

# LAW OF GEORGIA

## ON INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

### Chapter I – General Provisions

#### Article 1 - Purpose of the Law

1. This Law defines the procedures for rendering legal assistance in criminal cases, for carrying out extradition, for transmitting criminal files or their duly certified copies for the further criminal prosecution of a person, as well as the procedures for enforcing court judgements and for transferring to, or receiving from, the state of nationality persons sentenced to imprisonment.
2. Matters related to the cooperation of Georgia with the International Criminal Court are regulated under the Rome Statute of the International Criminal Court (Rome Statute) and the Law of Georgia on the Cooperation of Georgia with the International Criminal Court.

#### Article 2 - Legal framework for international cooperation in criminal matters

1. International cooperation in criminal matters shall, as a rule, be carried out on the basis of the international agreements of Georgia.
2. In certain cases, international cooperation in criminal matters may be carried out on the basis of an individual agreement or the principle of reciprocity with a state with which Georgia has not entered into a relevant international agreement.
3. International cooperation in criminal matters may be carried out on the basis of the principle of reciprocity in cases referred to in Article 1(1) of this Law, except for matters related to the enforcement of judgements and extradition.
4. For international cooperation in criminal matters on the basis of the principle of reciprocity, the conditions of reciprocity shall be defined and shall include the minimum guarantees established by this Law; however the establishment of higher standards shall not be ruled out.
5. An individual agreement shall be entered into only in specific cases of international cooperation in criminal matters and shall include the minimum guarantees determined by this Law; however the establishment of higher standards shall not be ruled out.

#### Article 3 - Communication channels and means of communication

1. International cooperation in criminal matters shall be carried out through the communication channels and means of communication determined under the relevant international agreement or individual agreement.
2. If the relevant international agreement or individual agreement does not determine communication channels and means of communication, international cooperation in criminal matters shall be carried out through direct channels, unless otherwise required under the national law of the foreign state concerned.
3. In the case of international cooperation in criminal matters on the basis of the principle of reciprocity Georgia shall use diplomatic channels.
4. Unless otherwise required by the national law of the foreign state concerned, INTERPOL channels or other means of communication may be used in the process of international cooperation in criminal matters.
5. Upon request, the material obtained through the communication channels and means of communication provided for in paragraph 4 of this article shall be subsequently confirmed by regular mail.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

#### Article 4 - Expenses

1. Unless otherwise provided for by an international or individual agreement of Georgia or by the conditions of reciprocity, Georgia shall assume all the expenses related to the implementation of international cooperation in criminal matters in the territory of Georgia.
2. Expenses may be distributed differently on the basis of the relevant international agreement or of agreement of the parties.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

### Chapter II - Provision of legal assistance in criminal cases

#### Article 5 - General procedure for sending a request to a foreign state for rendering legal assistance on criminal cases conducted by competent Georgian



## **authorities and the procedure for its implementation**

1. If there arises a need to conduct in the territory of a foreign state a procedural action provided for by the Criminal Procedure Code of Georgia and, at the same time, there are relevant legal grounds, the investigator, prosecutor or the judge (court) may apply with the relevant request to the Ministry of Justice of Georgia.
2. A request for legal assistance in criminal cases conducted by the competent authorities of Georgia shall be executed in accordance with the legislation of the foreign state, except as provided for by paragraph 3 of this article.
3. Unless otherwise provided for by an international or individual agreement of Georgia or the conditions of reciprocity, the Ministry of Justice of Georgia may request the foreign state concerned to apply the legislation of Georgia when executing a request for legal assistance in a criminal case conducted by the competent authorities of Georgia.
4. Where there are relevant legal grounds, the Ministry of Justice of Georgia may request the foreign state concerned to allow the authorised representatives of Georgia to attend the execution of the request for legal assistance in criminal cases conducted by the competent authorities of Georgia.
5. Evidence obtained in the territory of a foreign state in accordance with the relevant legislation shall have the same legal force as evidence obtained in the territory of Georgia.
6. Any property or original documents obtained as a result of the relevant legal assistance shall, after the need expires, be returned to the relevant authority of the foreign state, except where that state refuses to receive it or them back.
7. Information or other material obtained in the territory of a foreign state in accordance with the relevant legislation may not be used for purposes other than the purposes indicated in the request for legal assistance.
8. The information and other material referred to in paragraph 7 of this article may be used for other purposes with the prior consent of the competent authority of the foreign state concerned, in which case an additional request shall be made.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

## **Article 6 - Form of request for legal assistance**

1. A request for legal assistance shall be prepared in written form and shall, as a rule, include:
  - a) the name of the competent authority of the state to which the request is sent;
  - b) the description of factual circumstances of the criminal case and its legal qualification;
  - c) the content of the article of legislation on the basis of which the relevant criminal proceedings are being conducted, and, where necessary, extracts from other relevant legislative acts;
  - d) the content of the requested legal assistance;
  - e) the purpose and the need of the requested legal assistance;
  - f) as far as possible, accurate identification details of the person with respect to whom the legal assistance is requested;
  - g) any other necessary data.
2. If the Criminal Procedure Code of Georgia requires a court decision (ruling) to carry out a procedural action, such decision, certified by the signature of the judge and the official seal of the court, shall be attached to the request for legal assistance.
3. The time limits established under Article 112(3) of the Criminal Procedure Code of Georgia shall not be applied when delivering a court decision (ruling) provided for by paragraph 2 of this article.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

## **Article 6<sup>1</sup> - Service of a procedural document**

1. Where there are relevant legal grounds, the investigator, prosecutor or the judge (the court) may, through the Ministry of Justice of Georgia or without it, directly serve the court decision or any other procedural document by mail upon the person located in the territory of the foreign state, in a language understandable to that person.
2. The document specified in paragraph 1 of this article shall be accompanied by a written explanation to the effect that the addressee is entitled to be informed of their rights and duties with respect to the service of the document.
3. If a notice to appear before the authority conducting the proceedings is served in accordance with this article upon a person located in the territory of a foreign state, the requirements under Article 7 (3, 4 and 6-10) of this Law shall be complied with.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*



## **Article 7 - Summoning a person located in the territory of a foreign state in connection with a criminal case conducted by the competent authorities of Georgia**

