

The Wire Quotes Jacques Semmelman on Extradition Treaty Waiver for Proposed Expansion of Charges Against Nikhil Gupta

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Commercial Litigation Partner Jacques Semmelman was quoted in an article in *The Wire* regarding the stated intention of the US Attorney's Office for the Southern District of New York (SDNY) to seek a waiver of the rule of specialty contained in the extradition treaty between the United States and the Czech Republic. The rule restricts the prosecution of extradited individuals to the charges for which they were extradited. Nikhil Gupta, an Indian businessman, was extradited from the Czech Republic to the United States in June 2024 and is currently facing charges related to an alleged plot to hire a hitman to assassinate separatist lawyer Gurpatwant Singh Pannun in New York.

The US Attorney has recently informed the court of the intention to seek a waiver of the rule. "The fact that the issue of specialty has come up indicates that the US Attorney's Office intends to expand the charges," Jacques said. He added that only the surrendering government can waive its rights under the treaty.

Noting that the US Attorney's Office for the SDNY typically adds charges without seeking a waiver from the foreign government and then unilaterally treats a lack of objection from that government as a waiver, Jacques said, "It's unusual in my experience for SDNY to announce that they are seeking a waiver of the doctrine of specialty from a foreign government, as SDNY is typically known for disregarding it." As a procedural matter, the issue will be presented to the court in the form of a motion by the defense to dismiss a superseding indictment that includes charges beyond those for which extradition was granted.

This raises a complex issue of standing. Jacques explained, "When a person is extradited from another country to the United States to face prosecution on specific charges, the question becomes whether the United States can expand the charges beyond those on which the person was surrendered, and who has the legal standing to raise this issue — the defendant or the foreign

government." He added that "courts in the United States have been inconsistent on this issue, with no clear answer."

["US Prosecutors Plan to Seek Extradition Treaty Waiver For Expanded Charges Against Nikhil Gupta," The Wire, January 25, 2025](#)

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