

## ITALY

### National Procedures for Extradition

Updated on 03/05/2021

<b>The Central Authority responsible for extradition</b>	Ministero della Giustizia (Ministry of Justice) – Direzione Generale degli Affari Internazionali e della Cooperazione Giudiziaria (Directorate General for International Affairs and Judicial Cooperation) - Ufficio I (Office 1), via Arenula 70 (Arenula street 70) – 00186 Roma Phone: +39 06 68852180 Fax: +39 06 68897528 E-mail: <a href="mailto:cooperation.dginternazionale.dag@giustizia.it">cooperation.dginternazionale.dag@giustizia.it</a>	
If different from the Central Authority, the authority to which the request should be sent	Directly between Central Authorities. However, diplomatic channels are not excluded.	
<b>Channels of communication for the request for extradition:</b>  (directly, through diplomatic channels or other)	Article 5 of the 2nd Additional Protocol to the European Convention on Extradition applies: directly to the above mentioned Office of the Ministry of Justice, as Central Authority. Diplomatic channels are not excluded. Other channels are allowed, as provided for by bilateral agreements.	
<b>Means of communication</b> (eg. by post, fax, e-mail <sup>1</sup> ):	By post. However, requests and other communications via fax and e-mail are also accepted by the Central Authority, provided that the competent court of appeal (to whom the request is sent) does not object. Encryption and/or electronic signature is not required.	
<b>Language requirements:</b>	Languages accepted are Italian, English and French. Other languages are also accepted, if provided for by bilateral agreements.	
<b>Documentation required:</b>	As provided for in Article 12, paragraph 2, of the Convention.	
<b>Provisional arrest:</b>	<b>Time limit for presentation of formal extradition request if the person is in provisional arrest</b>	40 days maximum. This time limit 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

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

<b>Extradition procedures:</b>	<p>Ordinary procedure: the Ministry sends the request to the competent court of appeal. The court decides. The decision can be challenged before the court of cassation. If the final judicial decision is favorable, the Minister decides whether to issue or not the decree of extradition.</p> <p>Simplified procedure: if the person sought consents, there is not a decision of the court of appeal. The Minister directly decides whether to issue or not the decree of extradition.</p>
<b>Detention</b> before and after the receipt of the extradition request: (deadlines, conditional release, etc)	<p>Provisional arrest in view of the extradition is admitted, upon request. If the request of extradition, with its documents, is not received within 40 days, the person is set free.</p> <p>If there is not a request for provisional arrest, the Minister may, however, ask the judicial authority to put the person sought under detention.</p> <p>In both cases the court of appeal may decide that another precautionary measure, than the custodial one, is enough.</p> <p>The decision of the court of appeal must be taken within the maximum period of 1 year; this period can be prolonged to 1 year and 6 months in case of appeal lodged before the court of cassation.</p> <p>If the said periods expire, the person is set free.</p>
<b>Statutes of limitation</b> for the purpose of prosecution and for the execution of sentences: (general principles)	<p>According to art. 1 of the 4<sup>th</sup> Additional Protocol, the statute of limitation applicable in the requested State must not be taken into consideration.</p>
<b>Provisions concerning extradition of nationals:</b>	<p>Italy extradites its own nationals, if expressly provided for by international treaties. At this purpose, the Convention is considered a suitable legal basis for extradition of nationals.</p>
<b>Surrender:</b> (eg. deadlines)	<p>Once the judicial decision becomes final, the Minister has 45 days to issue the extradition decree, otherwise the person is set free.</p> <p>Once the decree is issued, the date for the surrender must be fixed and the surrender must be executed within the following 15 days. Such term may be extended for suitable reasons (not exceeding, totally, 30 days).</p> <p>To this regard, see also art. 18, paragraph 5, of the Convention – concerning circumstances beyond control of the State – and art. 714, paragraph 4bis, of the Criminal Procedure Code.</p>
<b>Other relevant information:</b> (such as specific requirements concerning double criminality)	<p>Double incrimination rule, as provided for in art. 2, applies.</p>
<b>Links</b> to national legislation, national guides on procedure:	<p>In order to have information on national legislation we suggest to ask the advice of the national experts listed in the list of official, as well as the contact points of the European Judicial Network.</p>