1. Where there are relevant legal grounds, the investigator, prosecutor or the judge (the court) may make a request, through the Ministry of Justice of Georgia, to summon as the accused, a witness, an expert or as a victim, a person located in the territory of a foreign state in connection with a criminal case being conducted by said investigator, prosecutor or judge.
2. The person referred to in paragraph 1 of this article shall be summoned on the basis of a relevant notice, in the form of a request for legal assistance, which shall be sent to the competent authority of the foreign state.
3. A witness, an expert or a victim summoned in accordance with this article to the territory of Georgia shall be reimbursed for all the expenses related to their travel and stay in the territory of Georgia, as well as to the time spent away from their main work. A summoned expert shall additionally be reimbursed for all the expenses and remuneration related to the performance of his/her professional activities.
4. A notice to summon a witness, an expert or a victim referred to in paragraph 2 of this article, or a request for legal assistance, shall contain the amount of the expenses that are to be reimbursed to the summoned person for their appearance.
5. Unless otherwise provided for by an international or individual agreement of Georgia or the conditions of reciprocity, the foreign state concerned may, upon a prior request of the Ministry of Justice of Georgia, pay to the person to be summoned as a witness, expert or victim a certain amount of money as an advance, which shall subsequently be reimbursed by the competent authorities of Georgia.
6. In the case of a failure of a witness, expert or victim summoned on the basis of paragraph 2 of this article to appear before the body conducting the proceedings, the coercive measures provided for by the Criminal Procedure Code of Georgia may not be applied.
7. The procedure provided for by paragraph 6 of this article shall not be applied if a person voluntarily returns to Georgia and is re-summoned in accordance with legislation.
8. Administrative or criminal liability may not be imposed on a witness, expert or victim summoned on the basis of this article if such person appears before the body conducting the proceedings; they may not be subject to arrest, detention or punishment; nor may their freedom be restricted in any way for any act committed before leaving the territory of the foreign state concerned. No restrictions may be applied to such persons by reason of the testimony or opinion given with respect to the criminal case for which they were summoned.
9. Administrative or criminal liability may not be imposed on a witness, expert or victim summoned on the basis of this article if such person appears before the body conducting the proceedings; they may not be subject to arrest, detention or punishment; nor may their freedom be restricted in any way for an act committed before leaving the territory of the foreign state concerned and that was not indicated in the summons.
10. The procedure provided for by paragraphs 8 and 9 of this article may not be applied if a person who could have left the territory of Georgia, and did not leave the country within 15 days after the necessity of their stay in Georgia had expired, or returned to Georgia after leaving its territory, unless otherwise specified by an international or individual agreement of Georgia or the conditions of reciprocity.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

## **Article 7 -<sup>1</sup>. Temporary transfer of a person held in custody in Georgia to the territory of a foreign country for the purpose of participation in an investigative action**

1. Where there are relevant legal grounds, if during the conduct of an investigative action in the territory of a foreign state in relation to a criminal case conducted by the competent authorities of Georgia, there arises a need for the presence of a person who is held in custody in Georgia, the investigator, prosecutor or judge (court) shall be authorised to require, through the Ministry of Justice of Georgia, a temporary transfer of this person to the territory of the foreign state for participation in the relevant investigative action.
2. In the case provided for by paragraph 1 of this article, prior written consent from the person held in custody in Georgia shall be necessary for a temporary transfer of such person to the territory of a foreign state.
3. The request specified in paragraph 1 of this article may be sent to a competent authority of a foreign state in the form of a request for legal assistance. The written consent of the person held in custody in Georgia, or a copy of such consent, shall be attached to the request.
4. The procedure and conditions for a temporary transfer of a person held in custody in Georgia to a foreign state shall be determined under a written agreement entered into between the Ministry of Justice of Georgia and the competent authorities of the foreign state.
5. In accordance with this article, a person temporarily transferred to the territory of a foreign state, including in the case of transit through a third State, shall remain in custody, if the Ministry of Justice of Georgia does not require their release from custody.
6. The period of detention of a person temporarily transferred to the territory of a foreign state shall be counted towards the total period of the sentence imposed by the court.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

## **Article 8 - Requesting information on legal issues from a foreign state and providing such information to the competent authorities of a foreign state**

1. Where there are relevant legal grounds, the Ministry of Justice of Georgia may request from a foreign state information on the domestic legislation of that State and on the practice of that legislation.
2. Where there are relevant legal grounds and upon a relevant request, the Ministry of Justice of Georgia may provide to the competent authority of the



foreign state information on the legislation of Georgia and on its application.

### **Article 9 - Requesting information or materials related to a criminal case from the competent authorities of a foreign state and providing such information to the competent authorities of a foreign state**

1. Where there are relevant legal grounds, where necessary, the Ministry of Justice of Georgia shall request information or materials related to a criminal case conducted by them from the competent authorities of a foreign state.
2. Where there are relevant legal grounds, the Ministry of Justice of Georgia may, upon request, provide information or materials obtained during the investigation of the criminal case conducted by the competent authorities of Georgia to the competent authorities of a foreign state.
3. In the case of providing information or materials indicated in paragraph 1 of this article to the competent authorities of a foreign state on its own initiative, the Ministry of Justice of Georgia may impose a restriction on the use of the information or materials provided.
4. The competent authorities of Georgia shall comply with the restrictions established by the competent authorities of a foreign state in relation to the use of information and materials provided by them.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

