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LAW ON INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

Note: This Law ceases to be valid on the day of entering into force of the Law on International Cooperation in Criminal Matters ("Official Gazette of the Republic of North Macedonia" No. 77/21).

CHAPTER I GENERAL PROVISIONS

Basic provisions

Article 1

This Law shall govern the conditions and the proceedings for international cooperation in criminal matters (herein after referred to as: international cooperation).

Article 2

The international cooperation shall be provided in accordance with the provisions of this Law unless otherwise specified by an international agreement ratified in accordance with the Constitution of the Republic of Macedonia (herein after referred to as: international agreement) or other legal act which governs the criminal proceedings of an international court whose jurisdiction is accepted by the Republic of Macedonia.

Article 3

(1) An international cooperation shall be provided for all proceedings related to criminal offences whose prosecution is under jurisdiction of a judicial authority in the requesting state at the time of the submission of the letter rogatory for international legal assistance in criminal matters or the request for international cooperation in criminal matters.

(2) The international cooperation shall be also provided in misdemeanour proceedings that have been conducted before the misdemeanour authorities for acts for which misdemeanour sanctions are foreseen under the regulations of Republic of Macedonia and in cases where a proceeding can be initiated before the court that is actually competent for the criminal matter after a decision has been delivered.

(3) The international cooperation shall be provided in proceedings before the European Court of Human Rights, European Court of Justice, International Criminal Court, and if regulated by an international

agreement, before other international organisations in which the Republic of Macedonia is a member.

(4) The provisions of this Law shall also be applied on international cooperation in proceedings against minors.

Types of international cooperation

Article 4

The international cooperation in criminal matters includes:

- 1) International legal assistance;*
- 2) Assumption and assignment of criminal prosecution;*
- 3) Extradition and*
- 4) Enforcement of criminal sentences and transfer of sentenced persons.*

Definition of certain terms used in this law

Article 5

The terms used in this law shall have the following meaning:

1. "Domestic competent authority" shall mean the Ministry of Justice, a domestic judicial authority or misdemeanour authority that act upon the requests for international cooperation in the Republic of Macedonia.

2. "Foreign competent authority" shall mean an authority of a foreign state that according to the legislation of the foreign state, respectively according to an international agreement is competent for an international cooperation.

3. "Domestic judicial authority" shall mean a court or the public prosecution office that according to the law are competent for the international cooperation in the Republic of Macedonia.

4. "Requesting state" shall mean the Republic of Macedonia or a foreign state whose competent authority has sent a request for international cooperation in criminal matters in the field of assumption and assignment of criminal prosecution, extradition, enforcement of foreign criminal sentences and transfer of sentenced persons.

5. "Requested state" shall mean the state whose competent authority acts upon the request for assumption and assignment of the criminal prosecution, extradition, enforcement of foreign criminal sentences and transfer of sentenced persons.

6. "Sending state" shall mean the Republic of Macedonia or a foreign state whose competent authority sent the letter rogatory for international legal assistance.

7. "Receiving state" shall mean the Republic of Macedonia or a foreign country whose competent authority is acting upon the letter rogatory for international legal assistance.

8. "Letter rogatory for international legal assistance" shall mean a document requesting international legal assistance, and

9. "Request for international cooperation in criminal matters" shall mean a document requesting international cooperation in the field of assumption and

assignment of criminal prosecution, extradition, enforcement of foreign criminal sentences and transfer of sentenced persons.

Ways of communication

Article 6

(1) The domestic competent authority shall send a letter rogatory for international legal assistance (herein after referred to as: letter rogatory) or a request for international cooperation in criminal matters (herein after referred to as: request) to the foreign competent authorities according to the provisions of this Law.

(2) The letter rogatory or the request by the foreign competent authority shall be sent in writing through the Ministry of Justice (herein after referred to as: the Ministry).

(3) The domestic competent authority shall send the letter rogatory or the request directly to the foreign competent authority in terms of mutuality or if provided for by an international agreement, and a copy of the letter rogatory or the request shall be sent to the Ministry as well.

(4) Referring to paragraph 3 of this article, in case of emergency the letter rogatory or the request shall be sent through the channels of the international police cooperation, and a copy of the letter rogatory or the request shall be sent to the Ministry.

(5) If an international agreement does not exist or if under the international agreement a diplomatic way of communication is not provided, the Ministry shall send the letter rogatory or the request using the diplomatic way through the Ministry of Interior.

(6) The letter rogatory or the request can be received electronically or through another way of telecommunication for which a record shall be kept, and the original shall be sent through a regular mail.

Urgency in handling

Article 7

The Ministry shall immediately deliver the letter rogatory or the request to the domestic competent authority, unless the letter rogatory or the request has to be rejected.

Acting upon letter rogatory or request

Article 8

The domestic competent authority shall act upon the letter rogatory or the request in accordance with the domestic legislation unless otherwise provided under the international agreement.

Delivery of the letter rogatory or the request

Article 9

If the domestic competent authority which the letter rogatory or the request has been sent to is not competent to act upon it, it shall immediately deliver the letter rogatory or the request to the domestic competent authority and shall notify the sending authority about that.

Rejection of international cooperation

Article 10

(1) The domestic competent authority shall reject the letter rogatory if:

1) acting upon it is contrary to the Constitution of the Republic of Macedonia or it violates the sovereignty, the security and the safety of the Republic of Macedonia;

2) it refers to an act that is considered as a political criminal offence or an act that is related to a political criminal offence;

3) it refers to a criminal offence that is related to violation of the military duty, and

4) it can be reasonably assumed that the person whose extradition is requested was criminally prosecuted or sentenced because of its racial, ethnical and social affiliation or because of his or her political or religious beliefs in the time of extradition, respectively that his or her position would become more difficult because of one of those reasons.

(2) The domestic competent authority shall reject the request if:

1) the proceedings in the Republic of Macedonia against the accused for the same criminal offence has been stopped as a result of material legal reasons or the person has been acquitted or has been released from a sentence or the sanction has been enforced or it cannot be enforced according to the legislation of the state where the verdict has been reached;

2) a criminal proceedings has been initiated in the Republic of Macedonia against the accused for the same criminal offence, and

3) the criminal prosecution, the enforcement of the sanction, the safety and the protection measures are excluded because of absolute prescription according to the legislation of the Republic of Macedonia.

(3) The provisions from paragraph (2), number 1 and 3 of this article shall not be applied in cases when there is a repetition of the criminal proceedings in the Republic of Macedonia.

(4) The decision for rejection of the letter rogatory or of the request shall be elaborated unless otherwise specified by an international agreement.

Adjournment of international cooperation

Article 11

The domestic competent authority may adjourn the international cooperation if that affects the criminal prosecution, the course of the investigation or the proceedings in progress before the domestic competent authority, and which is related to the letter rogatory or the request and it shall notify the foreign competent authority that sent the letter rogatory or the request about that.

Mutuality

Article 12

(1) The domestic competent authority shall act upon a request by a foreign competent authority that the Republic of Macedonia has not concluded an agreement for international cooperation with, only if the foreign competent authority provides a guarantee in writing that it shall also act upon such request by the domestic competent authority.

(2) The guarantee in writing from paragraph (1) of this article shall be immediately delivered by the foreign competent authority to the domestic competent authority.

(3) The guarantee in writing from paragraph (1) of this article shall not be requested for enforcement of delivery of court decisions, petitions and other documents.

Costs

Article 13

The costs incurred during the actions upon the letter rogatory or the request shall be borne by the Republic of Macedonia if those costs were incurred on its territory unless otherwise stipulated by an international agreement or by this law.

Languages in use

Article 14

The domestic competent authority shall send the letter rogatory or the request together with the documentation in Macedonian language and in Cyrillic script with a translation into the language of the certain state and into one of the official languages used in the Council of Europe.

