

Republic of Moldova – national procedures for extradition
Updated 04/01/2019

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.

<p>The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for extradition:</p>	<p>If the person whose extradition is requested is under criminal investigation, the General Prosecutor's Office is the competent authority to examine all the necessary materials.</p> <p>General Prosecutor's Office 73, Ștefan cel Mare și Sfînt bd. MD-2001, Chișinău, Republic of Moldova Tel./fax: e-mail: proc-gen@procuratura.md</p> <p>If the person has been convicted, the Ministry of Justice is the competent authority.</p> <p>Ministry of Justice 82, 31 August 1989 str. 2012, Chisinau, Republic of Moldova Tel. / fax: +373 22 201468.</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>no other competent authorities.</p>
<p>Channels of communication for the request for extradition (directly, through diplomatic channels or other):</p>	<p>The request for extradition shall be transmitted directly to the competent body of the requested state or via diplomatic channels if so provided in an international treaty.</p>
<p>Means of communication (eg. by post, fax, e-mail¹):</p>	<p>The requests can be forwarded through any electronic or other means of telecommunication under the condition that the requesting party shall forward the original request at the same time.</p>

	(No encryption or electronic signature is required)	
Language requirements:	Requests for extradition and documents appended thereto must be in Moldovan or in one of the official languages of the Council of Europe, or translated into one of these languages	
Documentation required:	According art. 12 and 13 of the Convention.	
Provisional arrest:	Time limit for presentation of formal extradition request if the person is in provisional arrest	According art. 16 of the Convention. 40 days
	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)?	Yes.
Extradition procedures: Please describe shortly the different types of procedure (e.g. normal, simplified, other) indicating the main differences:	<p>Normal procedure.</p> <p>The motion for extradition shall be resolved by the investigative judge from the court located in the territorial jurisdiction of the Ministry of Justice with the participation of the prosecutor, a representative of the Ministry of Justice (if convicts are to be extradited), the person whose extradition is requested and his/her defense counsel selected or appointed in line with the Law on the Legal Assistance Guaranteed by the State. The motion for the extradition of an arrestee shall be resolved urgently. A motion for extradition shall be resolved in the manner provided by law. The court is not competent to pronounce on the propriety of the investigation or conviction for which the foreign authority requests extradition.</p> <p>If the court find that all the conditions for extradition are met, it shall admit in a judgment the request for extradition and shall decide to keep the person under preventive arrest until extradition. Should the court find that the conditions for extradition are not met, it shall reject the request and shall order the release of the person whose extradition is requested.</p> <p>The judgment shall be edited within not more than 24 hours from pronouncement and shall be transmitted to the General Prosecutor's Office or to the Ministry of Justice.</p> <p>The court judgment on extradition may be subject to cassation by the prosecutor and by the extradited person or his/her attorney within 10 days from pronouncement to the Chisinau Court of Appeals. The final judgment of the investigative judge shall be sent</p>	

	<p>to the General Prosecutor's Office and to the Ministry of Justice for execution or for the information of the requesting state.</p> <p>Article 545. Simplified Procedure for Extradition</p> <p>(1) Upon the request of the competent authority of a foreign state to extradite a person, to provisionally arrest him/her in view of extradition or to extradite a foreign citizen or stateless person in whose regard an arrest warrant for extradition was issued may be granted without following the formal extradition procedures if the person consents to simplified extradition and his/her consent is confirmed by the court. If an arrestee consents to his/her extradition under the simplified procedure, submission of the official request for extradition and the documents specified in art. 542 of this Code shall not be necessary.</p> <p>(2) The requirements in art. 543 shall not be invoked if the foreign citizen or stateless person, upon being informed of his/her rights, expressly waives his/her right to application of the rule of specialty and this fact is confirmed by the court.</p> <p>(3) The investigative judge from the competent court shall examine in a hearing in which the prosecutor, the person whose extradition is required and his/her attorney shall participate, the identification details of the extraditable person, shall inform him/her about his/her right to a simplified procedure of extradition and about the legal effects thereof, and shall record the statement made which shall be signed by all participants in the hearing.</p> <p>(4) The consent given under paras. (1) or (2) may not be revoked once confirmed by the court.</p>
<p>Detention before and after the receipt of the extradition request, (deadlines, conditional release, etc.):</p>	<p>Article 547. Arresting a Person in View of Extradition</p> <p>(1) Upon receipt of a request for extradition, the General Prosecutor's Office or, as the case may be, the Ministry of Justice will immediately undertake measures under the conditions of this Code for the preventive arrest of the person whose extradition is requested. The term of the person's preventive arrest may not exceed 180 days from the moment of detention until transfer to the requesting party.</p> <p>(1¹) The preventive arrest of the extraditable person may be replaced by any other preventive measure upon the request of the prosecutor or by the court ex officio in line with the procedural legislation in force if:</p> <ul style="list-style-type: none"> a) the health of the person confirmed by a medical certificate prevents him/her from detention; b) the person and his/her family have their permanent domicile in the Republic of Moldova and there are no grounds to consider that he/she will evade extradition. <p>(2) In emergencies, the person whose extradition is requested may be arrested prior to receipt of the request for extradition based on an arrest warrant issued for a term of 18 days which may be extended for up to 40 days based on a motion of the General Prosecutor's Office or upon the request of a foreign state or international court, provided that the request contains data on the arrest warrant or on the final judgment issued with regard to this person and the assurance that the request for extradition will be subsequently sent.</p>