### **Article 9<sup>1</sup> - Examination of a person by technical means**

1. A witness, expert or a victim located in the territory of Georgia may be examined by using audio or video equipment on the basis of a request for legal assistance of a competent authority of a foreign state.
2. A person to be examined by means of audio or video equipment in the territory of Georgia shall be summoned in accordance with the legislation of Georgia.
3. A witness, expert or victim who is located in the territory of Georgia and who is to be examined by means of audio or video equipment on the basis of a request for legal assistance of a foreign state shall have the rights and duties provided for by the legislation of Georgia.
4. Unless otherwise provided for by an international or individual agreement or the conditions of reciprocity, when executing a request of a competent authority of a foreign state for the examination of a witness, expert or a victim located in the territory of Georgia by means of audio or video equipment, the following rules shall apply:
  - a) a representative of a competent authority of Georgia shall ensure the establishment of the identity of a witness, expert or a victim to be examined and the protection of the fundamental principles determined by the legislation of Georgia for such persons;
  - b) the examination shall be performed by the relevant representative of the foreign state concerned or, upon its instructions, by an authorised person of a competent authority of Georgia. The examination shall be conducted in accordance with the legislation of the foreign state;
  - c) where necessary, an interpreter may participate in the process of examination.
5. Unless otherwise provided for by an international or individual agreement or the conditions of reciprocity, upon the request of the competent authority of a foreign state, the examination by means of audio equipment shall be conducted in the territory of Georgia only with the prior consent of the person to be examined.
6. A record of examination shall be prepared after the examination of a witness, expert or a victim by means of audio or video equipment in the territory of Georgia on the basis of a request of the competent body of a foreign state; the record shall include the time and place of examination, the personal details of the examined person, the identity of persons participating in the examination and the technical means used in the examination, as well as other necessary data. The record shall be forwarded to the competent authority of the foreign state in accordance with this law.
7. On the basis of a request for legal assistance of a competent authority of a foreign state, the competent authorities of Georgia shall ensure the examination with audio or video equipment in the territory of Georgia of a person who is subject to criminal prosecution in the foreign state. Examination shall be conducted only with the prior consent of the person to be examined.
8. Where there is a relevant legal basis, the Ministry of Justice of Georgia may request the competent foreign authorities to conduct an audio or video examination of a witness, expert or a victim located in their territory.
9. A request for the examination by means of audio or video equipment of a witness, expert or a victim located in the territory of a foreign state, in addition to the data indicated in paragraph 1(6), shall also include:
  - a) the reasons for which the person is unable to personally appear before the body conducting the proceedings;
  - b) the name of the authority and of a person(s) authorised to examine the witness, expert or victim by means of audio and video equipment.
10. Where there is a relevant legal basis, the Ministry of Justice of Georgia may request a competent authority of a foreign state to conduct the examination by means of audio or video equipment of a person subject to criminal prosecution in Georgia. Examination shall be conducted only with the prior consent of the person to be examined.
11. Regardless of the requirements of this article, the competent authorities of Georgia may conduct distance examination of a person located in the territory of a foreign state with technical means in accordance with other procedures envisaged by law.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*



## **Article 10 - Maintenance of confidentiality**

1. If there are relevant legal grounds, the Ministry of Justice of Georgia may petition a competent authority of a foreign state to maintain confidentiality when executing a request for legal assistance in a criminal case, unless such petition contravenes the implementation of the request.
2. If there is a relevant request, the Ministry of Justice of Georgia shall maintain confidentiality when executing a request for legal assistance of a competent authority of a foreign state. If confidentiality cannot be maintained, the relevant competent foreign authorities shall be informed immediately.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

## **Article 11 - Execution of a request for legal assistance of a foreign state in the territory of Georgia**

1. Where there is a relevant legal basis, the Ministry of Justice of Georgia shall ensure the execution of a request of a foreign state for criminal assistance in the territory of Georgia.
2. A request for legal assistance received from a foreign state shall be executed in accordance with the legislation of Georgia.
3. Unless otherwise provided for by an international or individual agreement of Georgia or the conditions of reciprocity, when rendering legal assistance, in the case of a relevant request, the legislation of the requesting foreign state shall also be used if it does not contravene the fundamental principles of the legislation of Georgia.
4. Procedural actions related to the coercion of a person and to the limitation of their constitutional rights and freedoms shall be conducted if they have been authorised by a foreign court or other foreign competent authorities.
5. Where there are relevant legal grounds, the representatives of a foreign state requesting legal assistance may be present during the execution of a request for legal assistance with the prior consent of the Ministry of Justice of Georgia. The Ministry of Justice of Georgia shall satisfy the request if the presence of the interested persons will better meet the requirements of the foreign state and exclude the necessity of additional requests for legal assistance.
6. If the information provided by a foreign state is not sufficient to execute a request for legal assistance, the Ministry of Justice of Georgia may request the foreign state to provide additional information.
7. Materials obtained as a result of legal assistance shall be sent to the foreign state through the Ministry of Justice of Georgia.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

## **Article 12 - Reasons for denying a request for legal assistance**

1. Legal assistance shall not be provided if:
  - a) the implementation of a request for legal assistance may cause damage to the sovereignty, security, public order or other essential interests of Georgia;
  - b) the implementation of a request for legal assistance contravenes the legislation of Georgia;
  - c) a crime, in relation to which legal assistance is requested, is deemed by Georgia as a political or an associated offence. An offence shall not be deemed to be political if the purpose, motive, form, methods and other circumstances of the crime prevail over the political aspects of the crime;
  - d) the implementation of a request for legal assistance may cause damage to internationally recognised human rights and fundamental freedoms;
  - e) a crime, in relation to which legal assistance is requested, constitutes a military offence that is not punishable under the criminal legislation of the requesting state, except where otherwise provided for in the international or individual agreements of Georgia or the conditions of reciprocity;
  - f) the execution of a request for legal assistance may lead to the violation of the *non bis in idem* principle.
2. Where a request for legal assistance stipulates search, seizure, or property seizure and the relevant legal grounds do not provide otherwise, the request shall be executed only if:
  - a) the crime with respect to which legal assistance is sought is punishable both under the legislation of the requesting foreign state and of Georgia;
  - b) the perpetrator of the crime with respect to which legal assistance is sought is subject to extradition under the legislation of Georgia;
  - c) the execution of the request is consistent with the legislation of Georgia.
3. When a foreign state requests that a person kept in custody in Georgia appear in its territory for the conduct of investigative or judicial actions, the Ministry of Justice of Georgia may deny the foreign state's request for legal assistance if:
  - a) the detained person objects;
  - b) the presence of the detained person in Georgia is necessary for the conduct of criminal proceedings against him/her;



- c) the transfer of the person kept in custody may prolong his/her detention;
- d) there are other circumstances that exclude the transfer of the person kept in custody to the foreign state for the purposes provided for in this paragraph.
4. The Ministry of Justice of Georgia may temporarily deny legal assistance to a foreign state if the legal assistance could prejudice or delay the criminal proceedings conducted in Georgia.
5. In other cases provided for by an international or individual agreement of Georgia or by the conditions of reciprocity, the Ministry of Justice of Georgia may fully or partially deny a request for legal assistance.
6. If the circumstances provided for in this article are identified, the request for legal assistance and the supporting documents shall be returned to the relevant foreign state through the Ministry of Justice of Georgia, with an indication of the reasons for postponing or denying the execution of the request.
7. The Ministry of Justice of Georgia shall, before executing the procedure provided for in paragraph 6 of this article, hold consultations with the relevant foreign state on the partial execution of the request for legal assistance and/or on the execution of the request under certain conditions.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

#### **Article 12 -<sup>1</sup> Establishment of a joint investigation group**

If the conduct of an investigation on a committed crime requires coordinated work with the competent authorities of the foreign state(s), the Ministry of Justice of Georgia may establish a joint investigative group in conjunction with the competent authorities of the relevant foreign state(s); the composition, the rules of procedure, the operational costs, and the rights and duties of its members shall be determined under an international agreement(s) or a written agreement(s) entered into with the relevant foreign state(s).

