

ADMINISTRATIVE PROCEDURES IN EXTRADITION MATTERS

1. Passive extradition

Definition. This is the process whereby a person situated within Colombian territory is surrendered to a foreign State to stand trial or to serve a previously imposed sentence.

Limitations. The procedure begins with receipt in the Prosecutor General's Office of a verbal or diplomatic note from the State where the proceeding is under way, submitted through the Ministry of External Relations, requesting the arrest of the wanted person, and it culminates with surrender to the competent foreign authorities, if extradition is granted, or with the release of the wanted person, if extradition is denied, without prejudice to binding that person over for penal procedures in Colombia.

Legal sources:

- Political Constitution of Colombia, Legislative Act 01 of 1997.
- Valid international treaties on extradition.
- Articles 508 to 530 of the Code of Criminal Procedure.
- Decree 261 of February 22, 2000, Article 19 (5).

Relevant Aspects:

The offenses must have been committed subsequent to the adoption of Legislative Act 01 of 1997, in order to grant extradition of persons of Colombian nationality by birth.

Pursuant to article 19 (5) of Decree 261 of February 22, 2000, the Division of International Affairs is responsible for handling extradition procedures at the request of the Prosecutor General's Office.

Required documentation:

- Communication from the Ministry of External Relations remitting the verbal or diplomatic note from the Embassy of the requesting country.
- Resolution deciding the request for arrest, issued by the Prosecutor General.
- Formal submission of the petition by the requesting country to the Ministry of External Relations.
- Opinion of the Chamber of Criminal Cassation of the Supreme Court of Justice.
- Executive decision issued by the President of the Republic ruling on the extradition request.

Administrative procedures for passive extradition

| No. | Description | Responsibility |
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| 1 | Request for the arrest of a person to stand trial or serve a sentence, sent via verbal or diplomatic note through the Ministry of External Relations. | Embassy of the requesting country |
| 2 | Study and analysis as to whether the request for arrest meets the legal requirements of the applicable international treaty or of CPP article 2 528 | Division of International Affairs |
| 3 | <p>If the legal requirements are not met, a draft resolution for signature of the Prosecutor General indicating the reasons why the arrest cannot be ordered. If there is a deficiency in fulfilling the requirements, preparation of a decision for signature by the Prosecutor General abstaining from ordering the arrest until the deficiencies are remedied.</p> <p>If the requirements stipulated in the international treaties, the national Constitution, the Code of Penal Procedure and other applicable rules are met, preparation of the decision for signature of the Prosecutor General ordering the arrest of the person for purposes of extradition</p> | Division of International Affairs |
| 4 | Review and signature | Prosecutor General of the Nation |
| 5 | Once the decision has been signed, the arrest warrant is sent to the judicial police and reported to CISAD for entry into the SIAN system. The Ministry of External Relations and the Ministry of the Interior and Justice are informed. | Division of International Affairs |
| 6 | The necessary steps are performed to effect the arrest. | Prosecutors and judicial police agencies |
| 7 | Once the person is arrested, this fact is notified to the Ministry of External Relations and to the Ministry of the Interior and Justice. In addition, the necessary coordinating steps are taken with the National Penitentiary and Prisons Institute and with the Director of the respective Judicial Police agency, to hold the arrested person in detention during the extradition | Division of International Affairs |

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| | process. | |
| 8 | <p>Article 530 of the CPP establishes a term of 60 days for the requesting country to make formal submission of the petition to the Ministry of External Relations. If the request is not formalized, an order will be drafted for signature of the Prosecutor General, releasing the arrested person.</p> <p>If the petition is formalized within the legal time limit, the person will remain in custody until the President of the Republic, with the advice of the Chamber of Criminal Cassation of the Supreme Court of Justice, decides the substance of the request.</p> | Division of International Affairs |
| I | <p>If the national government grants extradition, it coordinates surrender of the captured person with the respective Embassy, with INPEC, and with the national authorities concerned.</p> <p>If the government denies extradition, an order is prepared for signature of the Prosecutor General, releasing the arrested person.</p> | Division of International Affairs |