CHAPTER II INTERNATIONAL LEGAL ASSISTANCE

Concept

Article 15

The international legal assistance shall include:

- enforcement of procedural actions such as delivery of documents, written evidence and acts related to the criminal proceedings in the sending state;*
- delivery of spontaneous information;*
- exchange of certain information and notifications;*
- temporary transfer of persons deprived of freedom;*
- cross-border observation;*
- controlled delivery;*
- using persons with hidden identity;*
- joint investigation teams;*
- monitoring communications;*
- interrogation through video conference;*
- interrogation through telephone conference;*
- searching of premises and persons;*
- temporary security of items, property or means related to the criminal offence;*
- temporary freezing, confiscation and retention of assets, bank accounts and financial transactions or incomes from a criminal offence;*
- confiscation of property and property benefits;*
- deprivation of items;*
- protection of personal data;*
- criminal and civil liability of officials, and*
- delivery of extracts from criminal records.*

Form and content of the letter rogatory

Article 16

- (1) The letter rogatory shall be submitted in writing.*
- (2) The letter rogatory shall include:*
 - 1) Name of the authority that sent the letter rogatory and name of the authority that it has been sent to;*
 - 2) Legal basis for providing international legal assistance;*
 - 3) Description of the actions and the reason for submitting letter rogatory;*
 - 4) Legal denomination of the criminal offence and short description of the actual situation;*
 - 5) Personal data and citizenship of the person an international legal assistance is requested for;*
 - 6) Capacity of the person in the proceedings and*
 - 7) Name of the document being delivered and name and address of the receiver in case of delivery of judicial and other records.*
- (3) The letter rogatory and the records must be signed and certified with a stamp of the judicial or other competent authority that delivers them.*
- (4) If the data included in the letter rogatory and the submitted records are not sufficient, the sending authority may be requested to submit additional data and records in a reasonable time limit from the day of the receipt of the letter rogatory.*

Way of acting

Article 17

- (1) The domestic competent authority shall act upon the letter rogatory in a way that is specified in the letter rogatory.*
- (2) The domestic competent authority shall immediately decide upon the letter rogatory by the foreign competent authority.*
- (3) If the domestic competent authority decides that it is not in a position to act upon the letter rogatory in the frame of the time limit specified therein, and having regard to the explanation in paragraph (2) of this article that each adjournment leads to a significant disorder of the proceedings before the foreign competent authorities, the domestic competent authority shall immediately notify the foreign competent authority about the time needed for acting upon the letter rogatory.*
- (4) If it is not possible completely or partially to act upon the letter rogatory by the foreign competent authority, the domestic competent authority shall immediately notify the foreign competent authority stating the way it can be acted upon and the reasons for not being able to act completely upon the letter rogatory.*

Cases when the letter rogatory cannot be rejected

Article 18

The domestic competent authority cannot reject the letter rogatory for criminal offences against humanity and the international law and attempt for committing or complicity in these criminal offences.

Summons in case of international legal assistance

Article 19

When persons have been summoned in instance of providing international legal assistance, the summons does not include a warning for being taken into custody.

Delivery

Article 20

(1) The delivery of the records shall be proved with a delivery note or statement for the minutes which include the place and date of receipt and signature of the receiver.

(2) In case of non-delivery the foreign country shall be immediately notified about the reasons thereof.

Interrogation of a person with place of residence in a foreign country

Article 21

(1) A person resident in a foreign country who has been summoned by a domestic judicial authority to come to Republic of Macedonia as a witness or expert in a criminal proceedings cannot be prosecuted, taken into custody or subjected to any kind of limitation of his or her personal freedom for offences or verdicts that are not stated in the summons, and which originate before its arrival.

(2) The protection of the person from paragraph (1) of this article shall not be applied if the persons after leaving the territory of the Republic of Macedonia returns or does not leave the territory of the Republic of Macedonia in a period of eight days after the interrogation.

Presence of official during undertaking actions of legal assistance

Article 22

(1) In respect of the letter rogatory by a foreign competent authority for presence of a foreign official during undertaking actions for international legal assistance before a domestic judicial authority, the domestic judicial authority shall immediately notify the foreign competent authority if it agrees with the request.

(2) If the domestic judicial authority agrees, it shall immediately notify the foreign competent authority about the date and place of undertaking actions for cooperation.

(3) The representatives of the foreign competent authority and the persons who participate in the criminal proceedings can be present at the time of undertaking actions for international legal assistance if the domestic judicial authority agrees to that.

(4) If the persons from paragraph (3) of this article cannot be present, they have the right to submit questions in writing.

Temporary extradition and transit of person deprived of freedom

Article 23

(1) If for the needs of an investigation or criminal proceedings which is in progress in a foreign state the foreign competent authority delivers a summons for a detained person or a person who is serving a prison sentence in the Republic of Macedonia to be interrogated in capacity of a witness or because of confrontation, the Republic of Macedonia may temporary extradite this person to the foreign country.

(2) The decision for temporary extradition of the requested person shall make the criminal council of the competent court after receiving a previous opinion of the state prosecutor.

(3) The person from paragraph (1) of this article shall be temporary extradited to the foreign competent authority if it provides a guarantee in respect of his or her protection and under the condition the person to be returned in a period specified by the Republic of Macedonia.

(4) The domestic judicial authority can reject the temporary extradition if:
- the person deprived of freedom does not give a consent to the minutes for his or her temporary extradition;
- the temporary extradition of the person deprived of freedom leads to a prolongation of his or her deprivation of freedom, and
- there are other reasons that are contrary to the temporary extradition.

(5) The temporary extradition can be adjourned if the presence of the person deprived of freedom is necessary in a criminal proceedings conducted before the domestic judicial authorities.

(6) In the case of paragraph (1) from this article, the temporary extradited person remains in custody in the foreign state for the needs of a proceeding before the foreign competent authority until his or her return to the Republic of Macedonia.

(7) When a third state shall extradite a detained person or a person serving a prison sentence to another state through the territory of the Republic of Macedonia and if that person is not a citizen of the Republic of Macedonia, the transit of the person shall be approved by the Minister of Justice of the Republic of Macedonia.

Reimbursement of expenses

Article 24

(1) The witness or the expert who appears on summons by the domestic judicial authority shall be entitled to reimbursement of travelling expenses and daily allowances in accordance with the domestic legislation.

(2) The right to reimbursement of expenses shall be indicated in the summons for the persons from paragraph (1) of this article, and at their request an advance payment can be realised.

(3) The delivery of the expert opinion can be conditioned with a previous advance payment by the domestic judicial authority before which the proceedings are conducted and it shall be at the expense of the foreign state.

(4) The domestic judicial authority shall not be entitled to reimbursement of expenses for delivery of expert opinion such as:

- a fee for writing expert opinion report and other costs that might incur in relation to the delivery of expert opinion, and*
- for the costs for temporary extradition of persons deprived of freedom because of testifying or confrontation in the sending state.*

Delivery of spontaneous information

Article 25

(1) The domestic judicial authority has the right under the principle of mutuality and without receiving previous letter rogatory to deliver information to the foreign competent authority related to the criminal offences which has been collected during its own investigations if it shall be deemed that the delivery of such information might help to initiate or implement an investigation or court proceedings or if that might lead to sending letter rogatory for international legal assistance.

(2) The domestic judicial authority shall ask the foreign competent authority to which the information from paragraph (1) of this article has been delivered to submit a report on all activities that have been undertaken on the basis of this information, as well as a delivery of transcript of all decisions that have been reached.

(3) According to the regulations for protection of personal data the domestic judicial authority that delivered the information from paragraph (1) of this article has the right to set certain conditions for the usage of the information in the foreign state where it has been delivered.

Transfer of temporary seized objects, documents and property benefits

Article 26

(1) The objects, documents and property benefits that were temporary seized, as well as the records and the decisions for temporary seizure, shall be transferred to the foreign competent authority at its request after the termination of the proceeding for international legal assistance in the Republic of Macedonia.

(2) The objects, documents and property benefits from paragraph (1) of this article shall be transferred to the foreign competent authority if:

- the foreign competent authority guarantees their return without reimbursement after the termination of the procedure of taking evidence;*
- the third person proves that he or she was not notified and couldn't know that the object, the document or the property benefits have been acquired with a criminal offence; and*
- the injured party with residence or domicile in the Republic of Macedonia or the state authority emphasises its right to the submitted items, documents and property benefits.*

(3) In case of criminal proceedings in progress before a domestic judicial authority the transfer shall be adjourned until the effective termination of the proceedings.

Confiscation of property and property benefits

Article 27

(1) The confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Law on Criminal Proceedings and international agreements.

(2) The money obtained from the enforcement of the property confiscation order shall be at the disposal of the Republic of Macedonia as follows:

1) if the amount obtained from the enforcement of the confiscation order is lower than 10,000 EUR or equal to that amount, the amount shall flow into the Budget of the Republic of Macedonia, and

2) in all other cases the Republic of Macedonia shall transfer 50% of the amount obtained from the enforcement of the confiscation order to the foreign state.

