Beating The Trap: Immigration And Extradition Policies Effecting The NBA's Enes Kanter And His Status As A Turkish Political Target

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BEATING THE TRAP: IMMIGRATION AND EXTRADITION POLICIES EFFECTING THE NBA’S ENES KANTER AND HIS STATUS AS A TURKISH POLITICAL TARGET

I. BASKETBALL AND POLITICS: AN INTRODUCTION TO AMERICA’S MOST WANTED INTERNATIONAL ATHLETE

International athletes are increasingly changing the landscape of American professional sports. Specifically, in the National Basketball Association (“NBA”), international players have accounted for nearly a quarter of the athletes that compete in the league. However, no international NBA player faces as much controversy outside of the sport as does Enes Kanter. A player of Turkish descent and a current member of the Boston Celtics, Kanter has played in the NBA since 2011 and is considered to be a “journeyman” of the league. Yet, while Kanter is a prominent basketball star in America, he is no longer welcome in his home country of Turkey and is considered to be a political target of the Turkish government. In recent years, Kanter has openly criticized the Turkish government.
President Recep Tayyip Erdogan. Most notably, Kanter referred to Erdogan as a “lunatic,” a “dictator” and went as far as saying that the country’s leader is the “Hitler of our century.” The star basketball player further alleges the Turkish administration is kidnapping, torturing, and raping its own citizens every day. Additionally, Kanter is a devout follower of Turkish cleric Fethullah Gülen, who the government of Turkey blamed for the disastrous coup attempt against President Erdogan in 2016. Erdogan’s administration classified Gülen and his movement as a terrorist organization and continued to push the narrative that Kanter’s involvement with the movement also establishes Kanter as a terrorist.

Kanter’s outspoken personality and his firm allegiance to Erdogan’s political rival Fethullah Gülen has caused negative backlash against the NBA player and could potentially place him in more hot water. Kanter’s family, who still resides in Turkey, face the consequences of Kanter’s protests against President Erdogan and have taken proper measures to ensure their safety. Due to the repercussions of Kanter’s rebellion against Erdogan, Mehmet Kanter,
Kanter’s father, publicly disowned his son by saying that he “apologize[s] to the Turkish people and the president for having such a son.”13 Furthermore, both Mehmet and Kanter continue to receive death threats from supporters of Erdogan’s political following.14

In the wake of Kanter’s involvement with the Fethullah Terrorist Organization (“FETO”), the Turkish government revoked his passport in 2017, which led to his detainment in a Romanian airport.15 In the same year, a judge from Turkey issued an international arrest warrant against the veteran basketball player following an investigation that associated Kanter with Gülen’s organization.16 With no passport and a constant fear of arrest or assassination, Turkey’s actions have limited Kanter’s ability to fulfill his NBA obligations by traveling to play in international games.17 As a member of the Portland Trailblazers in 2019, Kanter refused to travel and play with the team in a March game against the Toronto Raptors in Canada.18 Earlier in the 2018–2019 season, as a member of the New York Knicks, Kanter cited concerns of assassination as the reason he would not travel with the team to London to play a game against the Washington Wizards.19

This Comment suggests Kanter’s refusal to travel internationally is warranted, given his political standing, but is precautionary at


14. See Graham, supra note 7 (stating that both Kanter and Mehmet receive death threats daily, mostly through social media).


16. See McCann, supra note 5 (reporting international arrest warrant details against Kanter).


18. See id. (discussing that President Erdogan is reason Kanter felt unsafe to travel to Canada).

Turkey’s international arrest warrant for Kanter and its use of Interpol will not allow Turkey to capture Kanter. While the Turkish government can petition for the extradition of Kanter, the extradition treaties existing between Turkey and the United States or Canada would bar a court from sending Kanter back to his home country. Further, Kanter’s Green Card provides him an accessible way to travel to Canada and a United States passport could be awaiting him in the near future.

Kanter most likely will not have to live out his worst fears by returning to Turkey. In addition to the relevant treatises favoring Kanter, he has received widespread support from several United States Senators, the Canadian Prime Minister, and the NBA Commissioner. Further, his worries may subside when he is able to apply for citizenship in a few shorts years, which leads to passport eligibility. Although the imminent threat of NBA expansion in

20. See McCann, supra note 5 (explaining Turkey cannot arrest Kanter while he is outside of warranting country).


24. For further analysis on Kanter’s likely stay in America, see infra notes 109–241 and accompanying text.

25. For further discussion on the support Kanter has received from officials in North America, see infra notes 92–95 and accompanying text.

the next few years could pose travel problems for Kanter, it is likely that his worries will become very minimal by then.27

II. BACKGROUND: WHY TURKEY’S POLITICAL REGIME IS FOCUSED ON ONE TURKISH-AMERICAN ATHLETE

The flow of international players into the United States for professional sports has created the opportunity for athletes all over the world to travel to America to compete at the highest level.28 Such an opportunity came to fruition for Kanter when he was selected in the first round of the NBA’s 2011 draft.29 However, his career has been highlighted not just by his performance, but also by continuous rifts with the government of his home country, Turkey.30 These rifts have led to several problems for Kanter, including Interpol Red Notices, threats of extradition, and the revocation of Kanter’s passport.31

A. Kanter, Basketball, and a Dream of America

At the turn of the century, the NBA saw a drastic increase in international players as the 2000–2001 season featured twenty-nine foreign born players across the NBA rosters.32 Ten years later—as Kanter prepared to enter the league—the number of international players continued to sky rocket to over fifteen percent of all NBA players.33 In recent years, the NBA has continued to break its own records in accepting international superstars.34

27. For further discussion on NBA’s potential expansion, see infra notes 221–244 and accompanying text.
28. For further discussion of the NBA’s rise in foreign-born players since the beginning of the Twentieth century, see supra note 2 and accompanying text.
31. For further discussion of Turkey’s impact on Kanter’s freedom, see infra notes 74–101 and accompanying text.
33. See id. (showing growth in NBA foreign-born players since 2000).
34. See NBA Rosters Feature Record 113 International Players From 41 Countries And Territories, NBA COMMUNICATIONS (Oct. 25, 2016), https://pr.nba.com/nba-rosters-
2018–2019 season, the NBA rosters featured 108 international players from a record-tying forty-two different countries across the world. This renowned inclusion created opportunities for players like Kanter to not only play in the league, but thrive in American basketball developmental programs.

Born in 1992 in Switzerland, Kanter, the son of a Turkish doctor, spent the first seventeen years of his life in Turkey. After rejecting multiple professional basketball contracts in Europe, a young Kanter moved to the United States to participate in American amateur sports and eventually enroll in college through the National Collegiate Athletic Association (“NCAA”). Kanter attended multiple preparatory schools when he arrived in America and ultimately experienced great success as one of the most highly-touted players in the world for his age. He committed to the University of Kentucky, where he unfortunately suffered NCAA eligibility issues and never played a game under famous coach John Calipari.

After being ruled ineligible to compete in collegiate athletics, Kanter decided to enter the NBA draft in 2011, where he was taken third overall by the Utah Jazz. As of April 2020, Kanter has played in the NBA for eight successful seasons for five different teams. Kanter was traded at the end of the Portland Trailblazers playoff international-players-2016-17/ [https://perma.cc/H4NR-B3X4] (explaining 113 international players were on NBA rosters at beginning of 2016–2017 season).

35. See NBA Rosters Feature 108 International Players From 42 Countries and Territories, supra note 2 (discussing international landscape of NBA).

36. For further discussion on Kanter’s experience in American athletic programs before the NBA, see infra notes 38–40 and accompanying text.

37. See Zachary R. Roth, International Student Athletes and NCAA Amateurism: Setting an Equitable Standard for Eligibility After Proposal 2009–22, 46 VAND. J. TRANSNAT. 659, 663–64 (chronicling Kanter’s early life); see also McCann, supra note 19 (discussing Kanter’s move to United States).