	<p>The request shall refer to the crime for which extradition will be requested, the date and place where it was committed and, to the extent possible, the distinctive features of the person sought. The request for arrest may be addressed by mail, telegraph, telex, fax, or any other means of conveying written messages. The requesting authority shall be informed as soon as possible about the results of the examination of its request.</p> <p>(3) The person arrested under the conditions in para. (2) shall be released if within 18 days from arrest the court deciding on the admissibility of the person's arrest does not receive the request for extradition and the respective documents. This term may be extended upon the request of the foreign state or international court; however, it shall not exceed 40 days from arrest. Provisional release is possible any time, provided that other measures aimed at avoiding the person's whose extradition is requested from evading prosecution may be applied to him/her.</p> <p>(4) The arrest of the person in view of extradition, the extension of the arrest term and the appeal against the respective judgments shall be performed in line with this Code.</p> <p>(5) The decision on the admissibility of extradition shall be reasoned and include explanations of the manner and timeframe for appealing it. The Prosecutor General, the person whose extradition is requested and his/her defense counsel shall be sent a copy of the respective decision.</p> <p>(6) The release of the person arrested under the conditions of this article shall not prevent a new arrest and extradition if the request for extradition is subsequently received.</p>
<p>Statutes of limitation for the purpose of prosecution and for the execution of sentences (general principles):</p>	<p>Article 548. Postponing Extradition and Temporary Extradition</p> <p>(1) If the person whose extradition is requested is charged in the Republic of Moldova in a proceeding at the stage of criminal investigation or case hearing, or if he/she was convicted for a crime other than the crime for which extradition is requested, the execution of extradition may be postponed until completion of the criminal proceeding or until the complete execution of the punishment set by the national court or until release prior to the expiry of the term of punishment.</p> <p>(2) If the postponement of extradition could lead to the expiry of the limitation period of the criminal case or could cause serious difficulties in establishing facts, the person may be extradited temporarily based on a reasoned request under the conditions to be determined jointly with the requesting party.</p> <p>(3) A temporarily extradited person shall be returned immediately upon completion of the procedural actions for which he/she was extradited.</p>
<p>Provisions concerning extradition of nationals:</p>	<p>Article 18 from Constitution of Republic of Moldova "Moldavian citizens can't be extradited or expelled from the country."</p> <p>Article 546 from Criminal Procedure Code of Republic of Moldova. "The Republic of Moldova shall not extradite its own citizens and</p>

	persons granted the right to asylum.”
Surrender (eg. deadlines):	<p>Article 549. Handover of an Extradited Person</p> <p>(1) If the extradition of a person is accepted in court, after its judgment becomes effective the General Prosecutor or, as the case may be, the Minister of Justice shall inform the requesting state or the international court about the date and place of the extradited person's handover and about the duration of the executed detention in view of extradition.</p> <p>(2) If the requesting party does not receive the extradited person at the date set for the handover and if postponement was not required, the person may be released upon the expiry of 15 days from this date and shall anyway be released upon the expiry of 30 days calculated from the date set for the handover if the international treaties to which the Republic of Moldova is a party do not provide for more favorable conditions for this person.</p> <p>(3) The extradition of a person for the same act upon the expiry of the terms specified under this article may be refused.</p> <p>(4) If there are <i>force-majeure</i> circumstances preventing the handing over or receiving of the extraditable person, the interested state shall inform thereof the other state. Both states shall agree on a new date for the handover in line with the provisions of this article.</p>
Other particularly relevant information (such as, specific requirements concerning double criminality):	<p>Article 45. Dual criminality rule (Law Nr. 371 from 01.12.2006, International Assistance in Criminal Matters)</p> <p>1) The extradition can be admitted according to paragraph (3) of article 544 of the Criminal Procedure Code, only if action for which the person whose extradition is requested is accused or sentenced is qualified as a crime by the legislation of the requesting state as well as by the legislation of the Republic of Moldova.</p> <p>2) By derogation from the provisions of paragraph (1) the extradition can be granted in the situation when the criminal action is not regulated by the legislation of the Republic of Moldova if for this action the double criminality requirement is excluded by an international treaty to which the Republic of Moldova is a party to.</p> <p>3) The existent distinctions between the legal classification and title given to the same crime by the legislation of both states shall not be relevant unless through the international treaty or if absent through the reciprocity declarations is not provided otherwise.</p>
Links to national legislation, national guides on procedure,	http://lex.justice.md/