(3) The other property apart from money obtained from the enforcement of the confiscation order shall be placed at disposal in one of the following ways upon decision of the domestic competent authority:

1) the property can be sold and in that case the income from the sales shall be placed at a disposal in accordance with paragraph (2) of this article, and

2) the property can be transferred to a foreign state, and if the confiscation order includes money, the property can be transferred to the foreign state when it gives its consent.

Transfer of seized objects and property benefits

Article 28

(1) The objects and the property benefits seized in order to protect them can be transferred to the foreign competent authority at its request.

(2) The objects and the property benefits from paragraph (1) shall include the following:

1) objects the criminal offence was committed with;

2) objects that resulted from the committed criminal offence or their equivalent value, the incomes from the criminal offence or their equivalent value, and

3) the presents given in order to stimulate the committing of criminal offence, as well as the rewards for the criminal offence or their equivalent value.

(3) The transfer of the objects and the property benefits from paragraph (1) of this article can be realised on the basis of an effective and enforceable decision by the foreign competent authority.

(4) The objects and the property benefits from paragraph (1) of this article shall be permanently kept in the Republic of Macedonia if:

1) those represent goods under temporary protection or cultural inheritance or if they are natural rarities of the Republic of Macedonia;

2) the injured party is has its residence or domicile in the Republic of Macedonia and they shall be returned to him/her;

3) the domestic competent authority emphasises the right of the Republic of Macedonia to them;

4) the person has his or her residence or domicile in the Republic of Macedonia and did not participate in committing the criminal offence, or proves that it didn't know and couldn't know that the object or the property benefits have been acquired through committing a criminal offence in the Republic of Macedonia or abroad;

5) they are required for the implementation of a criminal proceeding that is in progress in the Republic of Macedonia;

6) they are required for introduction of the measure for confiscation of property and property benefits and seizure of the objects, and

7) those represent objects that must be seizure according to the Criminal Code.

Temporary measures

Article 29

(1) At the request of the foreign competent authority the domestic judicial authority shall introduce temporary measures for collecting evidence material and for security of the collected evidence or for protection of the endangered legal interests.

(2) The domestic judicial authority can act partially upon the request from paragraph (1) of this article or it may temporary limit the implementation of the letter rogatory.

Confidentiality

Article 30

(1) The foreign competent authority can ask the Ministry and the domestic judicial authority that the letter rogatory remains confidential unless it is required for its implementation.

(2) If it is not possible to implement the letter rogatory from paragraph (1) of this article, the foreign competent authority shall be notified immediately.

Delivery of extracts from the criminal records

Article 31

(1) The Ministry shall notify the foreign competent authority about all effective criminal judgements passed on its citizens, registered in the criminal records.

(2) At the request of the foreign competent authority the Ministry shall deliver:

1) transcript of the judgement;

2) extracts and other data from the criminal records; and

3) data for the persons who are citizens of the receiving state, and who are under investigation or against who a criminal proceeding has been initiated in the Republic of Macedonia.

(3) For criminal offences such as making and putting into circulation counterfeit money, unauthorized production, sale of narcotics, psychotropic substances and precursors, human trafficking, display of pornographic material to children, as well as for other criminal offences for which a centralisation of the data is foreseen by international agreements.

(4) The domestic competent authority before which a criminal proceeding is conducted is obliged to deliver the data for the criminal offence and the offender and the effective judgement to the Ministry of Interior.

Notification about regulations

Article 32

(1) At the request of the domestic judicial authorities the Ministry shall acquire provisions of the legal regulations from the foreign competent authorities that are valid in other countries and notifications about certain legal issues.

(2) The Ministry shall also act in the way from paragraph (1) of this article when the foreign competent authority requires that.

Interrogation through video conference

Article 33

(1) If the person who has to be interrogated in his or her capacity as witness or expert is on a territory of another state, the domestic judicial authority can request the interrogation of the person to be performed through a video conference.

(2) The foreign competent authority shall give its consent to interrogation through a video conference if that is in accordance with the legislation of the foreign state and if the foreign state has technical equipment for conducting such interrogation.

If the foreign state has no such equipment at disposal, the Republic of Macedonia can place its own equipment at disposal if the foreign state agrees to that.

(3) If a foreign judicial authority is requesting an interrogation through a video conference of a person in his or her capacity of witness or expert who resides in the Republic of Macedonia, the competent Public Prosecutor shall decide on the request.

(4) The interrogation through a video conference can be conducted if the following rules apply:

- the interrogation through a video conference shall be conducted before a domestic judicial authority according to the domestic legislation, and if required, an interpreter shall be present;*
- the domestic judicial authority before which the interrogation is conducted shall determine the identity of the person being interrogated;*
- the domestic judicial authority before which the interrogation is conducted shall provide measures for protection of the person being interrogated; and*
- the interrogated person can invoke his or her right not to give a statement in a capacity of witness or expert.*

(5) For the video conference a minute shall be prepared which includes the date and place of interrogation, the identity of the persons being interrogated, the identity and the positions of all other persons who participated in the interrogation, all made oaths and the technical conditions under which the interrogation was conducted.

Interrogation through telephone conference

Article 34

(1) If the person who has to be interrogated in a capacity of a witness or expert is in a territory of another state, the domestic judicial authority is entitled to request the person to be interrogated through a telephone conference.

(2) If the foreign competent authority is requesting an interrogation through a telephone conference of a person in a capacity of witness or expert

who is in the territory of the Republic of Macedonia, the competent Public Prosecutor shall decide on the request.

(3) The interrogation through a telephone conference can be conducted if:

- the person agrees to the interrogation and*
- the telephone conference is in accordance with the domestic legislation.*

(4) The request to conduct a telephone conference shall include data about the date and place of the interrogation and an indication of the given consent by the person who should be interrogated.

(5) The domestic judicial authority that conducts the telephone conference shall undertake the following actions:

- to inform the person about the date and place of interrogation;*
- to determine the identity of the person; and*
- to confirm that the person agrees to be interrogated through a telephone conference.*

Cross-border observation

Article 35

(1) If during the investigative procedure in a foreign country subject to observation is a person who is suspected of being involved in committing a criminal offence or a person for whom there are serious reasons to believe that he or she can help in the identification of a person who is suspected of being involved in committing a criminal offence about which according to the provisions of the Law on Criminal Proceedings special investigative measures can be applied, the foreign state is entitled to ask the competent Public Prosecution Office of the Republic of Macedonia to allow officials of the foreign state to continue with the started observation in the territory of the Republic of Macedonia.

(2) On the basis of the previously delivered request for international legal assistance the competent Public Prosecution of the Republic of Macedonia shall give the authorisation to continue with the observation.

(3) The officials authorised by the domestic competent authorities shall have the right to request the foreign competent authorities to allow the continuation of the started observation in a territory of a foreign country when the investigative procedure is being conducted in the Republic of Macedonia.

(4) When because of especially urgent reasons a previous authorisation by the competent Public Prosecution of the Republic of Macedonia cannot be requested, the authorised officials of the foreign state may continue with the observation under the following conditions:

1) the sending state shall immediately notify the competent Public Prosecution in whose territory continues the observation about crossing the border and

2) it shall additionally without delay deliver the letter rogatory for international legal assistance according to paragraph (1) of this article which includes the reasons for crossing the border without previous authorisation.

(5) The observation from paragraph (1) of this article shall be stopped immediately if the foreign state does not inform the competent Public Prosecutor of the Republic of Macedonia about crossing the border or if the authorisation from paragraph (4) of this article has not been received within five hours after crossing the border.

(6) During the observation from paragraph (1), (3) and (4) of this article:

1) the authorised officials of the foreign competent authority who conduct the observation in the territory of the Republic of Macedonia shall act according to the legislation of the Republic of Macedonia and shall respect the orders of the domestic competent authorities;

2) during the observation in the territory of the Republic of Macedonia the authorised officials of the foreign competent authority shall have a document which confirms that they received an authorisation, except in the case from paragraph (4) of this article, and they shall be able at any time to prove their official capacity;

3) the authorised officials of the foreign competent authority conducting an observation in the territory of the Republic of Macedonia may carry their service weapons during the observation unless otherwise decided by the domestic competent authorities, and the use of weapons is prohibited except in the case of self-defence;

4) the authorised officials of the foreign competent authority shall be prohibited from entering into dwellings and places that are not available to the public and

5) the foreign competent authorities that the authorised officials conducting observation in the territory of the Republic of Macedonia come from shall provide help to the investigation following the observation at the request of the domestic competent authorities.