38. See McCann, supra note 19 (recounting Kanter’s decision to leave Turkey to pursue success in American basketball); see also NBA Rosters Feature Record 113 International Players From 41 Countries And Territories, supra note 34 (mentioning Kanter as one of many international NBA players).

39. See Roth, supra note 37 (noting Kanter was number three overall player in his incoming college basketball recruiting class).


41. See Christopher, supra note 29 (reporting on Kanter’s unorthodox path to NBA superstardom).

42. See BASKETBALL REFERENCE, supra note 4 (showing Kanter’s statistics coupled with his NBA career path).
push in 2019 and is currently in his first season as a member of the Boston Celtics for the 2019–20 season.\textsuperscript{43}

B. Caught in the Middle: Kanter’s Relationship With Turkish President Erdogan and Turkish Scholar Fethullah Gülen

Unfortunately, Kanter is not exposed to the same success off the court that he is accustomed to as an NBA superstar.\textsuperscript{44} President Erdogan of Turkey, who in 2018 won a five year term of the country’s presidency with new powers, ensured that Kanter is treated with hostility from the Turkish people.\textsuperscript{45} Kanter continuously refers to Erdogan as the dictator, rather than the President, of Turkey, which is a proposition supported by many critics of the leader.\textsuperscript{46}

Erdogan has drastically protected his political power and status since a failed coup attempt in 2016.\textsuperscript{47} The coup, which was one of the most violent in political history, sought to overthrow President Erdogan from power but ultimately failed.\textsuperscript{48} Erdogan blamed many for the coup, but ensured his political enemy Gülen and Gülen’s alleged “terrorist group” were at the center of the fault.\textsuperscript{49}


\textsuperscript{44} For further discussion of Kanter’s woes with Turkey, see infra notes 88–94 and accompanying text.

\textsuperscript{45} See Recep Teyyip Erdogan: Turkey’s Pugnacious President, BBC News (June 24, 2019), https://www.bbc.com/news/world-europe-13746679 [https://perma.cc/7H2W-LM6X] (explaining Erdogan’s win comes with new powers including directly appointing top public officials, power to intervene with Turkey’s legal system, and power to impose state of emergency).


\textsuperscript{48} See id. (reporting that 264 people died during Turkey’s failed coup attempt); see also Turkey’s Failed Coup Attempt: All You Need To Know, AL JAZEERA (July 15, 2017), https://www.aljazeera.com/news/2016/12/turkey-failed-coup-attempt-161217032345594.html [https://perma.cc/5QDL-TTVX] (detailing Turkey’s 2016 coup as its bloodiest in political history, which ultimately sought to unseat President Erdogan).

\textsuperscript{49} See Al JAZEERA, supra note 48 (discussing blame pinned on Gülen); see also Jessica Chia, Was Turkey’s Military Uprising Orchestrated From Pennsylvania? Erdogan
importantly, Erdogan used the military coup as a way to link Kanter to one of the darkest days in Turkey’s history.\(^5\)

The coup was launched by a section of the Turkish military in a few major cities across the nation.\(^5\) While soldiers were storming the streets of Istanbul and Ankara, fighter jets began dropping bombs on their own parliament.\(^5\) Before the rebels could declare victory, thousands of citizens took it upon themselves to oppose the coup.\(^5\) The citizens eventually forced the rebels to surrender and the government declared victory.\(^5\) However, the failed attempt still resulted in over 250 deaths and over 2,000 injuries.\(^5\) Despite the military usage and distance, President Erdogan ensured his people that the rebels were receiving orders from Gülen’s compound in Pennsylvania.\(^6\)

Gülen is an Islamic scholar who currently lives in self-imposed exile from Turkey in Saylorsburg, PA.\(^7\) Gülen and Erdogan were


\(^6\)See id. (detailing events of Turkey’s coup).

\(^7\)See id. (referencing many Turkish citizens were opposed to its coup because they are supporters of President Erdogan’s administration).

\(^8\)See id. (discussing scores of troops forced to surrender near Bosphorus Bridge in Istanbul).


\(^a\)See Chia, supra note 49 (stating Erdogan repeatedly accused Gülen of plotting to overthrow his regime from his compound in Pennsylvania’s Poconos Mountains).

once strong political allies. Gülen ensured Erdogan in 2002 that his millions of followers would swing the vote for Erdogan’s Justice and Development Party of Turkey (“AKP”). After a decade of peace between the Gülenists and the AKP, the two sides fell out after Gülenist prosecutors opened major corruption cases against senior party leaders and their families. The corruption cases, which cost the country over $100 billion, prompted Erdogan and the AKP to declare an open political war against the Gülenists.

Four days after the coup, Turkey formally requested the United States to extradite the seventy-five-year-old Gülen under the 1979 extradition treaty between the countries. Although lawyers in the United States Department of Justice reviewed the crimes alleged by the Turkish government, the lawyers are still hesitant to proceed in court due to a lack of direct evidence of Gülen’s personal involvement in the coup. Turkey has accused the United States of “stalling” in its procedures to extradite Gülen. However, the country is most likely pushing the United States because they

58. See id. (examining Gülen’s relationship with Erdogan); see also Chia, supra note 49 (noting Gülen’s relationship with Erdogan).

59. See Chia, supra note 49 (stating Gülen recruited his following to back Erdogan’s AKP party during beginning of twenty-first century before impending fallout).

60. See Wertz & Hoffman, supra note 57 (explaining Gülenists allegedly leaked tapes which link Erdogan and his family to widespread corruption).

61. See id. (discussing how Erdogan’s AKP party began to seize Gülenist businesses, close media outlets, and impede schools associated with Gülenist movement).


64. See Two Years On, U.S. Stalls Turkey On Fethullah Gülen’s Extradition, DAILY SABAH (July 19, 2018), https://www.dailysabah.com/diplomacy/2018/07/19/two-years-on-us-stalls-turkey-on-fetullah-Gulens-extradition [https://perma.cc/QX44-FTLN] (referring to Turkey officials’ statements claiming United States attorneys have been “stalling” in determining whether they will extradite Gülen back to Turkey); see also Wetz & Hoffman, supra note 57 (citing comments from Turkish Prime Minster Binali Yıldırım stating that America will have “serious problems” with Turkey if Gülen is not surrendered to them).
understand extradition is their only option to physically obtain Gülen.65

While Gülen is the main target that Turkey is pursuing for the coup, he is not the only one.66 President Erdogan listed nearly 60,000 conspirators from the armed forces, judiciary, and other government organizations related to the coup and has sought the extradition of Turkish conspirators throughout the world.67 Due to his Gülenist allegiance, Kanter remains one of those conspirators.68

Although dangerous for anyone of Turkish nationality, Kanter has been a devout follower of Gülen since he could form his own opinions.69 He often tweets support for Gülenist ideals, and like other followers of the movement, criticizes President Erdogan.70 In June 2019, Kanter visited Gülen’s twenty-six-acre compound in Saylorsburg, Pennsylvania.71 Kanter is not afraid to pledge his allegiance to the Gülenist movement publicly either.72

65. See Wertz & Hoffman, supra note 57 (adding that United States government could not rescind Gülen’s residency considering he won legal challenge to earn his immigration status); see also Gülen v. Chertoff, No. CIV.A.07-2148, 2008 WL 2779001 (E.D. Pa. 2008) (holding that United States Customs and Immigration Services shall approve Gülen’s petition for status as alien of extraordinary ability).


68. See McCann, supra note 5 (discussing that Kanter is topic of extradition because he is devout follower of Gülen).


70. See Vinny Vella, NBA Star Enes Kanter Quietly Visited Exiled Cleric’s Pocono Retreat Center, PHILA. INQUIRER (June 14, 2019), https://www.inquirer.com/news/pennsylvania/enes-kanter-fethullah-glen-pocono-mountains-20190614.html [https://perma.cc/6YVS-DV8Y] (showing evidence that Kanter has been to Gülen’s compound while remaining outspoken against Erdogan).

