



Republic de Panama

DESCRIPTION AND GENERAL EXPLANATION OF THE EXTRADITION SYSTEM IN THE REPUBLIC OF PANAMA

Extradition follows the terms of public treaties of which the Republic of Panama is a party and, in their absence, the provisions established in Sections 1 and 2 of Chapter V of the Panamanian Judicial Code.

Extradition of Persons Requested by Panamanian Authorities

The extradition of persons requested by Panamanian authorities is handled through the Ministry of Foreign Affairs, at the request of the judge who issued the decision or judgement, or at the request of the official responsible for the preliminary criminal proceedings for the criminal offense in question.

The request must be accompanied by the following documents:

1. When the accused has been punished, a copy of the executed judgment and the evidence on which it was based, if that is not included in it;
2. In the case of a person subject to criminal procedure, a copy of the judgment or of the order for preventive detention, in addition to the evidence on which said decisions were based;
3. A specific account of the acts constituting the crime charged, in the event the documents indicated in the preceding paragraphs are not presented;
4. Text of the applicable legal provisions, and laws on the statute of limitations pertaining to criminal proceeding and the sentence; and
5. Personal information to make it possible to identify the requested person.

In order for the extradition request to be compliant, the crime that gave cause for the trial or the conviction of the requested person, not counting circumstances modifying guilt, must be punishable by a prison sentence at time the crime was committed.

Extradition of Persons Requested by Foreign Authorities

The Executive Organ, through the Ministry of Foreign Affairs, may, in an act of reciprocity, grant the extradition of persons prosecuted and punished by the authorities of another state who are in territory subject to the jurisdiction of the Republic of Panama.

In order for the extradition to be admissible, the acts constituting the criminal offense for which the requested person was tried, punished, or pursued must have taken place in the jurisdiction of the requesting state and the punishment must be deprivation of freedom, both in the legislation of that state and in the Republic of Panama.

The extradition request must be directed to the Ministry of Foreign Affairs, through the relevant diplomatic agent or, failing that, through its consular agent or the consular agent of a friendly country, accompanied by the documents referred to in paragraphs one to five of Article 2498 of the Judicial Code.

The extradition request or notice delivered by diplomatic channels, to be presented formally on the basis of a specific criminal act, will give rise to detention of the person requested up to a period of sixty days. Once that period has lapsed, the person will be released and may not be detained again for the same act, unless the extradition request is presented in accordance with the provisions of the Judicial Code. Responsibility for the provisional detention will be assumed exclusively by the state that requested the measure.

Once the formal extradition request is received, the Minister of Foreign Affairs will examine the documents submitted. If he finds them inadequate,

before denying extradition on those grounds, he will grant a prudent period of time to the requesting state to correct the defects indicated. If the person requested is in detention, at the previous request of the state requesting extradition, the state will be advised that said person will be released at the end of sixty days, counting from the date of his detention, if the extradition request has not been duly completed by that time.

Extradition will not be granted in the following cases:

1. When the person requested is Panamanian;
2. When the Panamanian courts have jurisdiction to judge the person whose extradition is requested, for the crime that is the reason for the request;
3. When, in the opinion of the Ministry of Foreign Affairs, the person requested may be judged in the requesting state for a crime other than the one for which the extradition is requested or by a special or ad hoc court;
4. When it was previously denied for the same crime, based on the same reasons or grounds, and with respect to the same person;
5. When the requested person has completed the corresponding sentence, or has been pardoned or granted amnesty for the crime that gave rise to the extradition request, in the requesting state or in the Republic of Panama;
6. When criminal action or the punishment that would have been imposed on the person requested is prescribed under a statute of limitations in the legislation of the requesting state or in Panamanian legislation, prior to the extradition request;
7. When the request is for persons who, in the opinion of the Ministry of Foreign Affairs, are being persecuted for political offenses or whose extradition is requested for predominantly political reasons. Kidnapping, homicide, or murder of a head of state or any person holding a public office at the time of being victimized will not be considered as political crimes;

8. When the crime is punishable by the death penalty in the requesting state, unless it makes a formal commitment to impose a less severe punishment on the requested person;
9. When the requested person is subject to legal proceedings or is serving a sentence in the Republic of Panama, and extradition is granted, his surrender to the requesting state will be postponed until the criminal proceeding is concluded, if he was acquitted, or the punishment is terminated, as the case may be;
10. When the requested person has been judged in the Republic of Panama for the same crime on which the extradition request is based; and
11. When the Executive Branch so decides, for justified reasons.

For reasons of public order and social interest, and as an exception, extradition or the simple, conditional surrender of a foreigner to the requesting state may be granted by the Executive Branch, despite the fact that there is a criminal proceeding or execution of a conviction judgment in our country, on the pledge that once the judicial processes for which the person was requested are carried out, or when the person has been judged in the requesting state, whether acquitted or found guilty, or once the sentence is served, the person will be returned to Panama, so that he may serve the appropriate sentence, if applicable, or to continue with the criminal proceedings, if they were left pending. In all cases, the criminal proceeding that takes place in the Republic of Panama will continue in the absence of the defendant who is surrendered, with all guarantees of judicial representation provided.

If the extradition was denied for any of the reasons listed in paragraphs 1, 2, 3, or 4 of Article 2504 of the Judicial Code, the requested person will be judged in the Republic of Panama as if the crime with which he is charged were committed in Panamanian territory.

If the Ministry of Foreign Affairs considers the extradition request to be in compliance, it will so decide by issuing the corresponding resolution, of which the requested person will be notified. If that person freely indicates his agreement

with the requested extradition, he will immediately be placed at the disposal of the requesting state. The requested person has fifteen days, counting from the date he was notified of the resolution, to enter an objection to the Criminal Chamber of the Supreme Court of Justice, to be litigated in a hearing of the Ministerio Público.

Once that plea has been processed, the Second Chamber of the Supreme Court of Justice will decide whether or not it is appropriate to grant the requested extradition, and will immediately communicate its decision to the Ministry of Foreign Affairs and the requested person.

If the Second Chamber of the Supreme Court of Justice considers the objection to be well-founded, it will revoke the decision by the Ministry of Foreign Affairs and will order the immediate release of the requested person, if he is in detention. If in the opinion of the Second Chamber of the Supreme Court of Justice, the extradition is compliance, the Executive Branch may grant it or not, as it deems appropriate.

If the extradition is granted, the requesting state must take responsibility for the requested person within thirty calendar days, counting from the date on which he was placed at its disposal. If it fails to do so within that period of time, the requested person will be released, if he was in custody.

Surrender of the requested person to the agents of the requesting state shall be executed at the place where he is detained or wherever the Executive Branch determines, unless there is an agreement to the contrary between the requesting state and the Republic of Panama.

The delivery will be effected with all the objects related to the crime and its authors, with the exception of the rights of third parties to them.

All the costs derived from the extradition will be for the account of the requesting state. The person who was detained by virtue of an extradition

request may post bond until it is resolved in cases in which Panamanian law grants this right.

When various states request the extradition of a person, preference will be given to the first formal request.

The Executive Branch may grant transit through the territory of the Republic of Panama to extradited persons surrendered by other states to a third friendly nation, and will ensure protection to the persons escorting the extradited person to prevent escape. However, such authorization will not be granted if the extradited person is Panamanian.