Controlled extradition

Article 36

(1) At the request of the Public Prosecutor of the Republic of Macedonia or of the competent authorised public prosecutor the competent the judge appointed to conduct the preliminary proceedings may upon order allow commencement of controlled extradition of persons and objects from a foreign state to the Republic of Macedonia in the frame of the criminal investigation for criminal offences for which special investigative measures can be applied according to the provisions of the Law on Criminal Proceedings.

(2) The competent public prosecutor of the Republic of Macedonia shall make an order for commencement of controlled extradition for each case separately according to the domestic legislation.

(3) The judicial police and other officials authorised by the competent public prosecutor of the Republic of Macedonia or by the competent the judge appointed to conduct the preliminary proceedings shall be competent for the operation, management and control of the activities for the controlled extradition.

(4) During the controlled extradition technical recourses can be used in accordance with the domestic legislation for keeping records of the criminal offences for which special investigative measures can be applied according to the Law on Criminal Proceedings.

(5) The competent public prosecutor of the Republic of Macedonia may file a request to the foreign competent authorities for organisation of controlled extradition of persons and objects in its territory.

Using persons with hidden identity

Article 37

(1) The competent public prosecutor of the Republic of Macedonia may seek assistance from a foreign state and provide assistance to a foreign state within the implementation of criminal investigations of persons with hidden identity.

(2) For each separate case the competent public prosecutor of the Republic of Macedonia or the the judge appointed to conduct the preliminary proceedings shall issue an order in accordance with the domestic legislation whereby both parties shall agree on the time period for using persons with hidden identity, on the conditions and the legal status of the respective persons with hidden identity.

(3) Using persons with hidden identity shall be implemented according to the domestic legislation and the legislation of the state in whose territory is conducted the criminal investigation, and the Republic of Macedonia and the foreign state shall cooperate in order to provide preparations and observation, as well as to introduce safety measures for the person with hidden identity.

Joint investigation teams

Article 38

(1) The domestic competent authorities for detection and prosecution of organised crime and corruption can be part of the joint investigation teams with the foreign competent authorities, formed for a particular purpose and with limited duration and possibility for its extension if both states that formed the team agree to the extension.

(2) The states that formed the team from paragraph (1) of this article shall determine the composition of the team by mutual consent and the team shall be formed in the territory of one of the states.

(3) The joint investigation team may be formed when within the investigative procedure complex investigative actions for mobilisation of significant resources have to be implemented, as well as when a coordinated action of the interested parties is necessary because of the complexity of the case.

(4) The joint investigation team shall implement its operations in accordance with the legislation of the state in whose territory the operations are implemented. The responsible person of the team shall be the representative of a competent authority which participates in the criminal investigation of the state in whose territory the team implements its operations.

The required organisational conditions for the implementation of the operations of the team shall be provided by the state in whose territory the team implements its operations.

(5) If the joint investigation team needs assistance from a state which didn't participate in the forming of the team, the request for legal assistance may be sent to that state.

Criminal liability of authorised persons

Article 39

During the implementation of the activities specified in articles 35, 36, 37 and 38 from this law, the authorised officials from the foreign state in whose territory no actions have been implemented shall be equal to the authorised officials in the Republic of Macedonia where the actions were implemented in respect of the offences where they are victims or the offences they committed, unless otherwise agreed by the Republic of Macedonia and the foreign state.

Civil liability of authorised persons

Article 40

(1) When in accordance with the articles 35, 36, 37 and 38 of this Law the authorised officials of a foreign state are on assignment in the territory of the Republic of Macedonia, the foreign state where they come from shall be liable for the damages they might cause during the implementation of the activities.

(2) If the authorised officials of the Republic of Macedonia cause damages while being on assignment in a territory of a foreign state, the Republic of Macedonia shall completely reimburse the amount of the damage.

(3) The provisions of this article shall not be applied unless otherwise specified by a ratified international agreement.

Protection of personal data

Article 41

(1) The personal data transferred from the Republic of Macedonia to a foreign state as a result of implementation of a letter rogatory on the basis of this Law may be used by the foreign state only for:

- a) the needs of the proceedings;*
- b) the needs of other court or administrative proceedings directly related to the proceedings; and*
- c) prevention of direct and serious danger to public safety.*

(2) As an exception of paragraph (1) of this article the transferred personal data from the Republic of Macedonia to a foreign state may be used for other purposes only upon previous consent of the person whose data are subject to transfer or if they are from the Republic of Macedonia.

(3) The Republic of Macedonia may refuse a transfer of personal data if:

- a) the personal data are protected according to the domestic legislation; and*
- b) the foreign state hasn't ratified the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of the Council of Europe from 28 January 1981 and the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data regarding supervisory authorities and transborder data flow.*

(4) When the Republic of Macedonia transfers data received from a foreign state because of an execution of a certain request delivered on the basis of this Law, it can request the foreign state to which the data have been transferred to deliver information about their application.

(5) The personal data subject to transfer to a foreign state shall be deleted or destroyed immediately if it has been determined that they are not correct, or if the reasons, respectively the conditions for their transfer terminated.

(6) The person whose data are or will be subject to transfer may request to be notified about the transferred personal data and about the purpose of their processing if that is in accordance with the domestic legislation.

CHAPTER III

ASSUMPTION AND ASSIGNMENT OF CRIMINAL PROSECUTION

I. Assumption of criminal prosecution

Assumption of the criminal prosecution in the Republic of Macedonia

Article 42

(1) The request of the foreign competent authority to assume criminal prosecution in the Republic of Macedonia against a citizen of the Republic of Macedonia or against a person with residence or domicile in the Republic of Macedonia for criminal offence committed in a foreign state shall be submitted together with the criminal records to the competent public prosecutor in the region where the person has his or her residence or domicile.

(2) If a legal claim on property has been filed in the foreign competent authority, the domestic judicial authority shall act upon it as if it was filed in a proceeding before the domestic judicial authority.

(3) The domestic competent authority shall notify the foreign competent authority which submitted the request about the rejection to assume criminal prosecution, as well as about the effective decision that was reached within the criminal proceedings.

Assumption of criminal proceedings

Article 43

(1) The criminal proceeding shall be assumed only when the criminal offence about which a prosecution is requested is a criminal offence according to the domestic legislation.

(2) If the criminal proceeding has been assumed, it shall be conducted according to the domestic legislation.

(3) The law of the foreign country in relation to the type and amount of the criminal sanction shall be applied if it is milder for the accused in the criminal proceedings.

(4) The criminal proceedings shall not be conducted in absence of the accused.

Equalisation of the investigative actions

Article 44

Any investigative action conducted by the foreign competent authority shall be equalised with the appropriate investigative action within the criminal proceedings in accordance with the domestic legislation.

Decision on undertaking criminal prosecution

Article 45

(1) The competent public prosecutor shall consider the submitted request without delay and decide immediately upon it.

(2) The competent public prosecutor through the Ministry shall immediately notify the foreign competent authority about the decision from paragraph (1) and shall deliver a certified copy of the decision.

II. Assignment of the criminal prosecution

Assignment of the criminal prosecution to a foreign state

Article 46

(1) If a foreigner with residence in a foreign state commits a criminal offence in the territory of the Republic of Macedonia, regardless of the conditions stipulated in article 50 of this Law, the criminal records and the evidence may be assigned to the foreign state for further criminal prosecution and court proceedings if the foreign state does not oppose that.

(2) The originals and the certified copies of the criminal records shall be enclosed to the request for assignment of criminal prosecution.

(3) If the accused person is in prison, the foreign competent authority shall be requested to deliver a notification about the assumption of the prosecution within 30 days from the day of the submission of the request.

Decision on assignment of criminal prosecution

Article 47

(1) Before the indictment enters into legal force, the competent public prosecutor shall decide on the assignment of the criminal prosecution.

(2) After entering into legal force of the indictment, and until the beginning of the main hearing, the judicial council shall adopt the decision from paragraph (1) of this article upon proposal of the competent public prosecutor in accordance with the provisions of the Law on Criminal Proceedings. After the beginning of the main hearing the competent council of the court shall decide upon proposal of the competent public prosecutor in accordance with the provisions of the Law on Criminal Proceedings.

(3) The assignment may be granted for criminal offences for which a prison sentence up to ten years is foreseen, as well as for criminal offences endangering public traffic.