71. See id. (speculating Kanter visited Gülen’s compound, implying he met with Gülen).

Celtics center, through a letter on Twitter for the world to see, has gone as far as saying that he is willing to die for the Gülenist movement.73

C. The Resulting International Nightmare

Turkey’s push to extradite Gülen, Kanter, and other Turkish nationals are met with controversy because of their sporadic attempts to get their nationals back to face trial.74 In addition, Turkey received a world-wide reputation as the most prolific abuser of the organization Interpol.75 Interpol formed in 1956 and is more commonly known as the International Criminal Police Organization.76 With 194 member countries, including Turkey and the United States, one of Interpol’s main purposes is to communicate and share information about criminals and fugitives through Red Notices.77 A Red Notice is not the equivalent of an arrest warrant, but rather is a formal request by a member nation for the location, identification, and provisional arrest of an identified individual accused of a crime.78 People who have been placed on Red Notice are not wanted by Interpol, rather they are wanted by their home country.79

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73. See id. (“O’ universe, hear my voice. I have lost my mother, father, brothers and sisters, my whole family and relatives today, whom I have respected for 24 years. My own father wanted me to change my surname. The mother who gave birth to me disowned me. My brothers whom I grew up with disregard me. My relatives do not want to see me anymore . . . I would sacrifice myself a thousand times for this cause . . . God take every second I have left of my life and give it to my dear hodja.”).

74. See Bowcott, supra note 67 (discussing 500-plus extradition requests Turkey made to other countries in 2016 after Turkey’s failed military coup).


77. See Sadar, supra note 75 (resolving misunderstanding that Interpol does not act proactively but rather maintains databases where countries can edit and share information about international criminals).

78. See id. (explaining Interpol acts on principles of national sovereignty, which means discretion of member countries create Red Notices); see also INTERPOL, supra note 76 (noting Red Notices are international wanted person notices, but are not arrest warrants).

79. See INTERPOL, supra note 76 (differentiating normal arrest warrants from Interpol Red Notices).
Since the July 2016 failed military coup attempt, Turkey has made significant efforts to abuse the Interpol Red Notice system. The country attempted to upload information on over 60,000 individuals believed to be involved in the coup attempt or connected to the Gülen movement. In one example, Turkey submitted 848 requests through Interpol to pressure Germany to find and detain individuals in a 797-day span. Reports from Interpol’s Commissioner of Control state that Turkey has consistently been in the top ten countries for which Interpol receives outside requests. Similar to how the United States allegedly “stalled” in its procedures to return Gülen or Kanter to Turkey, several European Union countries have ignored Turkey’s requests as well.

As a disciple of the Gülen movement, it comes as no surprise that Turkey officially filed a Red Notice against Kanter in January 2019. Although they could not provide evidence that Kanter was linked to the coup, the Istanbul prosecutors who filed the application reasoned that the Red Notice was due to Kanter “being a member of an armed terrorist organization.” The Turkish government announced it filed a Red Notice in 2016 against Kanter while he traveled through Romania, but the more recent 2019 request suggests Turkey’s first application filing was denied.

80. See Sadar, supra note 75 (referencing Theodore Bromund of Margaret Thatcher Centre for Freedom’s comment).


82. See Sadar, supra note 75 (explaining Turkey used Interpol to pressure specific countries to detain individuals); see also Turkey Applies To Germany Via Interpol For 848 Times In 797 Days, ENGLISH BIANET (Sep. 19, 2018), https://bianet.org/english/world/200972-turkey-applies-to-germany-via-interpol-for-848-times-in-797-days [https://perma.cc/7BX3-RB7Z] (recounting all 848 Interpol requests Turkey made to pressure Germany to locate individuals).

83. See Sadar, supra note 75 (noting sky-rocketed instances of individuals petitioning Interpol about Turkey-originating cases since Turkey’s failed coup).

84. See id. (noting that European Union has not taken Turkey’s Interpol requests seriously because of their prolific abuse).

85. See McCann, supra note 16 (acknowledging that Turkish prosecutors officially requested Interpol for Red Notice against Kanter).


87. See id. (speculating that new announcement of Kanter’s Red Notice requests suggests former request was denied by Interpol, which led to Kanter’s escape from detainment at Romanian airport).
Turkey’s government continues to do everything in its power to have Kanter returned. As such, Kanter remains a man without a country. The superstar basketball player had his passport revoked by the Turkish government in 2016 when Romanian border police were forced to detain Kanter for several hours during his travels. Although Kanter is hopeful to attain American citizenship, he is not eligible to begin the process for at least two more years. Rather, he is merely considered a national of Turkey. Luckily, Kanter has a United States Green Card, establishing him as a permanent resident and easing his ability to travel. Unlike a Visa, the Green Card allows Kanter to remain in the United States indefinitely. Although the Green Card does allow for travel outside the United States, the inability to obtain a passport still creates travel restrictions for Kanter.

There is no question Kanter’s citizenship and travel issues have hampered his ability to play in international games. Yet, Kanter has received wide support from Americans during his time of struggle.

88. See McCann, supra note 5 (referring to Kanter’s Turkish passport being cancelled).
89. See id. (explaining that Kanter is not welcome in Turkey, does not have American citizenship, and lacks ability to go elsewhere).
92. See McCann, supra note 5 (explaining Kanter has Turkish citizenship, but his passport has been cancelled).
93. See id. (discussing Kanter’s United States Green Card).
95. See McCann, supra note 5 (discussing immigration problems for Kanter).
Ron Wyden, a United States Senator from Oregon, urged Canadian Prime Minister Justin Trudeau to guarantee Kanter’s safe travels to and from Toronto should the Portland Trailblazers have made the NBA Finals in 2019. Although Kanter’s team fell short of the Finals that year, Trudeau did help Kanter play in Canada just six months later on Christmas Day. Further, NBA commissioner Adam Silver has repeatedly stressed that safety and security are his top priorities in regards to the Kanter situation. However, other Turkish players in the NBA have been more reluctant to stand behind Kanter.

Considering the growth in number of foreign players in the league, it is unsurprising that Kanter’s situation is not the only international issue the NBA faces. During the summer of 2019, the Houston Rockets received backlash from the league when their General Manager, Daryl Morey, tweeted support for protests that

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98. See Sampson, supra note 97 (showing Senator Wyden’s concerns with Kanter traveling to Canada for what would have been extremely important set of games).


occurred in Hong Kong. The tweet occurred at an awkward time while Chinese professional teams were playing preseason games in the United States and a few NBA teams were set to play games in Shanghai.

While a tweet seems harmless on its face, the league has a lot to lose in China. The Rockets are the most popular NBA team in China due to the career of Chinese superstar, Yao Ming. It is also no secret that the Chinese market makes up at least ten percent of the NBA’s revenue—which is predicted to even boost to twenty percent by 2030. The situation worsened when Lebron James decided to interject by calling Morey “misinformed” and “uneducated.” Many people interpreted Lebron’s comments to be in support of the communist regime that Morey was speaking out against. Yet, it is more probable that Lebron spoke while ill-prepared and flustered. Lebron is no stranger to involving himself with tough racial and ethnic issues surrounding the league. However, it does seem as if the extent of his concern for these issues begins and

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104. See id. (discussing timing issues in Morey’s tweet).
105. See Isodore, supra note 102 (detailing numerous business consequences of Morey’s tweet).
106. See id. (discussing significance of Yao Ming in China-NBA relationship).
107. See id. (reiterating how important China’s market is to NBA).
110. See id. (displaying that Lebron did not actually have educated reasons for deeming Morey’s tweets as uneducated or misinformed).
ends with his own African-American community. Lebron has never stood up for Kanter during his international struggles; in fact, Lebron really does not care for Kanter at all as the two have a history of feuding. Regardless of what Lebron thinks or does, Kanter has vast support inside and outside the NBA, and the outcome of his situation can be found by analyzing extradition law, not tweets.

