

The competent court for the extradition proceeding is a regional court, in which district the person was taken in to a custody. If the person was not taken in to a custody, then the competent court is a regional court, in which the person has a permanent residence.

The competent authority for receiving the request for extradition to foreign state is the Ministry of justice of the Czech Republic. If the request is perfect, the Ministry passes it to the state prosecutor, which starts a preliminary investigation.

The purpose of preliminary investigation is to find out, whether the extradition of a person to the third state is not in contrary with one of the following rules and principles:

- 1) no extradition of Czech citizens
- 2) extradition is possible only for extradition crimes
- 3) no extradition of offenders of political crimes
- 4) crime is mutual punishable
- 5) principle of reciprocity
- 6) principle of specialty
- 7) the extradition is inadmissible if, under the law of the Czech Republic, a limitation of the criminal prosecution / execution of a sentence has been made or if the prosecution is inadmissible due to grace or amnesty
- 8) no extradition if person was not criminally responsible when he/she committed the crime
- 9) an extradition to the state, which is responsible for prosecution (in case of multiply requests)
- 10) the issue must be requested by the state - the form and manner of the application under the relevant treaty
- 11) no examination in several process stages according to several treaties
- 12) possibility of extradition is limited in the case, when a crime was committed in a state who wants to extradite that offender
- 13) no extradition if the offender could be sentenced to death penalty

State prosecutor or police authority with a consent of state prosecutor may detain a person. Police authority is competent to detain a person even without previous consent of state prosecutor if there is no chance to obtain consent in time. In this case, police authority is obliged to announce detention to state prosecutor and to hand over i.e. a transcript of protocol of interrogation of detained person and other relevant documents on which state prosecutor may file an application for preliminary detention.

State prosecutor or police authority will hear the person in detention and will make a “new” protocol. Already during the detention, the state prosecutor or police authority will instruct the detained person on the possibility to grant consent with his/her extradition to the requesting state and the conditions and consequences of such consent, including the fact that the consent to the extradition is linked to the waiver of the application of the principle of

specialty. The detained person has the right to request a presence of advocate during the interrogation.

State prosecutor passes person in detention to a court with a proposal of preliminary detention at the latest 48 hours after the detention. If not, person has to be released immediately.

When the preliminary investigation is over, the competent court will decide if extradition is admissible or not, however the extradition itself is permitted by Minister of Justice.

**Case:**

At the beginning of this year, I represented my client who is a Syrian Kurdish politician, a member of PYD (the PYD is the political wing of the People's Protection Units, which has ties to the banned Kurdistan Workers' Party fighting a three-decade-long insurgency against the Turkish state).

The Czech Republic was requested by Turkey to extradite my client to face terrorism charges. The Czech court decided about a preliminary detention of my client and ordered his release on the assurance that he will remain in European Union territory and cooperate in any further proceedings in his extradition case.

However, when my client left the country to other EU countries, as approved by the court, the extradition proceeding was terminated by the state prosecutor due to the fact, that my client was no longer in the territory of the Czech Republic which is a crucial precondition for extraditing a person.

**Do you think that the European Union should provide a list of “safe” countries (extradition in principle, refusal in particular cases), a list of “doubtful” countries (case by case, high level of doubt) and a list of “blacklisted” countries (no extraditions allowed until further notice)?**

I can imagine these lists as non-binding for deciding authorities. It could be a good guideline which would provide a fairly comprehensive picture of the current situation in third countries.

**Should there be a minimum standard of extradition proceedings, with a strict timeline to take the final decision?**

In situation when rights of detained person are restricted, a speed is essential and the strict timeline should be required. However, in justified cases there could be a possibility of extending the strict timeline in order to duly examine the current situation of democracy, rule of law etc. in requiring state.

**What is your opinion on trial via video conference, refusing to surrender the requested person and following up on the trial from the requested state, possibly even executing the sentence if the person is convicted (and prison conditions are doubtful)?**

It seems to me that the Czech courts are currently quite in favor to extradite persons to the formal USSR countries and to China without proper assessment of the actual risks for the extradited persons.

Following up on the trial from the requested state, delivering a court final decision or regular reports from prison may be a good way of checking whether the extradited person is being treated the way as he/she should be.

**Do you have any ideas on how to harmonize or improve the extradition to third countries? Less uncertainty, more guidelines for member states,...**

As mentioned above - non-binding lists of "safe", "doubtful" or "blacklisted" countries.

**All interesting thoughts or comments on the subject are welcome.**