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

#### **Article 13 - Procedural status**

Persons with respect to whom the competent authorities of a foreign state are requesting the conduct of procedural actions shall have the same procedural status as in the requesting state, unless, under the legislation of Georgia, this interferes with the person's fundamental rights.

### **Chapter III - Extradition**

#### **Article 14 - Extradition of a person from a foreign state to Georgia**

1. The Ministry of Justice of Georgia may, in accordance with this Law, request the relevant authority of a foreign state to extradite a person who is charged with a crime that carries imprisonment for a term of more than one year or who has been convicted of such crime.
2. In preparing a request for the extradition of a person from a foreign state to Georgia, account shall also be taken of the gravity of the crime, the level of risk posed to the public, the extent of the damage caused, the public interest in extraditing the person to Georgia and in his/her subsequent conviction and punishment, as well as other circumstances that make the extradition of a person to Georgia reasonable.
3. The refusal to perform a request for extradition of a person from a foreign state shall be substantiated.

#### **Article 15 - Form of a request for extradition of a person from a foreign state to Georgia and supporting documents**

1. A request for extradition of a person from a foreign state shall be prepared in writing and shall include:
  - a) the name, surname, date and place of birth of the accused or convicted person, and where possible, other identification details confirming his/her identity;
  - b) a description of the factual circumstances of the committed crime, with reference to the law that provides for punishment for such crime.
2. A request for extradition provided for in paragraph 1 of this article shall be accompanied by:
  - a) the court ruling remanding the person in custody;
  - b) a copy of the prosecution order of the person, or if the person has been convicted, the final judgement of conviction;
  - c) the text of the law that provides for criminal liability for the committed crime, and other legislative acts necessary for the consideration of the question of extradition;
  - d) where possible, a photo of the person subject to extradition, his/her fingerprints, DNA code or other identification data.



3. A request for extradition provided for in paragraph 1 of this article may be accompanied by other documents as well if so required by a relevant international or individual agreement between Georgia and the foreign state.

#### **Article 16 - Effect of extradition procedures conducted in a foreign state on criminal proceedings in Georgia**

1. If a person who is subject to extradition to Georgia is detained in a foreign state, the term of detention of that person in Georgia shall be calculated from the moment of his/her actual transfer to the relevant Georgian authorities. The term of extradition detention in a foreign state of a person who is subject to extradition to Georgia shall be counted towards the total term of the sentence imposed by the court.

2. A person extradited to Georgia may not be prosecuted for or convicted of any other crime committed by him/her before the extradition, other than the crime for which he/she has been extradited to Georgia.

3. Unless otherwise provided for by an international or individual agreement of Georgia, paragraph 2 shall not apply if:

a) the state that conducted the extradition of the person to Georgia consents;

b) the extradited person who had the opportunity to leave Georgia did not leave the country within 45 days of his/her final release or returned again to Georgia after leaving its territory.

4. In the case provided for in paragraph 3 (a) of this article, a request for the consent of the relevant foreign state shall be accompanied by the relevant document(s) and contain the data indicated in Article 15 of this Law.

5. Unless otherwise provided for by an international or individual agreement of Georgia, paragraph 2 of this article shall not apply if, during proceedings following extradition, the legal classification (qualification) of the act committed by the person has changed, but the description and the essential elements of the crime have remained the same, and the new crime is subject to extradition.

#### **Article 17 - Transfer of a person to a third state**

1. A person extradited from a foreign state may not be transferred to a third state without the consent of the extraditing state.

2. For the purposes of this article, consent shall be requested by the Ministry of Justice of Georgia.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

#### **Article 18 - Crimes subject to extradition**

1. Unless otherwise provided for by an international or individual agreement of Georgia, a person shall be extradited to a foreign state for such crimes that both under the legislation of Georgia and that of the foreign state concerned are punishable by at least imprisonment for one year or by a stricter punishment. In the case of a convicted person, it is necessary that the person be sentenced to at least four months of imprisonment.

2. Unless otherwise provided for by an international or individual agreement of Georgia, a person may also be extradited to a foreign state if a request for extradition concerns several crimes that are punishable both under the legislation of Georgia and that of the foreign state and where some of those crimes do not meet the requirements established under paragraph 1 of this article with respect to the measure of punishment, but are punishable by imprisonment or a fine in the form of a sanction.

3. Paragraph 2 of this article shall also apply in the case of the extradition of a person from a foreign state to Georgia.

#### **Article 19 - Political crime**

1. Extradition may not be conducted if the crime for which the transfer of the person is requested is considered in Georgia as a political or related crime.

2. When defining a political crime, account shall be taken of Article 12(1)(c) of this Law.

3. Encroachment on the life of the head of state or his/her family, or any attempt thereof, shall not be considered as a political crime nor any other crime with respect to which Georgia has undertaken the obligation of extradition under international or individual agreements.

#### **Article 20 - Military crime**

1. Unless otherwise provided for by an international or individual agreement of Georgia a person may not be extradited if the crime for which the extradition of the person is requested constitutes a military crime.

2. When defining a military crime, account shall be taken of Article 12(1)(e) of this Law.

#### **Article 21 - Extradition of Georgian citizens**



A Georgian citizen may not be extradited to a foreign state unless otherwise provided for by an international agreement of Georgia.

#### **Article 22 - Capital punishment**

Extradition may not be conducted if the crime for which the extradition of the person is requested is punishable by death under the legislation of the requesting state.

#### **Article 23 - Default judgement**

1. A person may not be extradited to a foreign state, if the court of the requesting state passed a default judgement against him/her and the person was not properly informed of the court hearing or the person accused of the crime was not provided with minimum defence rights.