III. Analysis: Examining Why Turkey is Unsuccessful in Obtaining Kanter

Kanter’s political situation with the Turkish government has restrained him from traveling and thus doing his job. While Kanter’s worries are indeed warranted, they are most likely a precaution for his safety at best. Through the below analysis of American, Canadian, and Interpol extradition laws, it will be clear that Turkey lacks a remedy to have Kanter returned to his home country.

A. The Turkey-United States Extradition Treaty

1. History and Law of Treaty

While extradition within the United States is required upon request, there is much more detail and investigation for extraditions with other nations. The extradition “process by which a fugitive [living in the United States] may be returned to another country to face criminal charges” is regulated by . . . 18 U.S.C. §§ 3181, 3184, 3186, 3188–3191[ ] and [by] treaty.” Generally, 


113. See id. (detailing tension between Kanter and James).

114. For further discussion on support for Kanter, see supra notes 97–101 and accompanying text.

115. For further discussion on why Kanter’s worries of being extradited from the United States are precautionary, see infra note 118–164 and accompanying text.

116. For further discussion on why Kanter’s worries of traveling to Canada are precautionary, see supra notes 165–204 and accompanying text.

117. For further discussion on why Kanter’s worries of traveling to Canada are precautionary, see supra notes 165–204 and accompanying text.


under United States law, extradition is only granted to a foreign
country if the United States has an existing extradition treaty with
that country.120 Turkey, along with 109 other countries, currently
has such a treaty with the United States.121

Extradition begins when the United States Department of State
receives a request from the embassy of a foreign country.122 If the
fugitive is arrested, a magistrate judge will hold a preliminary hear-
ing to determine whether the evidence presented by the foreign
government is an extraditable offense.123 The foreign government
is permitted to submit depositions, warrants, or other papers in evi-
dence upon the hearing of any extradition cases.124 In determining
whether an extraditable offense is present, the magistrate judge
will consider “(1) whether [the] crime [is listed] in the relevant
treaty; (2) whether the [ ] conduct is criminalized in both countries;
and (3) whether the offenses in both countries are substantially
analogous.”125

With regard to the third element—offenses in the United
States and the requesting country to be substantially analogous—it
is enough if the particular act charged is criminal in both jurisdic-
tions.126 If the magistrate makes these determinations, then the
judge will ultimately issue a certificate of extradition.127 From
there, the Secretary of State will review and determine whether to
issue a surrender warrant for the fugitive.128

2007)) (citing Eain v. Wilkes, 641 F.2d 504, 508 (7th Cir. 1981); Waits v. McGowan,
516 F.2d 203, 208 (3d Cir. 1975)); In re Extradition of Bolanos, 594 F. Supp. 2d
515, 517 (D.N.J. 2009)) (discussing statutes that govern international extradition).
120. See Justice Manual, supra note 118 (explaining treaties are usually re-
quired to extradite, along with fulfilling provisions of United States’ extradition
statute).
121. See 18 U.S.C. § 3181 (1996) (listing in its notes countries with existing
treaties with United States).
122. See Cornejo-Barreto v. Seifert, 218 F.3d 1004, 1009 (9th Cir. 2000) (dis-
cussing extradition schemes); see also Restatement (Fourth) of Foreign Relations
fugitive’s arrest); see also Iraolo, supra note 119, at 1815–16 (summarizing duties of
magistrate judges).
preliminary hearings for extradition by foreign countries).
125. United States v. Knotek, 925 F.3d 1118, 1128-29 (9th Cir. 2019) (listing
elements of extraditable offenses); see also Quinn v. Robinson, 783 F.2d 776, 791
(9th Cir. 1986) (reviewing extraditable offenses).
126. See Knotek, 925 F.3d at 1131 (explaining “substantially analogous” ele-
ments of extraditable offenses).
127. See Justice Manual, supra note 118 (discussing certificates of extradition).
128. See 18 U.S.C. § 3186 (1948) (noting Secretary of State functions as judge
for whether United States will surrender wanted fugitives after magistrate judge
Although uncommon, extradition is still possible where a treaty does not exist.\textsuperscript{129} Title 18 sub-section 3181(b) of the United States Code allows the United States to extradite “persons, other than citizens, nationals, or permanent residents, . . . who have committed crimes of violence against nationals of the United States in foreign countries.”\textsuperscript{130} However, this process is irrelevant to Kanter because the United States and Turkey already have an agreement: the Treaty on Extradition and Mutual Assistance in Criminal Matters Between the United States of America and the Republic of Turkey (the “Treaty”).\textsuperscript{131}

The Treaty between the two countries was signed in June of 1979 by President Jimmy Carter and placed into force on January 1, 1981.\textsuperscript{132} Article II of the Treaty spells out the extraditable offenses for which a requesting party can petition for the return of a fugitive.\textsuperscript{133} Among these, the most important provision lies in Article II (1)–(a), which states that the extraditable offense must be punishable under both the federal laws of the United States and the laws of Turkey for a penalty or prison sentence of at least one year.\textsuperscript{134} It seems as if Turkey’s extradition request lacks merit under this provision because it has failed to name Kanter to an offense punishable in the United States; rather, it has merely linked him to a terrorist organization, that the United States and the European Union have not recognized.\textsuperscript{135}
2. **Application To Kanter**

Still, Turkey may look for success in the Treaty under section three of Article II, which describes association crimes. Article II (3)–(a) of the Treaty grants extradition for attempts to commit an extraditable offense as an accessory or accomplice. Further, section 3(b) describes offenses of association to commit a crime under the laws of Turkey and the United States, as well as conspiracy. While the situation for Gülen is different, Turkey’s attempt to have Kanter returned primarily lies within section 3(b). Turkey claims that Gülen is responsible for the 2016 failed military coup which, if proven, could put Kanter in hot water for his known association with Gülen. However, Turkey has struggled to provide Department of Justice attorneys with plausible evidence to prove Gülen was behind the military coup. Without this evidence, the United States will remain reluctant to tie him to the coup, which will keep Gülen from being extradited under Article II (1)–(a) and Kanter from being extradited for possible association under Article II (3)–(b).

Turkey’s argument loses even more merit when the conditions of refusal in Article III of the Treaty are examined. Sub-section (1)–(a) of Article III specifically states that extradition shall not be granted where the requested party regards the offense to be that of a political character. Although Turkey believes that insults linking Kanter to FETO, which is led by fugitive Gülen), See, e.g., EU Denies Claims Of Designating Gülen Group as ‘Terrorist Org’ in Report, AHVAL NEWS (Apr. 15, 2018), https://ahvalnews.com/feto/eu-denies-claims-designating-Gulen-group-terrorist-org-report [https://perma.cc/C5N8-G3TD] (showing European Union failed to recognize Gülenist movement as terror group).

136. See Turk-U.S. Treaty, supra note 131, at 3 (discussing Turkey’s potential legal strategy).

137. See id. (implementing crimes of attempt, accomplice, accessory offenses).

138. See id. (providing conspiracy and association crimes).

139. See Frank, supra note 135 (discussing that Kanter is wanted for association within Gülen’s “terror group”).

140. For further discussion of Turkey’s claims against Gülen and his organization, see supra notes 62–68 and accompanying text. For further discussion of Kanter’s association and allegiance to Gülen, see supra notes 69–73 and accompanying text.

141. See Erkus, supra note 63 (detailing that Department of Justice attorneys have spent “thousands of hours” on Gülen’s extradition request but have not found plausible evidence that would meet evidentiary standards for extradition in America’s judicial system).

142. See id. (explaining Gülen’s case would not proceed through court system because of lack of enough evidence to pass through lower federal courts).


