



Brazil: Waiver of the Constitutional Right To Not Be Extradited

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Waiver of the Constitutional Right To Not Be Extradited

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I. Constitutional Requirements

Article 5(LI) of the Brazilian Constitution determines, inter alia, that no Brazilian national (*brasileiro nato*) may be extradited.¹ In this regard, Brazilian legal doctrine holds that this rule is absolute² and not subject to exceptions.³ Therefore, even if a Brazilian national were to waive his constitutionally protected right to not be extradited during a criminal procedure in the United States, it appears that the waiver would have no effect in Brazil.

II. Case Law

According to the Constitution, the Brazilian Federal Supreme Court (Supremo Tribunal Federal, STF) has original jurisdiction to try and decide extradition requests from foreign states.⁴ Research on the website of the STF revealed no ruling addressing a waiver of the right held by Brazilian nationals to not be extradited.

¹ CONSTITUIÇÃO FEDERAL [C.F.] art. 5(LI), http://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm.

² JOSÉ AFONSO DA SILVA, COMENTÁRIO CONTEXTUAL À CONSTITUIÇÃO 155 (Malheiros Editora, 8th ed. 2012).

³ ALEXANDRE DE MORAES, DIREITO CONSTITUCIONAL 84 (Editora Atlas S.A, 20th ed. 2006).

⁴ C.F. art. 102(I)(g).