2. In the case provided for by paragraph 1 of this article, a person may be extradited if the competent authorities of the requesting state provide assurances that the case will be reheard by the court and the extradited person will be granted defence rights.

#### **Article 24 - Period of limitation**

Extradition may not be conducted for a crime if under the Criminal Code of Georgia the period of limitation has expired, which releases the person from criminal liability or from serving the sentence.

#### **Article 25 - Status, amnesty and pardon of a person subject to extradition**

1. Extradition may not be conducted if a person subject to extradition has been granted asylum in Georgia or he/she is a person with international protection in Georgia except where extradition is requested by a third safe state.

2. Extradition may not be conducted if the crime for which a person's extradition is requested is subject to amnesty under the legislation of Georgia and Georgia has jurisdiction with respect to such crime.

3. Extradition may not be conducted if an act of pardon has been issued with respect to the crime for which the transfer of the person is requested.

4. The prosecutor conducting extradition procedures shall explain to the person subject to extradition in writing in the language that he/she understands the rights to apply for international protection and the availability of asylum established by the legislation of Georgia.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

*Law of Georgia No 45 of 1 December 2016 – web-site, 15.12.2016*

#### **Article 26 – Non bis in idem principle**

A person may not be extradited if:

a) the Georgian court has delivered a judgement with respect to the crime for which the person's extradition is requested;

b) the relevant Georgian authorities have made a final decision on discontinuing the prosecution for the crime for which the person's extradition is requested.

#### **Article 27 - Proceedings with respect to the same crime**

Extradition need not be conducted if the relevant Georgian authorities are conducting proceedings with respect to the same crime for which the person's extradition is requested.

#### **Article 28 – Locus delicti**

Georgia may refuse to transfer a person to a foreign state if the crime for which the person's extradition is requested has been fully or partially committed in the territory of Georgia.

#### **Article 29 - Other circumstances excluding extradition**

1. Extradition may not be conducted if there is a reasonable doubt that a person's extradition is requested for the purpose of prosecuting or punishing him/her on account of his/her race, nationality, ethnic origin, religion or political opinions or other similar reasons.





2. Extradition may not be conducted if due to the person's minority, health status or personality, taking into account the nature of the crime and interests of the requesting state, the extradition is deemed to be clearly inconsistent with the fundamental standards of humanity.

3. Extradition to the requesting state may not be conducted if there is a reasonable belief that the person will be subjected to torture, or cruel, inhuman or degrading treatment or to punishment involving torture, or cruel, inhuman or degrading treatment of the person.

4. Extradition may not be conducted if the person may be tried or a sentence may be passed against him/her by a special court or tribunal in the state requesting extradition.

4<sup>1</sup>. Extradition may not be conducted if it contradicts the state sovereignty, safety or essential interests of Georgia.

5. Extradition may not be conducted if there are other hindering circumstances stipulated by an international or individual agreement entered into between Georgia and the foreign state concerned.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

### **Article 30 - Application of restriction measures to persons who are subject to extradition to a foreign state**

1. Upon the arrest in the territory of Georgia of a person wanted by foreign law enforcement authorities, the relevant district prosecutor shall be notified; the prosecutor shall, within 48 hours, file a motion with the relevant magistrate judge, according to the place of arrest, for the application of restriction measures with respect to the person.

2. Extradition detention, or, taking account of the characteristics of extradition procedures, other restriction measures provided for by the Criminal Procedure Code of Georgia, may be applied to persons wanted by foreign law enforcement authorities.

3. A magistrate judge shall decide on the application of restriction measures to a person wanted by foreign law enforcement authorities in accordance with Article 206 of the Criminal Procedure Code of Georgia, taking account of the characteristics of the extradition procedures. The decision of a magistrate judge may be appealed to the Investigative Chamber of the Court of Appeals within 7 days after it has been served on the person. The Chamber shall review the appeal within 5 days.

4. The term of the extradition detention of an extraditable person arrested in the territory of Georgia shall be 3 months, which may be extended by 3 months for reasons connected with extradition, but not more than twice.

5. In the case specified in paragraph 4 of this article, the relevant magistrate judge shall extend the term of the extradition detention upon a reasonable motion of the prosecutor. The decision of the magistrate judge may be appealed to the Investigative Chamber of the Court of Appeals in accordance with Article 207 of the Criminal Procedure Code of Georgia.

5<sup>1</sup>. The relevant competent authority of the foreign state shall be immediately informed through the Ministry of Justice of Georgia of the arrest of a person subject to extradition to the foreign state and the application of procedural restriction measures.

5<sup>2</sup>. In the case of the cancellation of extradition detention or of any other restriction measure with respect to an extraditable person, the possibility of subjecting that person to extradition detention or to any other restriction measure again under a court decision shall not be ruled out.

6. A person arrested for the purpose of extradition shall be immediately released from custody if it is established that the person is a Georgian citizen.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

### **Article 31 - Additional information**

If the information provided by the requesting state is not sufficient for a decision on extradition, the Ministry of Justice of Georgia may, upon the request of the court hearing the extradition case or on its own initiative, request from the foreign competent authority the necessary additional information and set time limits for its provision.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

### **Article 32 - Competing requests**

1. In the case of competing requests for extradition, their admissibility shall be decided individually by a duly authorised court in accordance with this Law.

2. After the procedure provided for in paragraph 1 is completed, the Minister of Justice of Georgia shall determine to which state the extraditable person is to be surrendered, by taking into account the place of the commission of the crime, the gravity of the crime, the dates on which the requests for extradition were received by Georgia, the nationality of the person and other circumstances.

3. In cases specified in paragraph 2 of this article, the Minister of Justice of Georgia may hold consultations with the Minister of Foreign Affairs of Georgia to decide the issue of extradition.

4. In the case of competing requests from the International Criminal Court and from a foreign state for the surrender of a person, priority shall be given to the request of the International Criminal Court.