144. See id. (referencing Article III’s political character exception).
against the President are offenses that are punishable with penalties and prison, the United States would most likely characterize Kanter’s comments as political offenses, not legal offenses.\textsuperscript{145} The First Amendment to the Constitution allows freedom of speech even when that includes insults against the President of the United States.\textsuperscript{146} Going further, Turkey continues to refer to Kanter as a political target or opponent, rather than a wanted criminal, which evinces the nature of his so-called “offenses.”\textsuperscript{147}

The second part of Article III sub-section (1)–(a) continues by stating an extradition will not be granted where the United States concludes that the request is being made to punish or prosecute someone for an offense of political character or due to his political opinions.\textsuperscript{148} This portion of the Treaty albeit combats most of what Turkey is attempting to do in its extradition request of Kanter.\textsuperscript{149} Kanter’s insults or declarations of Erdogan’s political status are


\textsuperscript{148} See Turkey-U.S. Treaty, supra note 131, at 4–5 (detailing conditions of refusal for extradition).

\textsuperscript{149} See Ellentuck, supra note 6 (stating Kanter fears for his life following Turkey’s extradition request due to vocal opposition of Erdogan); see also Suzy Hansen, \textit{The Era Of People Like You Is Over: How Turkey Purged Its Intellectuals}, N.Y. TIMES (July 24, 2019), https://www.nytimes.com/2019/07/24/magazine/the-era-of-people-like-you-is-over-how-turkey-purged-its-intelectuals.html [https://perma.cc/PAC3-9K77?type=image] (showing Erdogan purged many Turkish academics who strived for different political structure in Turkey); see generally Timur, supra note 145 (acknowledging that insulting Turkey’s government is punishable by criminal prosecution in Turkey).
clearly his own political opinions and do not meet the standard for extradition set out in Article II (1)–(a).\textsuperscript{150} Turkey may continue to urge the United States that Kanter is involved in a “terror group” but it seems unlikely that association in the Gülenist movement is anything more than a political affiliation or opinion.\textsuperscript{151} Rather, Turkey will focus its efforts on proving Kanter’s involvement in the 2016 military coup that attempted to overthrow Erdogan.\textsuperscript{152}

Article III sub-section (1)–(a) additionally contains a provision stating that any offense committed or attempted against a Head of State or a Head of Government “[S]hall not be deemed to be an offense of political character.”\textsuperscript{153} The issue for Kanter with this clause is that he becomes more vulnerable in the wake of new evidence about the military coup.\textsuperscript{154} While Kanter is safe to lash-out against Erdogan and his administration, he can wind up in trouble with the extradition laws if he is found to be involved with the coup, which attempted a crime against the head of Turkey’s government.\textsuperscript{155} New evidence about Kanter’s involvement in the coup would most likely be permitted in a preliminary extradition hearing under Section 3190 of the United States Code if the United States followed through with the request at a later date.\textsuperscript{156} From there, a magistrate judge with jurisdiction can most likely find that the conduct matches the treaties and is punishable in both countries, but must decipher whether the crimes are “substantially analogous in Turkey and the United States.”\textsuperscript{157}

In a 2019 decision, the Ninth Circuit Court of Appeals decided that for two offenses to be substantially analogous, the court looks to whether the essential character of the transaction is the same

\begin{footnotesize}
\begin{enumerate}
\item[150.] See Turkey-U.S. Treaty, supra note 131, at 3 (stating that crimes for extradition must be punishable in both countries by penalty of at least one year in prison). For further discussion on Article II requirements in the Turkey-U.S. Treaty, see supra notes 117–119 and accompanying text.
\item[151.] For further discussion of the Gülenist movement, see supra notes 57–61 and accompanying text.
\item[152.] For further discussion of Turkey alleging Kanter to be a contributor in the 2016 military coup, see supra notes 47–50 and accompanying text.
\item[153.] Turkey-U.S. Treaty, supra note 131, at 4 (stating that qualifying offenses against Presidents do not fall under political character exception).
\item[154.] For further discussion of the 2016 Turkish military coup, see supra notes 47–56 and accompanying text.
\item[155.] See Caplan, supra note 146 (discussing constitutional freedom of speech rights); Turkey-U.S. Treaty, supra note 131, at 3 (stating punishment for crimes against heads of government).
\item[157.] See United States v. Knotek, 925 F.3d 1118, 1128–29 (9th Cir. 2019) (explaining “substantially analogous”).
\end{enumerate}
\end{footnotesize}
and made criminal by both statutes.\textsuperscript{158} The scope of the crime does not need to be the same in both countries or contain identical elements.\textsuperscript{159} Rather, it is enough that the act being charged is criminal in both jurisdictions.\textsuperscript{160} The Court emphasized in its opinion that the crux of substantial analogy is whether two countries' laws are "directed to the same basic evil."\textsuperscript{161}

New evidence linking Kanter to involvement in the coup could raise concern considering he can be extradited for criminal association under Article II of the Treaty and the coup featured a plethora of high-profile crimes in and of itself.\textsuperscript{162} Gülén would also be placed in hot water as the leader of the Gülénist movement and subject to extradition for leading the coup.\textsuperscript{163} However, this is merely speculative for now as Turkey has struggled to find legitimate evidence to back its extradition request.\textsuperscript{164}

B. Canadian Extradition Law and Kanter

Although it seems as if Kanter is safe in America right now, it is also clear he avoids traveling to Canada to prevent a potential arrest or incident that may lead to his extradition.\textsuperscript{165} Unlike traveling to London, which would most likely be a difficult process without the security of a passport, Kanter is free to travel internationally to Canada with the use of his Green Card.\textsuperscript{166} Still, he fears traveling

\textsuperscript{158} See id. at 1331 (elaborating on substantial analogous element of extradition findings); see also Wright v. Henkel, 190 U.S. 40, 58 (1903) (stating that general principles for international law for extradition cases, crimes done on which extradition is demanded must be made criminal by laws of both countries).

\textsuperscript{159} See Knotek, 925 F.3d at 1331 (citing Collins v. Loisel, 259 U.S. 309, 312 (1922)) (holding that dual criminality existed where petitioner was accused of obtaining jewelry by false pretenses, which qualified as cheating in India, but obtaining property under false pretenses in United States).

\textsuperscript{160} See Collins, 259 U.S. at 312 (ruling on sufficiency for substantial analogy).

\textsuperscript{161} Clarey v. Gregg, 138 F.3d 764, 766 (9th Cir. 1998) (explaining substantial analogy prong).

\textsuperscript{162} See Turk-U.S. Treaty, supra note 131, at 3 (indicating association crimes as extraditable offenses). For further discussion of the 2016 Turkish military coup, see supra notes 47–56 and accompanying text.

\textsuperscript{163} See Turk-U.S. Treaty, supra note 131, at 3–4 (prohibiting crimes against heads of state). For further discussion on the Gülénist movement hierarchy, see supra notes 57–61 and accompanying text.

\textsuperscript{164} See Erkus, supra note 63 (detailing Turkey’s struggles to link Gülén’s movement to Turkey’s 2016 military coup).

\textsuperscript{165} See West, supra note 17 (discussing Kanter’s refusal to travel to Canada with his team after Interpol issued Red Notice against him).

\textsuperscript{166} See McCann, supra note 5 (explaining that Kanter may travel to Canada as permanent resident with Green Card); see also U.S. Permanent Residents Can Visit Canada Without a Visa, IMMIGRATION ROAD (Feb. 15, 2011), https://immigrationroad.com/blog/u-s-permanent-residents-can-visit-canada-without-a-visa/ [https://perma.cc/LZH5-FJ2R] ("Permanent residents of the United States may
outside of the United States or Canada will place himself in dan-
ger.167 Kanter, however, does not seem to realize that he may be
safer from extradition in Canada than he is in the United States if
he is arrested.168

Canada’s Extradition Act provides it with the legal basis to
extradite a person living in Canada who is sought for extradition by
one of its extradition partners.169 Extradition partners of Canada
only include countries who have an extradition agreement with Ca-
nada, countries listed in the Extradition Act, or countries which
have a case-specific agreement with them.170 Turkey, unsurpris-
ingly, is not listed as a partner to Canada under the Extradition
Act.171 Going further, Canada also has no bilateral or multilateral
conventions with Turkey that speak to extradition procedures.172 It
seems then that Kanter, or anyone seeking shelter in Canada from
Turkey, only need to worry about a case-specific agreement be-
tween the countries.173

Even if that scenario were to arise, it most likely would not
favor Turkey considering the stringent requirements of Canada’s
Extradition Act.174 This Act is similar to United States extradition
law, in that it focuses on dual criminality principles within the coun-
tries.175 Except, Canada has a heftier requirement for case-specific
agreements than the United States under Part 2 sub-section

167. See McCann, supra note 19 (detailing Kanter’s worries about traveling to
London to play basketball); see also, West, supra note 17 (discussing Kanter’s fear of
leaving United States).

