

Poland – National Procedures for Extradition  
Updated 30/10/2015

The information contained in this table should be updated on a yearly basis.

<p>The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for extradition:</p>	<p>Competent authority to receive extradition requests: <b>Ministry of Justice</b></p> <p>Address: Ministry of Justice Department of International Cooperation and Human Rights Al. Ujazdowskie 11 00-950 Warsaw POLAND tel. +48 22 23 90 870 fax. +48 22 628 09 49 e-mail: <a href="mailto:dwmipc@ms.gov.pl">dwmipc@ms.gov.pl</a></p>
<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):</p>	<p>In urgent cases please copy the extradition request to the <b>General Prosecutor's Office</b></p> <p>Address: General Prosecutor's Office Department of International Cooperation Ul. Rakowiecka 26/30 02- 528 Warsaw POLAND tel. +48 22 12 51 490 fax. +48 22 12 51 422 e-mail: <a href="mailto:sekretariat.dwm@pg.gov.pl">sekretariat.dwm@pg.gov.pl</a></p>
<p>Channels of communication for the request for extradition (directly, through diplomatic channels or other):</p>	<p>Directly to the Ministry of Justice and/or General Prosecutor's Office</p>

Means of communication (e.g. by post, fax, e-mail <sup>1</sup> ):	<p>post</p> <p>in urgent cases fax or e-mail are acceptable if the originals or authenticated copies of documents are subsequently submitted</p>	
Language requirements:	<p>Extradition request and all supporting documents as well as supplementary information shall be translated into <b>Polish</b>.</p>	
Documentation required:	<p>The documents required to commence the extradition procedure are the following:</p> <ul style="list-style-type: none"> <li>- extradition request (indicating a statement of the offences for which extradition is requested, the time and place of their commission, their legal descriptions and a reference to the relevant legal provisions),</li> <li>- the original or an authenticated copy of the conviction and sentence or enforceable detention order or decision on provisional arrest,</li> <li>- a copy of the relevant enactments or a statement of the relevant law,</li> <li>- identification material ( photograph, fingerprints, DNA samples etc.) and information which will help to establish his/her nationality.</li> </ul> <p>Some other document (as a supplementary information) may also be required if the executing court, prosecution service or the Ministry of Justice so requires.</p>	
Provisional arrest:	<p>Time limit for presentation of formal extradition request if the person is in provisional arrest</p>	<p>There are no statutory time limits for the decision on extradition either by the court or the Minister of Justice.</p>

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<sup>1</sup> Please indicate if encryption or electronic signature is required.

	<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>The only statutory time requirement relates to the situation envisaged in art. 16 para 4 of the ETS 024 Convention. In the Polish Code of Criminal Procedure this situation is stipulated in art. 605 § 2.</p> <p><i>Article 605. § 2. Before a request for extradition is filed, the court may also issue a decision on the provisional detention of the wanted person for a period no longer than 40 days, provided that it is requested by a body of a foreign state, which shall at the same time ensure that the person concerned has been subject to a final judgment or a decision on provisional detention in that state.</i></p>
<p>Extradition procedures: Please describe shortly the different types of procedure (e.g. normal, simplified, other) indicating the main differences:</p>	<p>Before the wanted person is extradited and the decision taken by the Minister of Justice, the court having territorial jurisdiction (of the regional level – second tier of Polish judicial system) must adjudicate on the legal admissibility of extradition. Any incoming request for extradition will be passed on to the competent court via the prosecution service.</p> <p>Simplified extradition is regulated in art. 603a of the Polish Code of Criminal Procedure. If an international agreement to which the Republic of Poland is a party so stipulates, a request of a foreign state for the application of a preventive detention with regard to a wanted person replaces a request for extradition. In such cases the public prosecutor informs the wanted person of the possibility of giving a consent to extradition or of a consent to extradition combined with a waiver of the rule of speciality. If the wanted person agrees to submit such a statement, the public prosecutor refers the case to the competent regional court. The court then decides, in a session, on preventive detention of the wanted person, takes the statement of consent to extradition or to extradition combined with the</p>	

