Government thanks the Committee for its consideration of the *Agreement between Australia and the Hashemite Kingdom of Jordan on Extradition* (the Extradition Treaty) and the *Agreement between Australia and the Hashemite Kingdom of Jordan on Mutual Legal Assistance in Criminal Matters* (the Mutual Assistance Treaty).

Australia needs effective international crime cooperation mechanisms to combat domestic and transnational crime, including terrorism and foreign fighters, while still providing adequate safeguards. While Australia and Jordan already enjoy a strong record of cooperation between our law enforcement and justice agencies, this cooperation has been somewhat limited to date by the absence of bilateral extradition and mutual assistance treaties. These treaties will complement and enhance our existing relationship and enable increased assistance from the Jordanian Government.

It is essential that Australia's extradition and mutual assistance schemes are responsive and streamlined, to ensure criminals cannot evade justice simply by crossing borders or when evidence of their criminal conduct is located in a foreign jurisdiction. The extradition treaty will allow Jordan to consider an extradition request from Australia – something it is currently unable to do without a bilateral treaty. The mutual assistance treaty will create an obligation for Jordan to consider mutual assistance requests from Australia, as well as providing clarity and certainty about the practical arrangements for those requests.

Bilateral extradition treaties provide the framework for extradition processes that can be tailored to specific bilateral circumstances. Australia is currently a party to 39 bilateral extradition treaties and over 20 multilateral treaty instruments which include extradition obligations.

Bilateral treaties on mutual assistance in criminal matters establish a framework of practical arrangements enabling Australia to request and provide information and evidence for investigating or prosecuting serious crimes. Australia is currently a party to 30 bilateral mutual assistance treaties and has mutual assistance obligations under more than 20 multilateral conventions.

Australia considers all extradition and mutual assistance requests on a case by case basis, in line with the range of safeguards contained in Australia's domestic legislation and applicable treaties, including the assessment of mandatory and discretionary grounds of refusal.

Recommendation 1

The Committee recommends that the Government negotiate a less than treaty level status agreement to provide clarity to the application of the *Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Extradition* to extraterritorial offences.

The Government notes this recommendation.

The Government also notes the statement made by the Chair of the Committee, the Hon Stuart Robert MP, on 28 June 2018 to the House of Representatives. In this statement, Mr Robert referred to, and tabled, additional information provided by the Attorney-General's Department (AGD) which is relevant to this recommendation.

Recommendation 2

The Committee recommends that the Attorney-General's Department supplement its current annual reporting framework for extradition cases with the following information for each case of an Australian national or an Australian permanent resident held in a foreign country:

- **if a trial has taken place;**
- **if so, the verdict handed down;**
- **if a sentence was imposed, what that sentence was, and the frequency and form of consular monitoring and contact post-sentencing, and other relevant information.**

The Government accepts this recommendation in part.

AGD has provided information on extradition matters in its annual reports to Parliament since the establishment of the *Extradition Act 1988*. This information currently includes for that financial year:

- the number of extradition requests made to, granted by and refused by Australia
- the countries which had an extradition request granted by Australia (and how many for each country)
- the number and nationality of persons who have been extradited from Australia
- the number of Australian permanent residents extradited from Australia
- the major categories of offences for which extradition has been granted by Australia, and
- whether there had been any breaches of undertakings by a foreign country in relation to a person extradited from Australia.

The Department of Foreign Affairs and Trade (DFAT) is responsible for the provision of consular assistance to Australians encountering difficulties overseas. This includes assisting Australians arrested, detained or imprisoned overseas in accordance with the *Consular Services Charter*, as detailed in DFAT's *Annual Report* and annual consular *State of Play*. In line with the implementation of the Consular Strategy 2017-2019, from 1 July 2017, consular

services for permanent residents of Australia are limited to crisis situations, as declared by the Australian government. Therefore the Government has no source data to report on Australian permanent residents overseas.

Where DFAT has been informed that an Australian citizen has been arrested, detained or imprisoned overseas, DFAT will write to the individual to offer consular assistance. On acceptance of the services offered, DFAT will provide details of local lawyers and interpreters, conduct welfare checks and, when necessary, take steps to ensure the detainee is treated fairly to the extent possible under the laws of the relevant country, given that consular assistance cannot override local laws.

The protection of a consular client's personal information, in accordance with the Privacy Act, is a fundamental part of DFAT's consular role. Given the low numbers of Australians extradited to foreign jurisdictions, and likely media interest, any information released concerning any individual case would potentially prejudice DFAT's ability to comply with its privacy obligations.

Nevertheless, in order to provide additional transparency on the operation of the extradition regime in response to the recommendations made by the Committee, the Government will include, where available, the following additional de-identified statistical information in the AGD annual reports in relation to Australian nationals extradited by Australia:

- whether a trial has taken place
- where a trial has taken place, information on the verdict handed down
- if a sentence was imposed, what that sentence was, and
- total number of extradited Australian nationals who are currently receiving consular assistance.

Recommendation 3

The Committee supports the *Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Extradition* and recommends that binding treaty action be taken.

The Government accepts this recommendation.

Recommendation 4

The Committee supports the *Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Mutual Legal Assistance in Criminal Matters* and recommends that binding treaty action be taken.

The Government accepts this recommendation.