168. For further discussion of Canada’s international extradition laws, see infra
notes 169–183 and accompanying text.

169. See Extratadion Requests to Canada, CANADA DEP’T OF JUST. (Oct. 20, 2016),

170. See id. (explaining three types of extradition partners that Canada has).


172. For further discussion on the observation that there is no applicable Ca-
nadian extradition treaty with Turkey, see supra note 169 and accompanying text.

173. See Canadian Extradition Law, supra note 171 (discussing case-specific
agreements under Canada’s extradition laws).

174. See id. (showing extraditable conduct provisions from Canada’s Extradition
Act).

175. Compare United States v. Knotek, 925 F.3d 1118, 1128–29 (9th Cir. 2019),
with Canadian Extradition Law, supra note 171 (explaining Canada’s conduct pro-
visions). For further discussion on United States Extradition Law regarding dual
criminality, see supra notes 122–135 and 158–161 and accompanying text.
(3) (1) (i) of the Act.\textsuperscript{176} According to this provision, where a request to Canada is based on a specific agreement, the offense must be punishable by a prison term of five years or more in both countries.\textsuperscript{177} A term which is four years longer than what is required of dual criminality in the United States-Turkey Extradition Treaty.\textsuperscript{178}

The Minister of Justice in Canada eventually becomes the ultimate decision-maker in the process.\textsuperscript{179} After the minister grants authority to proceed with the process, the Canadian courts must determine whether there is evidence to justify the person’s surrender for extradition.\textsuperscript{180} If the court decides to commit the person for extradition, then the Minister of Justice literally has the power to decide whether to order the person’s surrender even where it means contradicting the court’s evidentiary finding.\textsuperscript{181} Even after the Minister renders a decision, the person committed may appeal their committal and seek judicial review of the Minister’s surrender order.\textsuperscript{182}

Considering Canada’s lack of relationship with Turkey, its heightened requirements for extradition, and its appeal process, it is likely that Turkey would have difficulty apprehending Kanter if he was arrested in Canada.\textsuperscript{183} This comes as no surprise due to Canada’s reluctancy to extradite criminals in the past, including some very high profile cases.\textsuperscript{184} For example, serial killer and rapist

\textsuperscript{176} Compare Part 2 sub-section 3(1)(ii) of Canadian Extradition Law, supra note 171 (explaining penalty for crimes within state provision), with Article II(1)(a) of the Turkey-U.S. Treaty, supra note 131 (explaining requirements for crime to be extraditable by American government).

\textsuperscript{177} See Part 2 sub-section 3(1)(ii) of Canadian Extradition Law, supra note 171 (discussing punishable prison term requirement of Canadian extradition specific agreements).

\textsuperscript{178} See Turk-U.S. Treaty, supra note 131, at 3 (“Offenses . . . which are punishable under both the federal laws of the United States and the laws of Turkey . . . for a period exceeding one year or by a more severe penalty.”).

\textsuperscript{179} For further discussion on Canadian Minister of Justice’s extradition power, see supra note 169 and accompanying text.

\textsuperscript{180} Compare Knotek, 925 F.3d at 1331 (listing elements of dual criminality), with Extradition Requests to Canada, supra note 169 (explaining role of Canadian courts in extradition proceedings).

\textsuperscript{181} For further discussion on the Canadian Minister of Justice’s final decision-making power, see supra note 169 and accompanying text.

\textsuperscript{182} See Extradition Requests to Canada, supra note 169 (noting possibility of appeal or judicial review).

\textsuperscript{183} For further discussion on Canada’s extradition process, see supra notes 165–178 and accompanying text.

Charles Ng, fled to Canada after committing his crimes to avoid the death penalty in the United States. Understanding that Ng would face death if extradited, Canada initially refused to return him to the United States. It took six years and a $6.6 million dollar legal battle for Canada to finally extradite Ng in 1991 to the United States, where he now sits on death row. Kanter’s offenses are far less serious, but Ng’s case shows Canada’s opposition to extradition, especially where the committed person may face torture and death if returned.

As of now, Kanter does not have much to worry about regarding extradition whether he is in the United States or Canada. Although new evidence is always possible, it seems that his concerns with traveling are focused primarily on capture or assassination. Kanter may be safe under United States and Canadian extradition laws, but Interpol, although unlikely, may have jurisdiction to apprehend him.

C. Interpol Concerns

It is also very probable that Turkey, the world’s most fertile abuser of Interpol, will be unsuccessful in obtaining Kanter through the Red Notice system. Because a Red Notice is not an international arrest warrant, a receiving country has the option of whether to arrest the wanted person, which many countries refuse.
to do.\textsuperscript{193} The United States is one of the countries that does not arrest fugitives based solely on Red Notices; rather they investigate first.\textsuperscript{194} The Criminal Division of the Department of Justice will make a determination if the wanted person on notice is eligible for extradition by examining the crimes of the accused and by looking to see if an applicable treaty exists between the two countries.\textsuperscript{195} If so, then the United States Attorney’s office will issue a warrant and take the matter to court itself.\textsuperscript{196} In Kanter’s case, the United States is aware that he is on Red Notice and clearly aware that he resides in the country, which makes it certain that the Department of Justice’s criminal division lacks any findings of extraditable crimes against him at this point.\textsuperscript{197}

Still, Kanter traveling to the wrong places could put him in harm’s way because Interpol is an international organization that puts all participating countries on alert for a wanted person.\textsuperscript{198} He would be fine traveling to Canada considering the absence of a Turkey-Canada treaty, but may have a hard time in other countries, like England.\textsuperscript{199} There does exist an extradition treaty between the

\begin{itemize}
\item \textsuperscript{195} See id. (declaring certain investigative process requirements to check someone within United States borders who is on Red Notice).
\item \textsuperscript{196} See id. (detailing functions of the US Attorney’s Office where Red Notice arrests pass through criminal division of Department of Justice, subsequently reaching them).
\item \textsuperscript{197} See Lindsey Wisniewski, \textit{Enes Kanter Remains in USA on “Red Notice” . . . But What Does That Mean?}, NBC Sports (Feb. 28, 2019), https://www.nbcsports.com/northwest/portland-trail-blazers/enes-kanter-remains-usa-red-notice-what-does-mean [https://perma.cc/3EDJ-G726] (showing that American news networks are aware Kanter is on Red Notice); see also McCann, supra note 5 (discussing Kanter’s Red Notice status while he is within United States); Erkus, supra note 63 (speculating that Turkey has lack of evidence against Gülen for Turkey’s coup, suggesting Turkey also lacks evidence against Kanter).
\item \textsuperscript{198} For further discussion of Red Notice alerts, see supra note 76 and accompanying text.
\item \textsuperscript{199} For further discussion on the lack of an extradition relationship between Canada and Turkey, see \textit{supra} notes 167–172, 183–188 and accompanying text.
\end{itemize}
United Kingdom and Turkey that could provide a remedy for Turkey through Interpol.\textsuperscript{200} In some cases, where a treaty between two countries does not exist regarding extradition procedures, a country can still extradite a wanted fugitive.\textsuperscript{201} Given the diplomatic relationship between Turkey and the United Kingdom plus the increased number of Turks and Muslims in that region of the world, it very well could be a reality for Kanter if he is caught in London.\textsuperscript{202} However, the high court of the United Kingdom may still be reluctant to extradite prisoners back to Turkey due to the overcrowded prisons.\textsuperscript{203} Regardless, chances of a Kanter assassination or attack in the United Kingdom is most likely higher than in the United States or Canada.\textsuperscript{204}

