

**AUSTRIA<sup>1</sup>****National Procedures for Extradition****Updated on 27/02/2021**

<b>The Central Authority responsible for extradition</b>	Federal Ministry of Justice Department V 1 Museumstrasse 7, 1070 Wien, Austria  Tel: ++43/1/52152-2226 Fax: ++43/52152-2500 E-mail: : <a href="mailto:team.s@bmj.gv.at">team.s@bmj.gv.at</a>
If different from the Central Authority, the authority to which the request should be sent	Name of the institution Address Telephone Fax E-mail
<b>Channels of communication</b> for the request for extradition:  (directly, through diplomatic channels or other)	Direct communication between Ministries of Justice.
<b>Means of communication</b> (eg. by post, fax, e-mail <sup>2</sup> ):	Austrian judicial authorities accept any means of communication that are capable of producing written records and allow establishing the authenticity of the document.
<b>Language requirements:</b>	Extradition requests and the relevant documents have to be accompanied by a translation into German, English or French language.
<b>Documentation required:</b>	Austria requires the documents mentioned in Article 12 para 2 of the European Convention on Extradition.
<b>Provisional arrest:</b>	<b>Time limit for presentation of formal extradition request if the person is in provisional arrest</b> In cases of provisional arrest pending extradition the request for extradition

<sup>1</sup> Please indicate your state.

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

		should be forwarded within the time-limit mentioned in Article 16 of the European Convention on Extradition, ETS No. 24. The time-limit of 40 days according to Article 16 para 4 of the European Convention on Extradition cannot be exceeded.
	<b>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)?</b>	No.

<b>Extradition procedures:</b>	<p>In normal extradition procedures the competent Regional Court decides on the admissibility of extradition. The decision can be appealed before one of the 4 Higher Regional Courts in Austria. In addition, the person concerned may lodge an appeal against the decision of the Higher Regional Court to the Supreme Court, if issues under the European Convention on Human Rights are concerned. Finally, the Minister of Justice decides on extradition. If the courts declared the extradition inadmissible the Minister of Justice is bound by that decision and has to decline extradition. If the court found the extradition admissible the Minister of Justice may decline extradition only with regard to international obligations or interests of the Republic of Austria.</p> <p>If the person sought consents to extradition the competent Regional Court does not decide on extradition, but forwards the file together with the protocol stating the consent of the person sought to extradition to the Minister of Justice, who orders the surrender of the person concerned. According to Austrian law the informed consent of the person sought cannot be revoked and implies a renunciation of entitlement to the rule of speciality.</p>
--------------------------------	---

<b>Detention</b> before and after the receipt of the extradition request: (deadlines, conditional release, etc)	The detention of the person sought before the receipt of the extradition request (provisional arrest) may not exceed 40 days. The maximum detention period of the person sought with a view to extradition must not exceed 1 year. After 6 months detention with a view to extradition may only be prolonged, if this is inevitable due to the exceptional difficulty or complexity of the case and if the offence underlying the extradition request cannot be considered only a misdemeanour and is punishable by life-time sentence or by a deprivation of liberty of more than 3 years.
--	---

---

<b>Statutes of limitation</b> for the purpose of prosecution and for the execution of sentences: (general principles)	The periods of limitation for all offences can be found in Sections 57 ff of the Austrian Criminal Code (StGB).
<b>Provisions concerning extradition of nationals:</b>	Due to a constitutional provision Austria cannot grant extradition of own nationals.
<b>Surrender:</b> (eg. deadlines)	Surrender should take place as soon as possible after the extradition has been granted. Apart from surrender under the EAW no specific deadlines apply.
<b>Other relevant information:</b> (such as specific requirements concerning double criminality)	The main national legislation is contained in the Federal Law of December 4, 1979 on Extradition and Mutual Assistance in Criminal Matters (Extradition and Mutual Assistance Law - ARHG) that applies to all cases with non-EU Member States. With EU Member States the Federal Law on Judicial Cooperation in Criminal Matters with the Member States of the European Union (EU-JZG), implementing inter alia the Council Framework Decision 2008/909/JHA of November 27, 2008, applies
<b>Links</b> to national legislation, national guides on procedure:	The Austrian legislation can be found at <a href="http://www.bka.ris.gv.at">www.bka.ris.gv.at</a> in German language. General information on the Austrian judicial system can be found at the webpage of the Federal Ministry of Justice at <a href="http://www.bmj.gv.at">www.bmj.gv.at</a> -also in English language.