	<p>waiver of the rule of specialty, and issues a decision on the legal admissibility of extradition. The consent of the wanted person and the waiver of the rule of specialty may not be withdrawn, of which the wanted person is advised. The court then transfers, without delay, the valid and final decision together with the files of the case, to the Minister of Justice, who takes the final decision on extradition.</p>
<p>Detention before and after the receipt of the extradition request, (deadlines, conditional release, etc.):</p>	<p>Pursuant to the art. 605 of the Polish Code of Criminal Procedure, if the request for extradition concerns a criminal offence the perpetrator of which is subject to extradition, then the court acting ex officio or upon a motion of the public prosecutor may issue a decision on provisional detention to be imposed upon the wanted person.</p> <p>Before a request for extradition is filed, the court may also issue a decision on the provisional detention of the wanted person for a period <u>no longer than 40 days</u>, provided that it is requested by a body of a foreign state, which shall at the same time ensure that the person concerned has been subject to a final judgment or a decision on provisional detention in that state.</p> <p>The decision of the court regarding the provisional detention may be contested.</p> <p>If the data contained in a request for extradition are insufficient, and if the court or the public prosecutor has required their completion, and the foreign state fails to send the necessary documents or information to the requesting body, <u>within one month</u> from the day on which the request for the completion of the request for extradition is served on it, the decision on provisional detention is lifted.</p> <p>Pursuant to art. 605a of the Code of Criminal Procedure, a wanted person may be arrested solely on the basis of information on the search contained in the database of the International Criminal Police Organisation.</p>
<p>Statutes of limitation for the purpose of prosecution and for the execution of sentences (general principles):</p>	<p>The issue of the statutes of limitation (prescription) is envisaged in art. 101, 102 and 103 of the Polish Penal Code of 6th June 1997 in a general way.</p> <p>The aforementioned provisions state the following:</p>

*Art. 101. § 1. A crime ceases to be punishable after the lapse of the following number of years from the moment of its commission:*

- 1) 30 – when the act constitutes a felony of homicide,*
- 2) 20 – when the act constitutes another felony,*
- 2a) 15 – when the act constitutes a misdemeanour subject to the penalty of deprivation of liberty exceeding 5 years,*
- 3) 10 – when the act constitutes a misdemeanour subject to the penalty of deprivation of liberty exceeding 3 years,*
- 4) 5 – when it comes to other misdemeanours.*
- 5) (repealed).*

*§ 2. A private prosecution crime ceases to be punishable after the lapse of one year from the moment the harmed party has learned the identity of the perpetrator of the crime, yet no later than after the lapse of 3 years from the moment of its commission.*

*§ 3. If the commission of a crime is dependent on the occurrence of a consequence provided for in a statute, the running of the prescription period provided for in § 1 or 2 commences at the moment of the occurrence of the consequence.*

*§ 4. In case of:*

- 1) misdemeanours against life or health subject to the penalty of deprivation of liberty with an upper limit exceeding 5 years, committed against a minor,*
- 2) the crimes provided for in Chapter XXV, committed against a minor or referring to pornographic contents involving a minor,*
  - prescription of punishability may not take place before the harmed party has attained 30 years of age.*

*Art. 102. If the proceedings against a person have been instituted within the period provided for in art. 101, punishability of the crime committed by that person is subject to prescription after the lapse of 5 years since the conclusion of that period.*

*Art. 103. § 1. A penalty may not be enforced after the lapse of the following number of years from the moment of issuing a final and*