### **Article 33 - Deferred extradition and temporary surrender**

1. If a person whose extradition is requested is serving a sentence for any other crime committed in the territory of Georgia, the extradition of that person may be deferred until such person has served the sentence or until the person has been released from serving the sentence. If a person who is subject to a request for extradition has been charged for a crime committed in the territory of Georgia, the extradition may be deferred until the judgement is delivered, or until the person has served the sentence or until the person has been released on other legal grounds.
2. The extradition of a person to a foreign state may be deferred for humanitarian reasons.
3. A decision on deferring the extradition of a person to a foreign state shall be made by the Minister of Justice of Georgia.
4. If there is a relevant request, the person who is subject to the request may be temporarily surrendered to the requesting state. A request for a temporary surrender shall be reviewed in accordance with the procedure for reviewing extradition requests. A temporary surrender may be carried out on the condition that the person who is subject to the request is returned to Georgia after the expiration of specified time limits.
5. The Ministry of Justice of Georgia may, in accordance with an international or individual agreement of Georgia, submit a request to the relevant foreign authority for the temporary surrender of a person.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

### **Article 34 - Decision on extradition and its appeal**

1. After receiving an extradition request and supporting documents, the Ministry of Justice of Georgia shall check whether the relevant documentation has been submitted in accordance with the form and procedure determined under an international or individual agreement of Georgia.
2. The Ministry of Justice of Georgia may, where necessary, request additional information and/or documents from the competent authority of the foreign state concerned.
3. If there are circumstances clearly precluding the extradition of a person to a foreign state before the completion of additional procedures specified in this article, the Minister of Justice of Georgia shall issue an order denying the request for extradition.
4. If a request for extradition is consistent with the provisions of an international or individual agreement of Georgia, the Minister of Justice of Georgia shall immediately forward the documents provided by the foreign state to the Prosecutor's Office of Georgia.
5. After receiving the extradition materials, the duly authorised prosecutor shall communicate the relevant documents to the extraditable person and shall inform him/her of his/her rights and duties under the legislation of Georgia.
6. After receiving the extradition materials, the duly authorised prosecutor shall, within a reasonable time, apply to the relevant district (city) court for a decision on the permissibility of extradition.
7. The district (city) court shall, not later than 7 days after receiving the documents specified in paragraph 6 of this article, set a date for a hearing on the permissibility of extradition.
8. After hearing the parties' opinions, the court shall make a decision on the permissibility of extradition.
9. An extraditable person shall enjoy all the rights under the Criminal Procedure Code of Georgia, considering the characteristics of the extradition procedures.
10. If there is a need to request additional information from the relevant foreign authority to decide on the question of extradition, the relevant court shall apply with a request to the Ministry of Justice of Georgia.
11. The ruling of a district (city) court on the permissibility of extradition may, within 7 days after it is delivered, be appealed by the parties by way of a cassation appeal to the Criminal Chamber of the Supreme Court of Georgia, which shall set the date of the first hearing not later than 5 days after receiving the appeal.
12. The Ministry of Justice of Georgia shall be notified of the final court decision on the permissibility of extradition within 5 days.
13. If the relevant court finds it impermissible to extradite a person to a foreign state, the Minister of Justice of Georgia shall issue an order denying the request for extradition.
14. If the court finds it permissible to extradite a person to a foreign state, the Minister of Justice of Georgia shall issue an order denying or granting the request for extradition.
15. In exercising the powers under paragraph 14 of this article, the Minister of Justice of Georgia shall take into account the decision of the court on the permissibility of extradition, the consistency with Article 29(4<sup>1</sup>) of this Law and the international human rights commitments of Georgia. The Minister of Justice of Georgia may also, for humanitarian purposes or in the light of other circumstances, deny a request for extradition.
16. If the relevant requesting foreign state submits an additional request for extradition after a person has been transported to custody, the relevant decision shall be made by the Minister of Justice of Georgia.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*



### **Article 35 - Transfer of physical evidence**

1. Unless otherwise provided for by an international or individual agreement of Georgia, the items and/or documents seized from an extraditable person, which can be used as evidence in a criminal case, shall be sent to the competent authority of the requesting state.
2. Items and documents of material value, if they do not belong to the extraditable person, shall be sent only after receiving assurances in respect of safeguarding and returning them to the owner. The assurances shall be given by the requesting authority.

### **Article 36 - Transit of an extraditable person**

1. A decision on the transit of an extraditable person through the territory of Georgia shall be made by the Ministry of Justice of Georgia.
2. A request for transit through Georgia shall contain the same details as a request for extradition.
3. In the case of air transit involving a landing in the territory of Georgia, the requesting party shall submit a formal request to the Ministry of Justice of Georgia.
4. In the case of air transit which does not involve a landing in the territory of Georgia, the requesting party shall notify the Ministry of Justice of Georgia of the transit of an extraditable person.

*Law of Georgia No 671 of 30 May 2013 – web-site, 24.6.2013*

## **Chapter IV - Transmitting criminal case files or their duly certified copies**

### **Article 37 - Conditions for transmitting criminal case files or their duly certified copies to a foreign state**

Where there are relevant legal grounds, the Ministry of Justice of Georgia may transmit to a foreign state the files or their duly certified copies of a criminal case conducted by the competent authorities of Georgia for further prosecution of a person if:

- a) the competent authorities of Georgia do not have jurisdiction to investigate the crime or to prosecute the person;
- b) the person is not subject to extradition to Georgia due to his/her foreign nationality;
- c) the transmission of the criminal case files and of their duly certified copies to the foreign state contributes to the social rehabilitation of the alleged offender.

### **Article 38 - Procedure for transmitting criminal case files or their duly certified copies to a foreign state**

1. The initiator of the transmission of criminal case files and of their duly certified copies to the foreign state shall be the authority conducting the proceedings, which shall apply with a request to the Ministry of Justice of Georgia.
2. In exercising the powers under paragraph 1 of this article, the Ministry of Justice of Georgia shall enjoy discretionary powers.
3. A request for transmitting criminal case files or their duly certified copies to a foreign state shall contain:
  - a) the name of the competent authority of the foreign state to which the request is sent;
  - b) the description of the actual circumstances of the criminal case;
  - c) an extract from the relevant article of the Criminal Procedure Code of Georgia according to which the given act is considered to be a crime, as well as extracts from other legislative acts relevant to the case;
  - d) where there is an accused person, as detailed information as possible on his/her identity;
  - e) other details provided for by an international or individual agreement of Georgia or by the conditions of reciprocity.
4. In cases specified in Article 37(a) of this Law, the competent authority of the foreign state shall be sent the criminal case files, and in cases specified in paragraphs (b) and (c) of the same article, duly certified copies of the criminal case files, unless otherwise provided for by an international or individual agreement of Georgia or by the conditions of reciprocity. Where necessary, physical evidence shall also be sent.