(4) If the injured party is a citizen of the Republic of Macedonia, the assignment of the criminal prosecution shall not be allowed if the person opposes that, unless a security for the exercise of his or her legal claim on property has been provided.

Additional information

Article 48

The competent public prosecutor may require additional information, records and evidence from the foreign competent authority if it deems that those are necessary for the further implementation of the criminal proceedings and shall determine a deadline for their delivery.

Notification about costs

Article 49

(1) The costs for the criminal proceeding determined by the foreign competent authority shall be added to the costs incurred within the criminal proceedings conducted before the domestic competent authority. The costs of the foreign competent authority shall not be reimbursed.

(2) In case of assignment of criminal prosecution to a foreign state, the domestic judicial authority shall notify the foreign competent authority about the costs incurred within the criminal proceeding before the domestic judicial authorities which shall not request a reimbursement of those costs.

CHAPTER IV EXTRADITION PART ONE

Offences for which an extradition is permitted

Article 50

(1) Extradition of a person based on issued international arrest warrant shall be permitted for criminal offences for which according to the domestic legislation a prison sentence minimum of one year is stipulated.

(2) The extradition shall be permitted because of enforcement of the effective prison sentence if the wanted person has to serve a sentence minimum of four months.

(3) The extradition in the cases from paragraph (1) and (2) of this article shall be permitted if the offence an extradition is requested for is punishable under the Criminal Code of the Republic of Macedonia.

Principle of speciality

Article 51

The extradited person cannot be prosecuted, brought into court or subject to a sentence or any other measure of deprivation of freedom or extradited to another state for any criminal offence committed prior to the extradition, and which is not subject of the extradition, unless:

1) the competent authority gives authorisation for the extradition and delivers documents in accordance with Article 58 of this Law together with a statement for the minutes by the extradited person or

2) the extradited person did not leave the territory of the state to which he or she was extradited despite having the possibility to do so in a period of 45 days after the day of his release, or if the persons returns in the territory after leaving it first.

PART TWO

PROCEDURE WHEN THE EXTRADITION IS REQUESTED BY THE REPUBLIC OF MACEDONIA

Preconditions for extradition

Article 52

The preconditions for authorising extradition shall be the following:

1) the person whose extradition is requested shall not be citizen of the Republic of Macedonia;

2) the identity of the person whose extradition is requested shall be determined;

3) the offence for which extradition has been requested shall not be committed in the territory of the Republic of Macedonia against it or against one of its citizens;

4) the offence for which extradition has been requested shall be a criminal offence both according to the domestic legislation and according to the legislation of the state where it was committed and which requested the extradition;

5) the criminal prosecution or the enforcement of the sentence shall not become time-barred;

6) the person whose extradition is requested shall not be sentenced for the same criminal offence by a domestic court or effectively released by a domestic court for the same criminal offence or the criminal proceeding against him or her shall not be effectively stopped or the accusation shall not be effectively rejected or no proceedings shall be initiated for the same criminal offence in the Republic of Macedonia or against it or against a citizen

of the Republic of Macedonia, unless a guarantee has been provided for the exercise of the right to legal claim on property of the injured party;

7) there shall be sufficient evidence for the reasonable doubt that the person whose extradition is requested committed a certain criminal offence, or that there exists another final judgment;

8) the person whose extradition is requested shall have committed the criminal offence after the age of 14; and

9) the person whose extradition is requested was tried in absentia, and the requesting foreign state shall provide a guarantee that the person will be tried in his presence.

Political offences

Article 53

(1) The extradition shall not be permitted for political offences or offences related to those criminal offences.

(2) The assassination of a head of state or of a member of his family, terrorism and international crime shall not be considered as political offences.

Military offence

Article 54

The provisions of this Law shall not apply for extradition because of violation of military duties.

Death sentence

Article 55

If in the foreign state a death sentence is prescribed for the criminal offence for which extradition is requested, the extradition may be granted if the foreign state provides sufficient guarantee that the death sentence won't be imposed.

Criminal offences related to breach of the regulations on taxes, fees, duties and foreign exchange operations

Article 56

(1) The Republic of Macedonia shall permit extradition for criminal offences related to breach of the regulations on taxes, fees, duties and foreign exchange operations if according to the domestic legislation the criminal offence is in line with the criminal offence of same kind in the state which requested extradition.

(2) The extradition cannot be rejected if according to the domestic legislation that kind of tax or fee is not mandatory or if there are no regulations

on taxes, fees, duties or foreign exchange operations of the same kind as in the foreign state.

Re-extradition of a person to a third state

Article 57

(1) The Minister of Justice (herein after referred to as: the Minister) at the request of a foreign state may permit the re-extradition of an extradited person to a third state for criminal offences committed prior to the extradition, except of the instances where the principle of speciality applies.

(2) The Minister may request the third state to deliver the records enclosed to the request for extradition.

Documentation enclosed to the request for extradition

Article 58

(1) The request for extradition shall include the data from Article 16 of this Law, and the following documents shall be enclosed to the request:

1) data for determination of the identity of the person whose extradition is requested (description, picture, fingerprints etc.);

2) certificate or other data for the citizenship;

3) accusation, sentence or decision on detention or some other document with the same legal action in original or as certified copy indicating the name and surname of the person whose extradition is requested;

4) description of the offence, legal denomination of the criminal offence and evidence for reasonable doubt; and

5) transcript of the provisions of the Criminal Code of the Republic of Macedonia that shall be applied or has been applied to the person whose extradition is requested, and if the offence was committed in the territory of a third state, a transcript of the provisions of the Criminal Code of that state is required.

(2) The Ministry shall submit the request for extradition to the competent domestic judicial authority translated into Macedonian language and its Cyrillic script.

Additional information

Article 59

If the records delivered by the foreign state are not sufficient for reaching a decision whether to permit or deny the extradition of the person whose extradition is requested, the competent judicial authority may request the Minister for additional information and may set a time period within such information shall be delivered.

Basis for detention because of extradition

Article 60

(1) On the basis of an issued international arrest warrant or of request for extradition, and if the conditions for imposing detention according to the provisions of the Law on Criminal Proceedings are fulfilled, the competent public prosecutor shall submit a proposal for detention to the judge appointed to conduct the preliminary proceedings.

(2) The judge appointed to conduct the preliminary proceedings of the competent court shall without delay decide on the proposal by the competent public prosecutor. The person whose extradition is requested, his or her defence counsel and the competent public prosecutor shall be entitled to lodge an appeal against the decision of the judge appointed to conduct the preliminary proceedings addressed to the criminal council of the court in a period of 24 hours after the delivery of the decision.

(3) On the basis of the previously issued international arrest warrant, the authorised officials of the Ministry of Interior have the right to detain the person whose extradition is requested in accordance with the provisions of the Law on Criminal Proceedings without previously issued decision on detention if a danger exists that the person might escape or hide.

(4) The foreign competent authority shall deliver the request for extradition to the Ministry as a domestic competent authority or through a diplomatic channel.

(5) If the request for extradition includes all necessary documents according to Article 58 of this Law, the judge appointed to conduct the preliminary proceedings upon proposal by the competent public prosecutor shall reach a decision for imposing detention on the foreigner if there are reasons for imposing detention according to the provisions of the Law on Criminal Proceedings unless it is obvious from the request that there is no basis for extradition.

(6) The period for extradition of the person whose extradition is requested shall not be longer than 180 days from the day of his or her detention.

(7) If justified by special reasons, the competent judge appointed to conduct the preliminary proceedings may instead of detention impose another measure according to the law for securing the presence of the person whose extradition is requested.

Deprivation of freedom and advice on rights

Article 61

(1) If the person whose extradition is requested has been restrained, in accordance with Article 60 of this Law, police officers from the Ministry of

Interior shall promptly advise the person that he or she is not obliged to declare anything and has the right to counsel, and they shall without delay notify the competent public prosecutor who shall file a request for an arrest for extradition.

(2) Police officers from the Ministry of Interior shall bring the detained person to court within 24 hours for preliminary proceedings.

(3) The domestic competent authority shall without delay notify the diplomatic and consular representative of the state whose citizen is the person deprived of freedom at its request.

Treatment of person whose extradition is requested

Article 62

(1) The judge appointed to conduct the preliminary proceedings shall determine the identity of the person whose extradition is requested, and then notify the person about the international warrant for his or her extradition.

(2) The judge appointed to conduct the preliminary proceedings shall inform the person that he or she can choose a defence counsel, and if the person opts not to, the court shall appoint a defence counsel ex officio.

