

PORTUGAL<sup>1</sup> – national procedures for extradition

States Parties are requested to fill in this table with the necessary information and return it to the Secretariat of the PC-OC. The information contained in this table should be updated on a yearly basis.

The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for extradition:	<p>Procuradoria Geral da República, Rua da Escola Politécnica nº140 1200-069 Lisboa, Portugal.</p> <p>Telephone: (00351)213921900/(00351)213820357.</p> <p>Fax: (00351)213820301;</p> <p>E-mail: mail.pgr@pgr.pt / joana.ferreira@pgr.pt</p>
If different from the Central Authority the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):	-
Channels of communication for the request for extradition (directly, through diplomatic channels or other):	<p>Direct transmission to the central authority is the rule. The use of diplomatic channels is reserved to situations where no applicable instrument exists or where the applicable instrument imposes so.</p>
Means of communication (eg. by post, fax, e-mail <sup>2</sup> ):	<p>When direct transmission to the central authority applies, requests will be sent and received by post. In case of urgency, or when both States have agreed that requests might be transmitted by fax or e-mail, both means are foreseen and accepted by domestic law. No encryption or electronic signature is required.</p>
Language requirements:	<p>Domestic law provides that requests addressed to or by the Portuguese authorities should be accompanied by a translation</p>

<sup>1</sup> Updated 27 January 2014.

<sup>2</sup> Please indicate if encryption or electronic signature is required.

	<p>into the language of the requested State. However, when Portugal is the requested State, translations into French or English are accepted.</p>	
<p>Documentation required:</p>		
	<p>Requests for extradition must be accompanied by an international arrest warrant (original or certified copy), certified copies of the relevant documents of the proceedings (i.e. final decision, when the request is for execution of a specific sentence, indictment or procedural documents showing that the request is well grounded in terms of facts and applicable law, as well regarding the identification of the requested person) and copies of the relevant internal law in terms of qualification of the facts and statute of limitations.</p>	
<p>Provisional arrest:</p>		
	<p>Time limit for presentation of formal extradition request if the person is in provisional arrest</p>	<p>The Portuguese system establishes a double deadline, which includes a first 18 days deadline followed by a second 22 days deadline. So, in total there is a maximum deadline of 40 days, at the end of which the request must be formally presented.</p>
	<p>Is there a need for an explicit request for prolongation of the provisional arrest beyond the 18 days mentioned in Article 16, paragraph 4 of the European Convention on Extradition (ETS No.24)?</p>	<p>Yes. Article 38, par. 5 of the domestic law provides that provisional arrest shall be terminated if the request for extradition is not received within 18 days of the arrest; it may however be prolonged for up to 40 days from the arrest if the reasons given by the requesting State so justify.</p>
<p>Extradition procedures: Please describe shortly the different types of procedure</p>		
	<p>The Portuguese system provides for two forms of extradition: a) <u>Normal extradition</u>, which implies two phases, the first one (administrative/political) being concluded by a decision taken by</p>	

<p>(e.g. normal, simplified, other) indicating the main differences:</p>	<p>the Minister of Justice declaring the request admissible, and the second one, whose nature is judicial, that will take place in the Courts of Appeal, with the legal possibility of appeal to the Supreme Court and to the Constitutional Court; b) <u>Simplified extradition procedure, based on the consent of the person</u>, only includes the first administrative/political phase and is concluded by a decision taken by the Court of Appeal that homologates the consent given by the person. This decision comes immediately after the decision from the Minister of Justice. c) <u>Exceptionally</u>, if an international instrument of which Portugal is a State Party admits this possibility, the administrative/political phase can be dispensed with. In such cases, the extradition will be granted merely by homologation of the consent given by the requested person (it's the case of simplified extradition as provided for by the Schengen Agreements or as established by the 3rd Additional Protocol to the European Convention on Extradition).</p>
<p>Detention before and after the receipt of the extradition request, (deadlines, conditional release, etc.):</p>	<p>Detention before the receipt of the extradition request is admitted by law and is usually the rule in the Portuguese practice concerning extradition. Provisional detention will not be prolonged after the 40th day if the request is not received. However, the Court of Appeal may also decide to leave the person in a situation of provisional freedom if it finds that other coercive measures will be enough to prevent the person from escaping (this option will be a choice for nationals or long-term residents).</p> <p>In case the Court of Appeal decides to place the person under provisional arrest in view of extradition, the request must be received within a maximum deadline of 40 days; the administrative phase of the procedure must be concluded in 20 days; the Court of Appeal will take a decision within a maximum deadline of 65 days. This decision can be appealed against to the Supreme Court and to the Constitutional Court. The first one must rule in a maximum deadline of 80 days and the second will decide definitely within 3 months.</p> <p>Therefore, we can say that if a person is intercepted in Portugal and placed under provisional arrest in view of extradition, the whole procedure, all deadlines counted and included, will take around 11 months to be concluded, with all appeals examined and decided.</p>

<p>Statutes of limitation for the purpose of prosecution and for the execution of sentences (general principles):</p>	<p>The general principle is that statutes of limitation due to lapse of time are a cause for refusal when considered as such by an international instrument and under the requirements of that same instrument.</p> <p>In other words, national deadlines established for lapse of time in the Portuguese Criminal Code will only be identified and used as a cause for refusal if the relevant international instrument admits such possibility or when the request for extradition is supported only by reciprocity.</p>
<p>Provisions concerning extradition of nationals:</p>	<p>Portugal does not extradite its nationals. Two exceptions are admitted by the Constitution: a) Cooperation within the European Union and under procedures related to the European Arrest Warrant, where nationality is not an obstacle in cases of surrender for criminal proceedings; this condition might be evoked in cases of request for sentence execution provided that Portuguese authorities enforce the foreign criminal conviction; b) In cases where the legal possibility of extradition of nationals is foreseen by an international instrument and where the facts justifying the request are punishable as terrorism or international organised crime. Article 33, par. 3 of the Portuguese Constitution on this issue may be accessed in English on: <a href="http://www.en.parlamento.pt/Legislation/CRP/Constitution7th.pdf">http://www.en.parlamento.pt/Legislation/CRP/Constitution7th.pdf</a></p>
<p>Surrender (eg. deadlines):</p>	<p>The date of surrender shall not be fixed later than 20 days after the date when the decision to extradite became final. Should no one show up to receive the person on that date, he shall be released 20 days after that date. This time-limit may be extended for another 20 days, inasmuch as the particular circumstances of the case so require, if reasons of <i>force majeure</i>, notably illness as described in Article 35, par. 3 prevent the surrender within that time-limit.</p>
<p>Other particularly relevant information (such as, specific requirements concerning double criminality):</p>	<p>The Portuguese extradition system is based upon double incrimination as an absolute rule. Exceptions admitted for the European Arrest Warrant do not apply to traditional extradition. For accessory offences, which must be considered offences under the Portuguese Criminal Code, Article 31 of the domestic law provides that if the request for extradition includes several</p>

	<p>separate offences, each of which is punishable under the Portuguese law and the law of the requesting State by deprivation of liberty, but of which one or some do not fulfil the condition mentioned in its paragraph 2, extradition for the latter offences shall also be possible.</p>
<p>Links to national legislation, national guides on procedure,</p>	<p>The Portuguese domestic law, translated into English, may be accessed on <a href="http://www.gddc.pt/legislacao-lingua-estrangeira/english/lei144-99rev.html">http://www.gddc.pt/legislacao-lingua-estrangeira/english/lei144-99rev.html</a></p>