### **Article 39 - Effect of the transmission of criminal case files or their duly certified copies to a foreign state on proceedings conducted in Georgia**

1. If duly certified copies of criminal case files are transmitted to a foreign state under Article 37(b and c) of this Law the prosecution against the given person shall not be terminated automatically with respect to the primary criminal case. It shall be terminated after the Ministry of Justice has been



informed by the foreign competent authority of its final decision with respect to the transmitted files.

2. If criminal case files are transmitted to a foreign state under Article 37(a) of this Law, the competent authorities of Georgia shall terminate the proceedings with respect to the transmitted case files.

3. If duly certified copies of criminal case files are transmitted to a foreign state under Article 37(b and c) of this Law, the competent authorities of Georgia shall not terminate the criminal proceedings; the proceedings shall continue if the foreign state does not satisfy the request of the Ministry of Justice of Georgia due to the following conditions and restrictions:

- a) the period of limitation has expired under the legislation of the requested foreign state with respect to the crime to be investigated;
- b) under the legislation of the requested foreign state, the crime to be investigated does not fall within the jurisdiction of that state;
- c) the requested foreign state considers the crime to be investigated to be a political or related crime, or military crime;
- d) the crime to be investigated is not punishable under the legislation of the requested foreign state;
- e) the requested foreign state does not start investigation upon the request of Georgia due to other reasons provided for by its legislation.

#### **Article 40 - Continuing criminal proceedings in the case of arresting or identifying an accused person in the territory of Georgia**

If a person, with respect to whom duly certified copies of the criminal case have been transmitted to a foreign state, has been subsequently arrested or identified in the territory of Georgia, the competent authorities of Georgia shall continue the proceedings against that person. The relevant authority of the foreign state shall be notified through the Ministry of Justice of Georgia.

#### **Article 41 - Impermissibility of trial in absentia**

Until the receipt of the answer of the foreign state with respect to the transmitted criminal case files, the primary criminal case conducted by the competent authorities of Georgia may not be conducted for trial in absentia, or if the trial has already commenced, it shall be terminated.

#### **Article 42 - Procedures conducted in Georgia with respect to criminal case files or their duly certified copies transmitted by the competent authorities of a foreign state**

1. The criminal case files or their duly certified copies transmitted by the competent authorities of a foreign state under an international or individual agreement of Georgia or the conditions of reciprocity shall be sent by the Ministry of Justice of Georgia to a Georgian competent authority for further criminal proceedings.
2. Evidence obtained by the foreign state with respect to the transmitted criminal case shall have the same legal force as evidence obtained in the territory of Georgia.
3. Proceedings shall continue with respect to the transmitted criminal case files in accordance with the legislation of Georgia and a final decision shall be communicated to the competent authority of the foreign state through the Ministry of Justice of Georgia.

### **Chapter V - Transfer to a Foreign State (or to Georgia) of Persons Sentenced to Imprisonment for the Purpose of Serving a Sentence**

#### **Article 43 - General provisions on the transfer to a foreign state (or to Georgia) of persons sentenced to imprisonment for the purpose of serving a sentence**

1. Where there are relevant legal grounds, a Georgian citizen or a person domiciled in Georgia who has been sentenced to imprisonment in a foreign state may request to be transferred to Georgia to serve the remaining part of the sentence.
2. Where there are relevant legal grounds, a foreigner sentenced to imprisonment in Georgia may request to be transferred to the his/her state of nationality to serve the remaining part of the sentence.
3. The Ministry of Corrections of Georgia shall ensure that foreigners sentenced to imprisonment in Georgia are informed of the rights specified in paragraph 2 of this article.
4. The decision on the transfer to a foreign state of foreigners convicted by the courts of Georgia, or on the transfer to Georgia of citizens of Georgia and of persons domiciled in Georgia who have been convicted in a foreign state, shall be made by the Minister of Justice of Georgia.
5. The Ministry of Justice of Georgia shall ensure the interaction with foreign states on the transfer of convicted persons, as well as the conduct of appropriate procedures for discussing and deciding on the transfer of convicted persons.
6. The transfer of a convicted person may be effected only after the court judgement against him/her becomes final.
7. The following may serve as grounds for commencing the examination of a request for the transfer to a foreign state (or to Georgia) of a convicted person:



a) a request of a competent authority of the state of nationality of the convicted person, or a request of a competent authority of the state whose court delivered the judgement convicting the person;

b) an application of the convicted person, or of his/her defence lawyer, close relative or legal representative.

8. During the examination of a request for the transfer to a foreign state (or to Georgia) of a convicted person, the Ministry of Justice of Georgia shall obtain the following documents:

a) a certified copy of the final judgement;

b) a document certifying the entry into force of the final judgement;

c) a certified copy (if any) of a decision of a higher court of the court that delivered the judgement;

d) a document concerning the part of the sentence served by the convicted person;

e) a document concerning the remaining part of the sentence;

f) the text of the article of the Criminal Code under which the person was convicted;

g) unless otherwise provided for by an international or individual agreement of Georgia or the conditions of reciprocity, the written consent of the convicted person to the transfer, and where the convicted person is unable to express his/her wish, the consent of his/her close relative or legal representative;

h) a certificate of health of the convicted person;

i) a document certifying citizenship of the receiving state;

j) the opinions of the Ministry of Internal Affairs of Georgia and of the State Security Service of Georgia on the reasonableness of transferring the convicted person.

9. A convicted person shall not be transferred if:

a) the act for which the person is convicted is not deemed to be an offence or is not punishable with imprisonment under the legislation of the State that is requesting the transfer and of which the convicted person is a national;

b) there is no consent from the convicted person (unless otherwise provided for by an international or individual agreement of Georgia or the conditions of reciprocity), and in cases where a convicted person is unable to express his/her wishes freely due to his/her age, or physical or mental handicap, the consent of his/her close relative or legal representative;

c) the remaining term of the sentence to be served by the convicted person is less than 6 months at the moment of receiving the request for transfer. In exceptional cases, Georgia and the foreign state concerned may agree on a transfer to a foreign state (or to Georgia) even if the remaining term of the sentence is less than 6 months;

d) the parties failed to agree on the transfer to the foreign state (or to Georgia) of the convicted person.