(3) The judge appointed to conduct the preliminary proceedings shall inform the person that he or she can give consent for extradition in a foreign state as a summary procedure for extradition, and that by giving the consent the person will opt out of the application of the principle of specialty. The consent for extradition under the summary procedure cannot be revoked.

Deadline for submission of the request for extradition

Article 63

(1) The request for extradition and the necessary documents shall be submitted within a period not longer than 40 days from the date of judgment regarding detention for extradition.

(2) If the person whose extradition is requested is released from custody because of the expiration of deadline under paragraph (1) of this Article, and the foreign state resubmits the request for custody due to extradition or a request for extradition, the person whose extradition is requested may receive another detention order for extradition.

Investigative measures

Article 64

(1) The judge appointed to conduct the preliminary proceedings shall conduct investigative measures and shall submit the documents to the competent public prosecutor who shall issue a written opinion regarding the fulfilment of the legal prerequisites for extradition.

(2) The judge shall submit the notes and opinions from the public prosecutor to the Judicial Council in accordance with the provisions of the Law on Criminal Proceedings, and then the council shall determine whether the legal prerequisites for extradition are met or not.

(3) The decision under paragraph (2) of this Article may be appealed within three days of receipt by the person whose extradition is requested, his or her defence counsel, and the public prosecutor to the Criminal Chamber of the superior court.

(4) If the person whose extradition is requested has another criminal proceedings pending before the competent domestic court, the Judicial Council will note that in the records of the actions taken in accordance with the Law on Criminal Proceedings.

Existence and non-existence of legal prerequisites for extradition

Article 65

(1) If the Judicial Council determines that the legal prerequisites for extradition of a foreigner are met in accordance with the Law on Criminal Proceedings, it shall ratify it with a judgment.

(2) The decision under paragraph (1) of this Article may be appealed within three days of receipt by the person whose extradition is requested, his or her defence counsel, and the public prosecutor.

(3) The final decision that establishes the existence of the legal prerequisites for extradition shall be submitted to the Ministry together with all the orders for detention.

(4) If, after the submission of the documents to the Judicial Council in accordance with the provisions of the Law on Criminal Proceedings in article 64 paragraph (2) of this Law, the Judicial Council determines that the legal prerequisites for extradition are not met, it shall put forward judgement to confirm that the legal prerequisites are not met.

(5) The domestic competent court shall submit the adjudication from paragraph (4) ex officio to the Supreme Court of the Republic of Macedonia, which shall consult with the competent public prosecutor and shall confirm, cancel or alter the adjudication.

(6) If the person whose extradition is requested is in custody, the Judicial Council may decide in accordance with the provisions of the Law on Criminal Proceedings that the person remain in custody until the adjudication from paragraph (4) of this Article becomes final.

Decision for extradition

Article 66

(1) The Minister shall give a decision for extradition allowing or denying extradition.

(2) The Minister shall not allow extradition if the person whose extradition is requested was tried in absentia, and the requesting State does not provide sufficient guarantees that the person will be allowed a retrial in his presence during which the rights of the defence are respected.

(3) The Minister shall not allow extradition of the person, whose extradition is requested if there are serious reasons to doubt that he or she might be subjected to torture and other cruel, inhuman or degrading actions, including the death penalty.

(4) The Government of the Republic of Macedonia may accept the Minister's proposal not to allow extradition if the decision provides the State with special justified interests.

Decision to allow extradition

Article 67

In the decision to allow extradition, the Minister shall adduce that:

1) the extradited person shall not be prosecuted for another criminal offense committed prior to the extradition, except for the criminal offense for which extradition was allowed;

2) the extradited person shall not be sentenced for another criminal offence committed prior to the extradition;

3) the extradited person shall not be given a sentence more severe than the one rendered in court, including the death penalty;

4) the extradited person shall not be extradited to a third state for prosecution for an offence committed before the extradition was allowed;

5) the criminal proceedings against the extradited person shall be repeated if sentenced in absentia, and

6) length of detention during the extradition proceedings will be calculated into the sentence.

Enforcement of decision and extradition of the person whose extradition is requested

Article 68

(1) The foreign competent authority shall be notified about the decision to allow extradition through the national competent authority, or through diplomatic channels.

(2) The decision to allow extradition shall be submitted to the Ministry of Interior, which shall settle the terms regarding location, time and manner of delivery of the person whose extradition is requested with the foreign competent authorities.

(3) The transfer of the person whose extradition is allowed shall be made within 180 days from the day the person was taken into custody.

(4) In case of force majeure halting the handover, the foreign state may request a new date for extradition in accordance with paragraph (2) of this Article.

Postponed and temporary handover

Article 69

(1) The Minister may decide to postpone the extradition if the person whose extradition is requested has criminal proceedings pending in a domestic judicial authority for another criminal act, or if the person whose extradition is requested is serving a prison sentence in Macedonia.

(2) The Minister may decide to deliver the person whose handover was postponed to the foreign state in order to implement urgent procedural actions, if it does not result in harmful consequences to the criminal proceedings being conducted before the national judicial authorities, and if the foreign state guarantees that it will keep the person in custody during his or her stay in the foreign state, and that it will return the person in Macedonia within the deadline determined by the Ministry.

Re-extradition

Article 70

(1) If the extradited person manages to avoid criminal prosecution or enforcement of the sentence in the foreign State and returns to the Republic of Macedonia, the person may be re-extradited after a newly submitted request.

(2) In the case of paragraph (1) of this Article, the foreign state is not obliged to submit the documentation of Article 58 of this Law in addition to the request.

***Deciding on extradition in case of
requests submitted from several countries***

Article 71

(1) If several countries request extradition for the same or different criminal acts, the Minister shall decide where the person will be extradited, after the court reaches a decision regarding the fulfilment of each of the submitted requests.

(2) If several countries request extradition for the same person simultaneously, the Minister shall decide where the person will be extradited, taking into account the weight of the offence, location of the offence, the territory in which the majority of the incriminating acts were committed in case of prolonged criminal activity, the nationality of the person and the location of the person's residence in case of criminal offence of organised crime, the dates of the individual requests for extradition and whether they were submitted for the criminal proceedings or for the enforcement of the sentence.

Summary procedure for extradition

Article 72

(1) The person whose extradition is requested may give his or her approval to be extradited to the foreign state using a summary procedure for extradition, or may decide to abandon the rule of specialty, whereupon the Judicial Council shall allow the extradition in accordance with the provisions of the Law on Criminal Proceedings, after having received the public prosecutor's opinion.

(2) Consents and waivers of rights under paragraph (1) of this Article shall be entered in the minutes of the Judicial Council under paragraph (1) of this Article and are irrevocable.

(3) The competent court shall without delay notify the Ministry regarding the consent for summary procedure for extradition, whereupon the Ministry shall pass on this information to the foreign state within ten days from the day the person whose extradition is requested was taken into custody.

(4) In the case of paragraph (3) of this Article, the foreign state is not obliged to submit a formal request for extradition.

(5) If the person whose extradition is requested gives consent under paragraph (1) of this Article within the deadline in paragraph (3) of this Article, the court shall conduct a summary procedure for extradition if the request for extradition is not yet received.

(6) If the person whose extradition is requested gives consent under paragraph (1) of this Article after the deadline in paragraph (3) of this Article, with a request for extradition received in the meantime, the competent court may conduct a summary procedure for extradition.

Decision for a summary extradition procedure

Article 73

(1) If the person whose extradition is requested agrees to be extradited using a summary procedure, the judge conducting the preliminary proceedings shall submit the records without delay to the Judicial Council, which shall have 48 hours to reach a decision regarding the extradition.

(2) The summary extradition procedure will be allowed with a decision that shall include:

- name and surname, date, place of birth and nationality of the person whose extradition is requested,*
- the requesting state that will receive the person whose extradition is requested,*
- the criminal act for which the person is extradited,*
- a statement declaring that the person whose extradition is requested has consented the summary extradition procedure,*
- a statement declaring that the person whose extradition is requested has abandoned the rule of specialty and*
- a decision that the person whose extradition is requested must not be surrendered to a third State for a crime committed before his handover.*

(3) The decision under paragraph (2) of this Article shall be delivered to the person whose extradition is requested, to his counsel and to the competent public prosecutor.

