



INTERPOL

## E-EXTRADITION INITIATIVE

### INTERPOL e-Extradition Initiative

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#### Introductory Document



*INTERPOL Office of Legal Affairs - For official use only*

## **Trends Toward Efficiency in Extradition Matters**

Historically, states have cooperated on criminal matters by exchanging wanted criminals and fugitive offenders. These exchanges were either based on informal conduct, such as expression of courtesy, acts of friendship and good will, or more formal relations, such as agreements between sovereigns. From the nineteenth century on, extradition as an inducement of inter-state relations became subject to an ever-growing number of bilateral treaties and multilateral conventions, entrusting the transmission of requests for extradition and accompanying material to the diplomatic service where it continues to remain.

Although transmission via the diplomatic network remains the main avenue and frequently an exclusive means of communication for extradition requests and related documents, a trend to expedite and simplify extradition procedures has been observed. In recent years there has been an increased interest from the international community to streamline extradition procedures by establishing designated central contact points within the national justice administration, opening the possibility of direct transmissions between the competent justice authorities (e.g. Ministry of Justice) of the requesting party and the judicial administration in the requested state (see in this regard the work that has been accomplished at the level of the Council of Europe with regard to the Third and Fourth Additional Protocol to the European Convention on Extradition 1957).

Likewise, there is a tendency on the regional level to allow the transmission of extradition requests other than through the diplomatic channel, i.e. directly from competent governmental authority to governmental authority. With the adoption of the European Arrest Warrant, European Union member states went as far as agreeing on a partial abolition of extradition between each other, and replacing it by a system of surrender between the competent authorities.

## **INTERPOL's Current Role**

According to Article 2 of INTERPOL's Constitution, the Organization aims to develop institutions likely to contribute effectively to the prevention and repression of ordinary law crime. The international search for individuals through INTERPOL's communication network plays a crucial role at the pre-extradition stage. It can provide states with crucial crime-related information based on which they can "immobilize" an individual once he/she has been located and prevent him/her from escaping before the actual extradition procedure has been implemented on the basis of that information or through a provisional arrest warrant.

As a second step, national authorities transmit requests for extradition and supporting documents. This is generally done through diplomatic channels. As an alternative requests are also sent directly between the competent Ministries of Justice, and (in exceptional cases) through dedicated judicial networks for the exchange of information. At the same time the INTERPOL General Secretariat observes an increasing number of extradition documents that are sent through the Organization's I-24/7 secure police communication system.

While the exchange of information may be efficient at the pre-extradition stage, INTERPOL observes that the actual transfer of the request for extradition and supporting documents can sometimes consist of a cumbersome, lengthy and unnecessarily intricate procedure. The lack of a global transmission framework for cooperation on extradition matters leads one to question whether the INTERPOL network of National Central Bureaus (NCB) could be used in a more systematic manner for extradition requests and supporting documents in order to avoid any transmission deficiencies at the extradition stage.

In recent years, INTERPOL observes an increase in the number of requests for mutual legal assistance as well as formal extradition requests that circulate through its network. However, this method of transmission is not generalized. While criminals use the internet, messaging services and electronic encryption to carry out their transnational activities, the sending of extradition materials often still follows a path from the pre-digital era. Once again, most formal requests for extradition are still sent through narrowly interpreted diplomatic channels. This can lead to rather cumbersome procedures that require the existence of a functioning consular network and generate unnecessary delays or the potential for error. For states with fewer resources or with a shorter diplomatic history, these challenges can be significant.

At the same time, INTERPOL runs one of the world's most reliable, encrypted telecommunication networks connecting – in real time – 190 member countries. Because of the presence of affiliated National Central Bureaus (NCB) in each country, it can operate in the absence of any other infrastructure (diplomatic or otherwise) between the extradition partners. In addition, the potential of the network is such that extradition authorities could use it to formally certify the documents, place electronic seals and create a complete chain of electronic custody from the requesting to the requested country.

### **The e-Extradition Initiative**

In 2011, INTERPOL's Office of Legal Affairs launched the "e-Extradition Initiative" which envisages the development of a secure, electronic workflow for the transmission of requests for extradition. During the initial phase of the project, INTERPOL consulted extensively with twelve pilot states in order to assess the feasibility of an electronic transmission tool that would comply with existing extradition treaties and domestic laws but would be faster, more reliable and more secure than current transmission routes.

