

INTERNATIONAL INTERSTATAL COOPERATION IN CRIMINAL MATTERS

- To start with
 - A case,
to encounter the complications
 - With regard to
 - treaties
 - common practice
 - long standing tradition
 - jurisprudence

- Detention with a view to extradition at the request of the USA
 - provisional arrest of Antonio Bento Bembe, born 24 of April 1950 te Bungu Fuana (Angola)
 - On Court: 24 of July 2005.
- Arrest at the premises of ICJ (Peace Palace) according to the 1983 extradition treaty between the Netherlands and USA



Allegations in the indictment:

- conspiracy to commit hostage taking
- hostagetaking
- aiding and abetting of hostage taking
- Bembe:
 - I have been invited by the Netherlands
 - I got a forged passport issued by the Congo at the request of the department for foreign affairs of the Netherlands
 - That department requested me to come in order to attend a peace conference in the Peace Palace about the political situation in Angola
 - I have to be considered as a Minister of Foreign Affairs of the late province of Cabinda striving after independence
 - Besides that I am an invitee of the Netherlands which prompts the status of quasi-immunity in The Netherlands which has to refrain from exercising penal enforcement power
 - the allegedly committed crimes occurred in Angola in 1990: due to lapse of time the request for extradition has to be declared inadmissible





- the arrest was unlawful, occurring on UN-premises
 - the crimes were of political nature
 - I am innocent
 - I was a major in the army of Cabinda
 - the alleged crimes fall within the scope of a reconciliation arrangement in Angola and have been pardoned by Angola
- **Bembe was provisionally released by the The Hague District Court.**
 - He had to show up periodically at a Dutch police station in order to show his whereabouts.
 - Bembe fled to Brussels and was extradited by Belgium to the USA

REMAINING QUESTIONS

- There were explorative talks between the Netherlands and the USA concerning the wording of the request: is that lawful?
- What about the quasi-immunity granted by virtue of the invitation by the Netherlands?
Had Belgium to respect that immunity?
- What about the lapse of time between the commitment of the alleged crimes and the filing of the request for extradition?
- What about the fiction of extritoriality of the ICJ-premises? There was no authorisation for the arrest, given by the ICJ-registrar
- The USA claimed jurisdiction on the basis of unlimited passive personality giving the USA legislative powers in Angola -- but the Netherlands does not recognise that unlimited principle
- What about the reconciliation and the abolition granted by Angola for political crimes

The System

- The system of interstatal law on cooperation in criminal matters to the benefit of states answers those questions
 - by virtue of treaties
 - by common practice
 - by consuetudo or long standing tradition
 - by jurisprudence