(4) The person whose extradition is requested and the counsel may appeal the Judicial Council decision through the Court of First Instance to the Appeal Court in accordance with the Law on Criminal Proceedings within 24 hours from the moment the decision was delivered. The Appeal Court shall reach a decision within 48 hours from the day detention started.

PART THREE

PROCEDURE WHEN EXTRADITION IS REQUESTED BY THE REPUBLIC OF MACEDONIA

Extradition request for a person located in a foreign state

Article 74

(1) If a criminal investigation is underway in the Republic of Macedonia against an individual located in a foreign state or sentenced by a domestic court, the Minister shall submit an extradition request.

(2) The request under paragraph (1) of this Article shall be submitted to the foreign competent authority, in addition to the documents under Article 58 of this Law.

Request for temporary detention

Article 75

(1) Wherever there is danger that the person whose extradition is requested might escape or hide, the Minister may request legal action and temporary detention against the individual.

(2) The application for temporary detention shall specifically designate the identity of the person whose extradition is requested, the type and name of the crime, the number of the decision, the date, location and name of the authority that ordered the detention, and any information regarding the effectiveness of the sentence.

Procedure before a domestic judicial authority

Article 76

(1) The domestic judicial authority which has issued a call for an international arrest warrant shall deliver to the Ministry the overall records in original or certified copies together with the extradition request.

(2) If there is a criminal investigation in progress before a domestic judicial authority against a person whose extradition is requested, the domestic judicial authority shall furnish:

- 1) an official extradition request;*
- 2) an order for a judicial investigation;*
- 3) a prosecution motion or indictment;*
- 4) a detention sentence;*
- 5) an order to issue an international arrest warrant and*
- 6) an extract from the Criminal Code of the Republic of Macedonia.*

(3) If the person whose extradition is requested has been effectively sentenced, the competent court or penal/correctional institution shall submit to the Ministry:

- 1) an extradition request;
- 2) a final court judgement;
- 3) an order for a referral to serve the prison sentence or a referral act;
- 4) an order to issue an international arrest warrant and
- 5) an extract from the Criminal Code of the Republic of Macedonia.

Limitations of criminal prosecution and sentencing

Article 77

(1) If the person whose extradition is requested is extradited, he or she may be criminally prosecuted and sentenced only for the criminal act for which the extradition was granted.

(2) If the extradition was granted under the terms of the type or weight of the sentence and the terms were accepted, the competent court shall follow strictly the aforementioned terms during the sentencing, and if a sentence is being enforced, the court that ruled in the last degree shall alter the sentence and shall adapt it to the extradition terms.

(3) If the extradited person was detained in a foreign state for the criminal offense for which he or she was extradited, time spent in detention shall be calculated into the sentence.

(4) If the extradited person in the foreign state was sentenced in absentia, the criminal proceedings will be repeated in any event.

Additional extradition request

Article 78

If it is later discovered that there are other criminal proceedings in progress against the extradited person before a domestic court, or that the person has been effectively sentenced by a domestic court for criminal offences before the extradition was granted, the domestic court or the penal/correctional institution may further submit an extradition request in accordance with Article 58 of this Law, together with an statement for the minutes from the extradited person.

Transporting the person across the territory of the Republic of Macedonia

Article 79

(1) If a foreign state issues a request for extradition to another foreign state, and the person whose extradition is requested has to be transported across the territory of the Republic of Macedonia, the transport shall be granted by the

Minister through a decree, only if the person is not a citizen of the Republic of Macedonia and the extradition is not done for a political or a military criminal offence.

(2) The request for transport of the person across the territory of the Republic of Macedonia shall include all the data referred to in Article 58 of this Law, together with the decision to grant extradition.

(3) The Ministry will pass on its decision to the foreign competent authority that requested the transport and the Ministry of Interior which shall monitor the transit of the person across the territory of Macedonia.

(4) In accordance with the condition of mutuality, the cost of the transport across the territory of the Republic of Macedonia shall be borne by the budget of the Republic of Macedonia.

Language

Article 80

(1) If the extradition request is issued by the Republic of Macedonia, the domestic judicial authority shall deliver the extradition request and the documents listed in Article 58 of this Law to the Ministry written in Macedonian and its Cyrillic alphabet and translated to the language of the State which the extradition request has been issued to, or one of the official languages of the Council of Europe.

(2) If a foreign state issues an extradition request to the Republic of Macedonia, the Ministry shall deliver the documents mentioned in paragraph (1) in this Article to the competent court written in the language of the foreign State together with certified translated copies in Macedonian and its Cyrillic alphabet.

Costs

Article 81

(1) The cost to collect the person whose extradition has been granted to the Republic of Macedonia from a mutually agreed location shall be borne by the budget of the Republic of Macedonia.

(2) If a person is set to be extradited from the Republic of Macedonia, the cost for custody and transport to the mutually agreed location of the person whose extradition has been granted shall be borne by the budget of the Republic of Macedonia.

CHAPTER V

**ENFORCEMENT OF CRIMINAL JUDGEMENTS
AND TRANSFER OF SENTENCED PERSONS**

**PART ONE
ENFORCEMENT OF CRIMINAL JUDGEMENTS**

Subject of enforcement

Article 82

At the request of a foreign competent authority, the domestic competent authority shall enforce a final criminal judgement regarding the sanction imposed by a foreign or international court, with a verdict which shall impose a sanction under the Criminal Code of the Republic of Macedonia and an appropriate sanction imposed by the foreign court, but it may not aggravate the one imposed by the foreign court.

Rendering a judgement

Article 83

(1) In the disposition of the judgement from Article 82 of this Law, the domestic competent court shall include the complete disposition from the foreign judgement and the court's name. In the explanation of the judgement the domestic competent court shall list all the reasons considered for the imposition of the sanction.

(2) The domestic competent court shall render a judgement in the Judicial Council in accordance with the provisions of the Law on Criminal Proceedings. The competent public prosecutor and the counsel shall be duly notified about the council meeting.

(3) If the type and weight of the sanction imposed by the foreign court are not in accordance with the national legislation provisions, the domestic competent court shall impose a sanction in accordance with domestic law, already proposed for the same criminal offense for which the judgement was rendered.

(4) Time spent in detention and time spent serving the sanction in the foreign State shall be calculated in the sanction imposed by the domestic competent court.

(5) The competent public prosecutor, the sentenced person or the counsel may appeal the judgement under paragraph (1) in accordance with the provisions of the Law on Criminal Proceedings.

Subject-matter and territorial jurisdiction

Article 84

(1) A subject-matter jurisdiction court is a court determined by law.

(2) Territorial jurisdiction of a court is determined by the last place of residence of the sentenced person in the Republic of Macedonia, or by place

of birth, in case the sentenced person does not have a place of residence in the Republic of Macedonia.

(3) If the sentenced person does not have a place of residence nor was born in Macedonia, the Supreme Court of the Republic of Macedonia shall appoint a subject-matter jurisdiction court for the trial.

Enforcement of a foreign criminal judgement

Article 85

(1) A sanction imposed by a final judgment of the foreign competent authority shall be enforced in accordance with the national legislation for enforcement of sanctions.

(2) Enforcement of foreign criminal judgment shall be suspended if the sanction imposed by the foreign State was rendered obsolete or the enforcement was suspended.

(3) The decision made in a foreign state to pardon or give amnesty to the person for which the sanction is being enforced shall be applied in the territory of the Republic of Macedonia as well.

(4) The decision to repeat the criminal proceedings may be made by the foreign competent authority.

(5) If only the decision on costs is being enforced, the foreign competent authority shall receive the remaining amount after deduction of costs incurred, under the condition of mutuality.

(6) The decision on costs made by the foreign competent authority shall be accepted and enforced if the costs are to be paid in the foreign State.