D. Kanter’s Future in America and Abroad

1. Kanter and the U.S.

The next step for Kanter is most likely to secure his American citizenship, which would relieve him of his current status as a “man without a country.”\textsuperscript{205} While the Green Card that Kanter holds provides some sense of security, the path to American citizenship

\begin{itemize}
  \item \textsuperscript{200} See The Extradition Act 2003 (Overseas Territories) Order 2016 (S.I. 2016/990), arts. 1(2), 3(1), Schs. 1, 3 available at http://www.legislation.gov.uk/uksi/2016/990/contents/made [https://perma.cc/7UT4-8PR2] (listing Turkey as Category 2 country in United Kingdom’s Extradition Act of 2003, meaning Turkey has extradition treaty with United Kingdom, although United Kingdom is not part of European Union).
  \item \textsuperscript{201} See Estlund, supra note 193 (highlighting Red Notice subjects could be transferred for prosecution via diplomatic channels, without existence of necessary treaty).
  \item \textsuperscript{202} See McCann, supra note 19 (observing Kanter’s comments that he could be killed if he travels to Turkey); see also Relations Between Turkey and the United Kingdom, Republic of Turkey Ministry of Foreign Affairs, http://www.mfa.gov.tr/relations-between-turkey-and-the-united-kingdom.en.mfa [https://perma.cc/YBA4-LPGA] (last visited Apr. 27, 2020) (summarizing positive tourism, trade, history statistics between Turkey and United Kingdom).
  \item \textsuperscript{203} See Bowcott, supra note 67 (inferring that United Kingdom judges will not extradite prisoners back to Turkey in this political climate considering their acknowledgement of Turkey’s overcrowded prison system).
  \item \textsuperscript{204} See Marc Berman, Enes Kanter Fears He Will Be Killed if He Goes to London Game, N.Y. POST (Jan. 5, 2019), https://nypost.com/2019/01/05/enes-kanter-wont-go-to-london-because-of-a-freaking-homicide/ [https://perma.cc/B7NJ-P5VA] (showing Kanter’s fears of assassination in London); see also McCann, supra note 19 (noting Turkish population is greater in Europe than North America).
  \item \textsuperscript{205} See Tim Reynolds, NBA Center Enes Kanter May Seek US Citizenship after Turkish Government Canceled His Passport Following Criticism, and It’s Thrown His Future For a Loop, BUSINESS INSIDER (May 22, 2017), https://www.businessinsider.com/ap-death-threats-may-prompt-nbas-kanter-to-become-us-citizen-2017-5 [https://perma.cc/TH6W-S3Z9] (discussing Kanter’s desire to gain American citizenship following his detention in Romania).
\end{itemize}
would inevitably lead him to obtaining a passport and more confidence in his travels.\textsuperscript{206} Turkey significantly hindered Kanter’s confidence in traveling abroad when they cancelled his passport, which explains his absence from several NBA games in recent times.\textsuperscript{207} Yet, an American passport may dismiss those fears and allow Kanter more freedoms to travel.\textsuperscript{208}

Kanter’s situation requires him to become a citizen through naturalization.\textsuperscript{209} While there are other ways to gain American citizenship, none of those options will readily apply to Kanter.\textsuperscript{210} Of course, he could, as a Green Card holder, marry an American citizen and become a citizen himself within three years, but it seems that the NBA superstar is not welcoming such offers at this time.\textsuperscript{211} Instead, Kanter will probably wait until 2021 to begin his citizenship process when the mandatory five-year waiting period for Green Card holders expires.\textsuperscript{212} The five-year period requires that the

\textsuperscript{206}. See McCann, supra note 5 (explaining that Kanter needs to gain American citizenship before he can become passport eligible).


\textsuperscript{208}. See McCann, supra note 5 (noting international fugitive’s capabilities with American passports).

\textsuperscript{209}. See Path To U.S. Citizenship, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, https://www.uscis.gov/us-citizenship/citizenship-through-naturalization/path-us-citizenship [https://perma.cc/5976-JT4F] (last visited Apr. 27, 2020) (explaining most common path to United States citizenship involves Green Card holders or permanent residents of at least five years to apply for citizenship through naturalization).

\textsuperscript{210}. See id. (listing other paths to United States citizenship for Green Card holders or permanent residents that do not apply to Kanter).


\textsuperscript{212}. See 8 U.S.C. § 1427 (a) (2006) (“No person . . . shall be naturalized unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years . . . .”); see also Chiari, supra note 209 (reporting Kanter laughs off marriage proposals that would speed up extradition process).
Green Card holder maintain continuous residence in the United States. This should not be an issue for Kanter considering he has not left the United States often since receiving his Green Card in 2016.

After meeting these requirements, Kanter can file his Form N-400 application and adhere to additional citizenship requirements such as taking a biometrics exam, attending to an interview with the United States Customs and Immigration Service, and finally taking the oath of allegiance. Kanter may additionally become subject to a background check and then pass an English language and civics tests. After the detention in Romania, speculation arose regarding whether Kanter may seek an expedited citizenship process given his political standing, but with less than two years to go it is likely he will remain steady on the five-year waiting period.

It is also worthy to note Kanter did not seek asylum in the United States, even though he may have been eligible to do so. Asylum seekers residing in the United States, whether legally or not, may apply for such a status if they are unable to return to their home country due to fear of persecution based on religion, membership of a social group, or political opinion. This type of persecution must be done on behalf of the home country’s

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213. See id. at § 1427 (b) (“Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship . . . shall break the continuity of such residence . . . .”).

214. For further discussion on Kanter’s refusal to travel internationally, see supra notes 17–19 and accompanying text.


216. See McCann, supra note 5 (touching upon background checks, education, and examinations involved in America’s naturalization process); see generally Citizen Path 2019, supra note 215 (acknowledging basic examinations for citizenship applicants).


218. See Reynolds, supra note 205 (showing that Kanter seeks citizenship rather than asylum).

219. See Citizen Path 2019, supra note 215 (explaining that asylum seekers may be granted stay for fears of persecution based on race, religion, nationality, membership in groups, or political opinion from their home country’s government).
Kanter, a legal United States resident, most likely meets this criteria as he is the subject of persecution from the Turkish government for his membership in the Gülenist movement and opposition towards President Erdogan’s policies. Yet, Kanter put his faith in the naturalization process, rather than asylum, unlike his good friend and religious leader, Gülen. Regardless, Kanter’s choice is a noble one and should be fruitful as he is hopefully on his way to obtain an American citizenship and subsequently a passport.

2. Rumors of NBA Expansion Overseas

A separate consideration that may affect Kanter as his NBA career prolongs is the possibility of the NBA’s expansion into Europe. NBA Commissioner, Adam Silver, expressed his desire to expand into Europe in the past. This should not come as a surprise considering the NBA conquered American interest nationwide with its popularity, and now seeks to expand beyond the United States. Following the 2016 NBA season, which was the same year Kanter received his United States Green Card, the NBA had just completed its 161st game in league history overseas after 220. See id (emphasizing that persecution must come from their home country’s government or their government’s unwillingness to control listed group(s)).

221. For further discussion on Kanter’s rift with the Turkish government see supra notes 6–10, 69–73 and accompanying text.


223. For further discussion on Kanter’s path to United States citizenship, see supra notes 209–217 and accompanying text.


225. See id. (explaining that Silver has had his eye on four potential NBA franchises in Europe); see also Bill Wilson, NBA Boss Adam Silver Hopes for Global Basketball Bounce, BBC News (Jan. 15, 2015), https://www.bbc.com/news/business-30754201 [https://perma.cc/WY4B-TBS8] (discussing Silver’s hopes of future expansion into Europe).