In addition to consultations and legal analysis, from April to June 2013, nine pilot states were able to test the first e-extradition prototype by conducting bilateral trial transmissions. The objective of these transmissions was to identify a universal set of desired features and functions for a future e-extradition system. During this period, approximately 50 trial transmissions were successfully carried out via the online platform with the shortest total transmission time being only 2 days.

With the completion of the pilot phase, INTERPOL, along with a growing number of supporting states, will proceed with designing and developing the e-extradition technical tool, elaborating a legal framework to accompany it, and promoting its use among extradition authorities in all of INTERPOL's 190 member states.

## Objectives

The e-extradition initiative aims to provide INTERPOL member states with the opportunity to transmit requests for extradition in an electronic format via a state-of-the-art communication tool with due respect for current legislative and institutional norms.

The specific objectives of the initiative are to:

- enhance the *efficiency* of the transmission process;
- guarantee the absolute *security* and *integrity* of the contents in transmission; and
- *harmonize* the transmission process;

In the framework of e-extradition, *efficiency* refers above all to the rapid communication of requests for extradition by means of contemporary communication techniques (i.e. electronic).

*Security* and *integrity* refer to a transmission process that complies with the highest global standards in terms of IT-security and data protection corresponding in essence to those of INTERPOL's I-24/7-communication network.

Finally, *harmonization* refers to the transmission of requests for extradition on the basis of a predetermined, standardized, and largely automated operating process that consists of a set workflow connecting the competent authorities in a requesting state to those in a requested state in accordance with legislative standards and administrative practices governing the transmission process in both.

## Challenges and Proposed Solutions

### *The "Diplomatic" Channel*

National legislation as well as bi- and multilateral treaties on extradition matters frequently require the formal request for extradition to be transmitted via "diplomatic channels". The e-extradition initiative takes into account this important formality and therefore does not seek to alter the traditional chain of transmission where it typically includes national authorities responsible for foreign affairs in either the requesting or the requested state. Likewise e-extradition does not seek to systematically replace traditional modes of transmission, such as diplomatic pouches, postal mail and others, rather through e-extradition, INTERPOL will offer an efficient and secure alternative means of transmission to interested states, thereby replicating an existing procedure.

### *Diplomatic Authentication - Legalization*

Requests for extradition are public documents issued by the competent justice authority of the requesting state for use abroad. They therefore often require an act of diplomatic authentication ("legalization") prior to being accepted by the competent judicial authorities of the requested state.

Even in cases where states do not themselves require authentication of incoming or outgoing requests, they are sometimes asked to execute an act of authentication in order for the request to comply with the legislation and practice of the other state.

Authentication (i.e. certification, legalization) usually establishes a legal presumption of a foreign public document's authenticity. It is thus limited to the certification of (1) the authenticity of the signature, (2) the capacity of the signatory and (3) the identity of the seal or stamp of a public document. Legalization does not concern a document's validity, accuracy, or act of public authority recorded therein.

The diplomatic authentication ("legalization") of public documents for use abroad usually consists of a two-tier process requiring the national authorities in the public document's country of origin to certify the document's authenticity prior to the certification of authenticity by the authorities of the document's destination country. However, the traditional legalization process is sometimes replaced by a simplified procedure or entirely abolished on the basis of regional or bilateral agreements.

Through e-extradition, INTERPOL will provide states with a technical solution that is based on a public-key infrastructure (PKI), guaranteeing (1) the authenticity of the signature, (2) the capacity of the signatory, (3) the identity of the seal or stamp of the extradition request at issue, (4) the tractability of the request, (5) the integrity of the document(s) and (6) "non-repudiation" (impossibility to challenge the receipt of a document).

## **Conclusion**

In the framework of the e-Extradition Initiative, INTERPOL aims to create a universal, user-friendly system offering unprecedented efficiency and security for the transmission of extradition requests on the basis of existing domestic legislations and international legal standards. While the diplomatic channel remains to be the main avenue for transmitting requests for extradition, the initiative will veritably streamline this process and, in an unprecedented manner, open electronic communication lines between extradition authorities across the world.