

**Special Surrender Arrangements:
Factors that the Government may take into account**

- I. When making special surrender arrangements with a requesting party, the Government will, apart from ensuring that such surrender arrangements comply with the provisions in FOO and the human rights safeguards therein, take into account whether the requesting party will conduct an open hearing.. The Government may, in light of the circumstances, consider adding factors including but not limited to the following in the text of the agreement and duly specify the undertakings to be provided by the requesting party:
 1. A person charged with a criminal offence (“the suspect”) has the right to be presumed innocent until proved guilty according to the law.
 2. The requesting party shall promptly inform the suspect of the nature and cause of the charge against him in detail and in a language the suspect understands.
 3. The suspect shall be given considerable amount of time and facilities to prepare for his defence and to communicate with a lawyer of his own choosing.
 4. The suspect shall be tried without undue delay.
 5. The suspect shall be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; if he does not have legal assistance, he shall be informed of this right; he shall be granted legal assistance where the interests of justice so require in the case, and without payment by him if he does not have sufficient means to pay for it.
 6. The suspect may examine, or have examined, the witnesses against him and to obtain the attendance and examination of

witnesses on his behalf under the same conditions as witnesses against him.

7. If the suspect cannot understand or speak the language used in court, he shall have the free assistance of an interpreter.
8. The suspect shall not be compelled to testify against himself or to admit guilt.
9. In case the suspect is a juvenile person, the procedure shall be such as will take account of his age and the desirability of promoting his rehabilitation.
10. Where the suspect is convicted of a crime, he shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
11. When a suspect has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
12. No suspect shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of a country.
13. If a surrender request involves a criminal offence which did not take place within the requesting country, and according to the laws of the requested country, the latter has no extra-territorial jurisdiction over such criminal offences, the surrender may be refused.

14. The surrender of a person sought may be refused for humanitarian reasons such as age, health and other personal circumstances.

II. In the course of the surrender procedures, CE reserves the final right of not surrendering. Even if the court makes a committal order, CE may still refuse to issue a surrender order in view of the relevant rights of the person to be surrendered under applicable laws and all circumstances of the case, including but not limited to the following:

1. the representation made by the person to be surrendered or his reasons for objecting to the surrender (including surrender restrictions under FOO and reasons for objecting to the surrender under other applicable laws);
2. the latest circumstances of the case or any changes to such circumstances; and
3. the person to be surrendered may be visited by his family, legal representatives and their relevant officers.