226. See Shane Ryan, The NBA is the Best Professional Sports League in America, GOLF DIGEST (Nov. 20, 2017), https://www.golfdigest.com/story/the-nba-is-the-best-professional-sports-league-in-america [https://perma.cc/CW7S-MXL4] (claiming that NBA has surpassed NFL in terms of popularity); see also Wilson, supra note 21 (discussing NBA’s surge in Europe as league’s teams continue to sell out games in London).
playing a total of seven games in Europe that season. The NBA has continued to have success in Europe since, as they have played at least one game in London each of the past two seasons.

Expansion into Europe would pose even more problems for Kanter considering his refusal to play internationally. As the league grows, Kanter would be subject to more away games in Europe, especially in London. While his Green Card may allow for this travel, we know that his concerns are more focused on being subject to assassination or capture by Turkish nationals in the United Kingdom and other regions. However, the NBA seems to sympathize with Kanter’s situation already and understands that the safety of all their players is a top priority.

Still, NBA expansion into Europe remains speculative considering the structural barrier of professional sports leagues in the United States and in Europe. For example, the NBA exemplifies a typical American sports league that conducts business under a mixed-mode private property structure. Franchises in the NBA are able to limit competition by controlling the entry of new players and new clubs through league wide restraints in addition to restraining free movement of prospective players through first year

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229. See McCann, supra note 19 (discussing Kanter’s absence from 2019 London game); see also West, supra note 17 (discussing Kanter’s refusal to travel to Toronto).

230. See Wilson, supra note 21 (referencing that NBA expansion into Europe may lead to development of four European franchises).

231. For further discussion on Kanter’s travel concerns, see supra notes 15–19 and accompanying text.

232. For further discussion on the NBA’s sympathy towards Kanter, see supra notes 98–100 and accompanying text.


234. See id. at 406 (noting NBA’s position within American sports leagues).
drafts and league-wide reserve systems. On the contrary, European sports leagues generally operate under a pyramid structure that features club promotion based around on-field performance. For example, in England’s Premier League, the three best teams from the second highest British division each season are promoted to the Premier League, while the three worst teams from the Premier League are demoted. Further, first-year athletes in European sports league are not forced to enter a first-year draft. Instead, athletes can sign a contract with any club of their choosing at any salary. In addition, the antitrust ideologies exemplified in American sports differ from European Community competition law. For these reasons as well as additional international expansion issues, Commissioner Silver recently stated that the NBA is not yet ready to expand into Europe.

For Kanter, Christmas in 2019 gave the Celtics superstar a very special gift: his guaranteed safety internationally. On December 25, 2019, Kanter traveled with the Boston Celtics and played in a game against the Toronto Raptors, in which he helped lead the Celtics to a big win. Kanter credited Canadian Prime Minister Trudeau and U.S. Senator Ed Markey for their diligent assistance in

235. See id. (discussing competition restraints implemented by NBA’s league structure).
236. See id. at 408 (differentiating European sports league’s pyramid structure with American sports league’s mixed-mode property structure).
237. See id. at 409 (explaining how England’s Premier League controls entering and exiting teams, which is typical of most European sports leagues).
238. See id. at 409 (noting European professional sports leagues do not use drafts to bring players into their leagues).
239. See id. (reporting that contracts provide possible entry into European leagues).
240. See id. at 410–11 (explaining that unlike United States competition law, European competition laws are intended to address both antitrust concerns and policy goals oriented towards objectives of European economic integration).
241. See Gary Washburn, NBA Commissioner Adam Silver on Expanding to Europe: ‘We’re Not Quite There Yet’, BOSTON GLOBE (Jan. 20, 2019), https://www.boston globe.com/sports/celtics/2019/01/20/nba-commissioner-adam-silver-expanding europe-not-quite-there-yet/jGsoFqAvZXkQ743dgouLN/ story.html [https://perma.cc/AU72-9ZX7] (“We’re not quite there yet, I think, for that level of expansion to the league in terms of quality play. At the same time, we don’t want to dilute the quality of NBA talent. That’s why my focus right now is building a very strong 30-team league. But it’s something that’s not completely out of the question, and I’m sure we’ll turn back to that at some point.”).  
ensuring his safety. This was Kanter’s first international game as a Celtic and marks a huge stepping stone for him in this entire situation. Although Canada made this happen for Kanter, it is still unlikely he will feel safe traveling to Europe to play in the near future while his tension with Turkey is still hot. It will be interesting to see how Kanter chooses to respond to future NBA International games or potential NBA expansion, if applicable, down the road.

IV. CONCLUSION: A SAFE BUT WANTED ATHLETE

In sum, Kanter is not your average international NBA superstar. President Erdogan of Turkey, who pinned the 2016 Turkish military coup on the religious group that Kanter follows, has constantly made efforts to have Kanter and Gülen returned to Turkey. Although Erdogan’s previous efforts have been unsuccessful, Kanter has remained extremely cautious in his international affairs and travels. While his fears of assassination or capture in Europe are warranted, his reluctance to travel in order to prevent a potential extradition is a precaution, at best.

At the situation’s current position, Turkey does not have an avenue to have Kanter extradited under their treaty with the United

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244. See Bontemps, supra note 242 (detailing Canada, United States working together to help ensure Kanter’s safety).


247. See id. (predicting Kanter probably will not travel overseas until his safety is ensured).

248. For further discussion of Kanter’s unorthodox rise to NBA superstardom, see supra notes 3–10 and accompanying text.

249. For further discussion on Erdogan’s trials to have Kanter and Gülen returned to Turkey, see supra notes 62–65, 85–90 and accompanying text.

250. For further discussion on Kanter’s absences from games that require international travel, see supra notes 17–19 and accompanying text.

251. For further discussion of Turkey’s inability to extradite Kanter, see supra notes 143–147, 165–168 and accompanying text.
States or their current extradition arrangement with Canada.\textsuperscript{252} Turkey may have more success with extradition in the United Kingdom, but it seems unlikely considering the United Kingdom’s past refusals to send Turkish nationals back home.\textsuperscript{253} Additionally, it is unlikely that any of these countries—the United States, Canada, or the United Kingdom—will choose to act on Turkey’s Interpol Red Notice for Kanter.\textsuperscript{254} On the contrary it seems Kanter’s situation will improve as he is only two years away from American citizenship eligibility and, hopefully, a passport.\textsuperscript{255} Further concerns may arise for Kanter if the NBA decides to expand into Europe, but the current set of circumstances makes it seem as if the league is not yet ready for such a venture.\textsuperscript{256} It is Kanter’s choice whether he wants to travel for these international games, as he has the support of the NBA and most of the United States.\textsuperscript{257} Still, his cautious approach is most likely an over-analyzation as it would be extremely difficult, if not impossible, for Turkey to obtain Kanter through extradition or Interpol.\textsuperscript{258}

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\\textsuperscript{252} For further discussion on the applicable extradition treaties and Kanter’s low chances of extradition, see supra notes 114–200 and accompanying text.

\textsuperscript{253} For further discussion on the United Kingdom’s refusal to extradite Turkish nationals, see supra notes 66–68, 203–204, and accompanying text.

\textsuperscript{254} See Erkus, supra note 63 (suggesting Interpol Red Notice should not threaten Kanter).

\textsuperscript{255} For more on Kanter’s American citizenship and passport situation, see supra notes 205–214 and accompanying text.

\textsuperscript{256} For further discussion on NBA expansion into Europe, see supra notes 224–241.

\textsuperscript{257} For further discussion on the NBA’s support of Kanter’s travel decisions, see supra notes 98–101 and accompanying text.

\textsuperscript{258} For further discussion on Turkey’s inability to extradite Kanter, see supra notes 143–147, 165–168, and accompanying text.

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