Conditions of enforcement

Article 86

The foreign criminal judgement shall be enforced if:

- 1) it is final and enforceable;*
- 2) the criminal offence is designated as a criminal offence and is compliant with national legislation;*
- 3) it is rendered in the presence of the sentenced person and*
- 4) the enforcement of the sanction has not been rendered obsolete in accordance with national legislation.*

Supporting documents to the request for enforcement of a criminal judgement to a foreign competent authority in the Republic of Macedonia

Article 87

Regarding the request for enforcement of a criminal judgement to a foreign competent authority in the Republic of Macedonia, the following documents must be furnished:

- 1) a master copy or a certified copy of the judgement including a clause specifying the finality and enforceability;*
- 2) personal data of the sentenced person, citizenship and residence;*
- 3) the statutory provisions on which the judgement was based;*
- 4) a record of the time the person has spent in detention or serving the sentence.*

Enforcement of a criminal judgement

Article 88

Regarding the request for enforcement of a criminal judgement to a domestic court in a foreign State, the following documents must be furnished:

- 1) a master copy or a certified copy of the judgement including a clause specifying the finality and enforceability;*
- 2) personal data of the sentenced person, citizenship and residence;*
- 3) the statutory provisions on which the judgement was based;*
- 4) a record of the time the person spent in detention or serving the sentence and*
- 5) a master copy or a certified copy of the records, if requested by the sentencing State.*

Request for transfer of enforcement of a final criminal judgement

Article 89

The request for transfer of enforcement of a final criminal judgment to a domestic court in a foreign State shall be submitted by the Ministry, on the basis of a previously submitted request of the domestic court which rendered the judgement.

Suspension of enforcement of a final criminal judgment rendered by a domestic court

Article 90

(1) If a foreign competent authority is in the process of enforcing a final criminal judgement rendered by a domestic court, the domestic court shall suspend the enforcement as soon as the administering state starts the procedure for enforcement.

(2) The criminal judgement of the domestic court cannot be enforced if it was already completely enforced according to the provisions of the administering state.

(3) The sentenced person may be detained if there is reasonable doubt that the person may avoid enforcement of the criminal judgement.

Notification for amendments and waivers of enforcement

Article 91

(1) If the enforcement of a criminal judgement becomes amended or waived after it has been transferred, the administering state must be duly notified.

(2) If the enforcement of a sanction imposed by a final judgement is transferred to a foreign State, it may be continued in the Republic of Macedonia if the sentenced person manages to avoid the enforcement of the sanction in the foreign state.

PART TWO TRANSFER OF SENTENCED PERSONS

I. TRANSFER OF A FOREIGN CITIZEN

Request for transfer

Article 92

(1) A sentenced person who is not a citizen of the Republic of Macedonia and serving a prison sentence in the Republic of Macedonia given by a domestic first instance court may request to serve out the prison term in the country of his or her citizenship.

(2) The sentenced person may file the request under paragraph (1) of this Article to the administration of the penal/correctional institution in which the person is serving the prison term, to the domestic first-instance court or to the Ministry.

(3) The domestic first-instance court which rendered the judgment in first instance or the administration of the penal/correctional institution in which the sentenced person is serving the prison sentence are required to inform the person about the possibility of serving out the term in the country of his or her citizenship.

(4) The request under paragraph (1) of this Article may also be filed by the sentenced person's country of citizenship.

(5) The request under paragraph (1) of this Article will be considered only if the sentenced person gives his or her consent to be transferred to the country of citizenship.

Supporting documents to the request for transfer

Article 93

Regarding the request for transfer, the following documents must be furnished:

- 1) a certified transcript of the final judgment rendered against the sentenced person;*
- 2) legal provisions that were applied;*
- 3) any information regarding the duration of the prison term that has already been served and information regarding detention or any other information regarding the serving of the prison sentence and*
- 4) statement by the sentenced person consenting to the transfer.*

Means of communication

Article 94

(1) The request for transfer and the documents listed in Articles 92 and 93 from this Law must be submitted to the Ministry, which shall then notify the country of citizenship in order to continue the prison term and shall carry out the transfer of the sentenced person on the basis of a international agreement or on the basis of mutuality.

(2) At the request of a domestic competent authority the foreign State shall provide all additional information and vice versa.

Transfer procedure

Article 95

(1) After the judgement of the domestic court is recognised by the foreign competent authority, the country of citizenship shall deliver the judgement to the sentenced person through the Ministry.

(2) After the judgment of the foreign competent authority that recognises the domestic court judgment becomes final, the Ministry may give its approval for the transfer.

(3) The Ministry shall notify the state in which the sentence will be enforced regarding its decision to accept or deny the request for transfer.

Conditions for transfer

Article 96

The transfer may be carried out only if:

- 1) the sentenced person is a citizen of the state in which the person will serve out his or her prison term;*
- 2) the judgement is final;*
- 3) at the time of receipt of the request for transfer, the sentenced person has to serve out a minimum of six months of the prison term duration, and the person has given his or her consent;*
- 4) the sentenced person, the person's legal representative, or the person's guardian gives consent to transfer due to the person's age or psychophysical condition;*
- 5) the acts for which the person was sentenced are specified as criminal offense in the state in which the sentence will be enforced;*
- 6) Republic of Macedonia and the foreign state reach agreement on terms for the transfer.*

II. TRANSFER OF A CITIZEN OF THE REPUBLIC OF MACEDONIA

Request and supporting documents for transfer

Article 97

- (1) Any sentenced person who is a citizen of the Republic of Macedonia and is serving a prison sentence in a foreign state may be transferred to Macedonia in order to serve out the remainder of the sentence.*
- (2) The request for transfer of a citizen of the Republic of Macedonia together with the documents listed in Article 93 of this Law, shall be submitted through the Ministry to the subject-matter jurisdiction court for recognition.*
- (3) During the procedure for the recognition of the foreign criminal judgment, the subject-matter jurisdiction court is bound to the type and weight of the sentence which may be the identical or appropriate, but it must not aggravate the sanction stated in the foreign judgement, nor may it exceed the maximum prescribed by the Criminal Code regarding these types of offences.*
- (4) In case of a conversion of sentence, the subject-matter jurisdiction court:*
 - is bound by the established facts contained in the judgment*
 - may not convert a sanction involving deprivation of freedom into a pecuniary sanction*
 - shall fully deduct the time spent in prison by the sentenced person*
- (5) After the subject-matter jurisdiction court recognises the foreign criminal judgement with its own judgement, it shall deliver it through the Ministry to the sentenced citizen of the Republic of Macedonia.*
- (6) After the judgement which the subject-matter jurisdiction court had rendered in order to recognise the foreign criminal judgement becomes final, the transfer of the sentenced person due to the completion of the prison term*

may be carried out in accordance with the foreign state which passed the sentence and the Ministry.

Effects of transfer

Article 98

(1) Enforcement in the foreign state in which the person was sentenced is suspended at the moment when the authorities of the Republic of Macedonia take the sentenced person into charge.

(2) The domestic legislation shall apply for the remainder of the enforcement in terms of pardoning, amnesty, or commutation of sentence in accordance with the Constitution or with an international agreement.

Review of judgement and termination of enforcement

Article 99

(1) Only the foreign state which has rendered the criminal judgement may decide on any request for repetition of the procedure.

(2) The domestic subject-matter jurisdiction court shall stop the enforcement of the sentence as soon as the foreign competent authority notifies it about the decision or the resolution to terminate the enforcement.

Information on enforcement

Article 100

The domestic subject-matter jurisdiction court shall inform the foreign competent authority on the state of the enforcement if:

- 1) it considers enforcement of the sentence to have been completed;*
- 2) the sentenced person has escaped from custody before enforcement of the sentence has been completed*
- 3) the foreign competent authority so requests.*

Costs

Article 101

Costs incurred due to enforcement of foreign criminal judgements are borne by the Republic of Macedonia, except for the costs incurred exclusively in the foreign state.

Delivery of a sentenced person

Article 102

Delivery of a sentenced person supposed to serve out his or her sentence shall be carried out by Ministry of Interior of the Republic of Macedonia - International Criminal Police Organisation - Interpol.

Transit

Article 103

(1) If a foreign state files a request to another foreign state for transfer of a sentenced person in order to serve out his or her sentence and the delivery has to be carried out in the territory of the Republic of Macedonia, the transit may be granted by the Ministry at the request of the state concerned, in accordance with conditions laid down in this Law on delivery of sentenced persons due to enforcement.

(2) If during the handover of a sentenced person who is a citizen of the Republic of Macedonia by the foreign sentencing state there is no direct flight, the Ministry will ask the Ministry of Justice of a third State for permission to use its territory for flyover or transit.

CHAPTER VI TRANSITIONAL AND FINAL PROVISIONS

Article 104

For procedural provisions not regulated by this Law, provisions from the Law on Criminal Proceeding, the Law on Misdemeanours, the Law on Courts, the Law on Public Prosecution and the Law on Prevention of Corruption shall apply.

Article 105

This Law shall come into force on the eighth day following its publication in the "Official Gazette of the Republic of Macedonia", and shall be applied starting from the date of commencement of application of the Law on Criminal Proceedings ("Official Gazette of the Republic of Macedonia" no.).