	<p><i>valid sentence:</i></p> <ol style="list-style-type: none"> <li>1) 30 – <i>when the sentence has imposed the penalty of deprivation of liberty exceeding 5 years or a more severe penalty,</i></li> <li>2) 15 – <i>when the sentence has imposed the penalty of deprivation of liberty not exceeding 5 years,</i></li> <li>3) 10 – <i>when the sentence has imposed another penalty.</i></li> </ol> <p>§ 2. <i>The provision of § 1 section 3 applies accordingly to penal measures, compensatory measures and the forfeiture.</i></p> <p>There is however a specific provision of art. 105 which regulates the issue of prescription differently in relation to some special offences:</p> <p><i>Art. 105. § 1. The provisions of arts. 101-103 do not apply to crimes against peace, humanity and war crimes.</i></p> <p>§ 2. <i>The provisions of arts. 101-103 do not apply also to intentional crimes of: homicide, grievous bodily injury, grievous bodily harm or deprivation of liberty coupled with special torment, committed by a public officer in relation to performing official duties.</i></p>
<p>Provisions concerning extradition of nationals:</p>	<p>Extradition of Polish nationals is prohibited. Two sets of provisions are applicable in this area:</p> <p>Art. 55 of the Constitution of the Republic of Poland of 2nd April 1997 which states the following:</p> <ol style="list-style-type: none"> <li>1. <i>The extradition of a Polish citizen shall be prohibited, except in cases specified in paras 2 and 3.</i></li> <li>2. <i>Extradition of a Polish citizen may be granted upon a request made by a foreign state or an international judicial body if such a possibility stems from an international treaty ratified by Poland or a statute implementing a legal instrument enacted by an international organisation of which the Republic of Poland is a member, provided that the act covered by a request for extradition:</i> <ol style="list-style-type: none"> <li>1) <i>was committed outside the territory of the Republic of Poland, and</i></li> <li>2) <i>constituted an offence under the law in force in the</i></li> </ol> </li> </ol>

	<p><i>Republic of Poland or would have constituted an offence under the law in force in the Republic of Poland if it had been committed within the territory of the Republic of Poland, both at the time of its commitment and at the time of the making of the request.</i></p> <p><i>3. Compliance with the conditions specified in para. 2 subparas 1 and 2 shall not be required if an extradition request is made by an international judicial body established under an international treaty ratified by Poland, in connection with a crime of genocide, crime against humanity, war crime or a crime of aggression, covered by the jurisdiction of that body.</i></p> <p><i>4. The extradition of a person suspected of the commission of a crime for political reasons but without the use of force shall be forbidden, so as an extradition which would violate rights and freedoms of persons and citizens.</i></p> <p><i>5. The courts shall adjudicate on the admissibility of extradition.</i></p> <p>The provision of art. 55 of the Constitution of the Republic of Poland corresponds to art. 604 § 1 (1) of the Polish Code of Criminal procedure of 6th June 1997:</p> <p><i>Article 604. § 1. The extradition is inadmissible if:</i></p> <p style="padding-left: 40px;"><i>1) the person to whom such a motion refers is a <b>Polish citizen</b> or has been granted the right of asylum in the Republic of Poland (...)</i></p>
Surrender (e.g. deadlines):	<p>In the event that extradition is refused or if the request for extradition or provisional detention is withdrawn by a foreign state, or if the body of a foreign state, though duly notified of when and where the requested person is to be surrendered, fails to take custody of that person <u>within seven days</u> from the day established for extradition, then the person who was placed under provisional detention shall be released, unless they are deprived of liberty in another case.</p> <p>Physical surrender of the fugitives is coordinated by the General Headquarters of Police (Convoy Section).</p>
Other particularly relevant information (such as, specific	As a rule, <b>double criminality requirement must be satisfied</b> . Lack of double criminality constitutes mandatory

<p>requirements concerning double criminality):</p>	<p>ground for refusal of extradition and this is stipulated in art. 604 § 1(2) of the Polish Code of Criminal Procedure of 6th June 1997:</p> <p><i>Article 604. § 1. The extradition is inadmissible if:</i></p> <p>(...)</p> <p>2) <i>the act does not have the features of a prohibited act, or if the law stipulates that the act does constitute a criminal offence or that a perpetrator of the act does not commit a criminal offence or is not subject to penalty (...)</i></p> <p>The only exception is in relations with those countries who are Member States of the European Union and apply the provisions implementing the EU Framework Decision on the European Arrest Warrant and surrender procedures between the Member States of the European Union of 13 June 2002. This exception relates to the catalogue of the offences envisaged in art. 2(2) of the Framework Decision.</p>
<p>Links to national legislation, national guides on procedure,</p>	