10. A request for the transfer to a foreign state (or to Georgia) of a convicted person may be denied if:

a) the transfer of the accused person poses a risk to public and/or state security interests;

b) the correctional facilities of Georgia are overcrowded;

c) the convicted person has not served half of the sentence, unless otherwise agreed between the competent authorities of Georgia and the foreign state;

d) the interested persons refused to cover the expenses required for transferring the convicted person.

*Law of Georgia No 1798 of 13 December 2013 - website, 28.12.2013*

*Law of Georgia No 3956 of 8 July 2015 - website, 15.7.2015*

#### **Article 44 - Transfer to a foreign state of foreign nationals convicted by Georgian courts**

1. After receiving a request/application, the Ministry of Justice of Georgia shall request from the relevant Georgian agencies the documents specified in Article 43(8) of this Law and a certificate of compensation for the damage caused by the wrongful act of the convicted person.

2. The Ministry of Justice of Georgia shall, after receiving the application of the convicted person, prepare a request to the competent authority of the state of which the convicted person is a national.

3. The Ministry of Justice of Georgia shall, after analysing the documents obtained in the process of reviewing the transfer of a convicted person, prepare an opinion on the reasonableness of transferring the convicted person, which shall be submitted to the person designated by the Minister of Justice of Georgia.

4. If the request for the transfer of a convicted person is granted, the convicted person shall be transferred by an order of the Minister of Justice of Georgia.



5. If a request for the transfer of a convicted person is denied, the Ministry of Justice of Georgia shall notify the requesting party/the applicant accordingly.
6. Within 5 days of the issuance of an order on the transfer of a convicted person, the Ministry of Justice of Georgia shall notify in writing the competent authority of the state of nationality of the convicted person, and apply to the Ministry of Corrections of Georgia to carry out the procedures for transferring the convicted person.
7. If the judgement delivered in Georgia with respect to a convicted person has been modified or repealed, or the convicted person has been granted amnesty under an act of amnesty or pardon issued in Georgia, the Ministry of Justice of Georgia shall immediately notify the competent authority of the state to which the convicted person was transferred.
8. If the judgement has been repealed or a reinvestigation or rehearing has commenced, upon a relevant request of the competent authority of the foreign state, the Ministry of Justice of Georgia shall transmit the copy of the respective decision and other necessary documents to the competent authority of the state to which the convicted person was transferred.

*Law of Georgia No 1798 of 13 December 2013 - website, 28.12.2013*

#### **Article 45 - Transfer to Georgia of Georgian citizens or persons domiciled in Georgia convicted in a foreign state**

1. The grounds for commencing the consideration of the transfer of a convicted person shall be an application submitted by the interested person to the Ministry of Justice of Georgia or a request of the competent authority of a foreign state.
2. An application of the interested person or a request of a competent authority of a foreign state shall be accompanied by:
  - a) complete identification details of the convicted person (name, surname, date and place of birth, identity document details and other information);
  - b) a document certifying the citizenship of the convicted person or the status of a resident of Georgia;
  - c) a document certifying the granting of authorisation by the convicted person to the applicant, or if the applicant is a close relative, a document certifying kinship.
3. Upon receipt of a request of a competent authority of a foreign state or of an application of an interested person, the Ministry of Justice of Georgia shall request from the relevant agencies of the foreign state the documents specified in Article 43(8) of this Law.
4. If the procedure for the transfer to Georgia of a convicted person has been commenced on the basis of an application of an interested person, the Ministry of Justice of Georgia shall prepare an initial request addressed to the competent authority of the foreign state for the commencement of the consideration of the transfer to Georgia of the convicted person. The initial request shall include a request for the provision of documents necessary for considering and deciding upon the transfer and shall not be construed as a request for transfer.
5. If the transfer to Georgia of a convicted person is effected upon a request of the foreign state concerned and the request does not contain all the necessary documents and details and/or the provided material is not sufficient to make a decision on the transfer to Georgia of the convicted person, the Ministry of Justice of Georgia shall request necessary materials from the competent authority of the foreign state concerned.
6. Where necessary, the Ministry of Justice of Georgia shall obtain a written confirmation from an interested person on the coverage of the expenses related to the transfer of the convicted person; the confirmation, together with other documents, shall be sent to the Ministry of Corrections of Georgia after the request for the transfer of a convicted person to Georgia is granted.
7. Based on the obtained documents, the Ministry of Justice of Georgia shall prepare an opinion on the possibility of transferring the convicted person to Georgia, which shall be approved by the person authorised by the Minister of Justice of Georgia.
8. In the case of a negative opinion, indicating the relevant reasons, the interested person or the requesting party shall be notified within one week.
9. If the opinion specified in paragraph 7 of this article is positive, within one month of its approval, the Ministry of Justice of Georgia shall transmit the judgement to be enforced in Georgia, together with other documents relating to the transfer to Georgia of the convicted person, to the relevant court for the conduct of the procedure laid down in Article 289 of the Criminal Procedure Code of Georgia.
10. In accordance with Article 289(7) of the Criminal Procedure Code of Georgia, a copy of the ruling received from the court, together with its translation, shall be transmitted to the foreign competent authority. The copy of the court ruling shall be accompanied by a request for transfer to Georgia.
11. If the foreign state confirms its wish to transfer the accused person to Georgia, the Ministry of Justice of Georgia shall prepare a draft order of the Minister of Justice of Georgia on the transfer of the convicted person to Georgia.
12. If the Minister of Justice makes a favourable decision, the Ministry of Justice of Georgia shall transmit to the Ministry of Corrections of Georgia the order of the Minister of Justice of Georgia on the transfer of the convicted person in order to conduct the procedures for transferring the person to Georgia.
13. Upon receipt from the relevant foreign competent authority of information that the convicted person has been exempted from criminal liability and/or from serving the remaining part of the sentence on the basis of an act of amnesty or pardon, or a court decision or other legal grounds, the Ministry of Justice shall immediately request the Ministry of Corrections of Georgia to exempt the convicted person from serving the remaining part of the sentence.

*Law of Georgia No 1798 of 13 December 2013 - website, 28.12.2013*



## **Article 46 - Transit of convicted persons**

1. Matters relating to the transit through Georgia of a convicted person to be transferred to a third state by a foreign state shall be decided by the Minister of Justice of Georgia.
2. The competent foreign authority effecting the transit of a convicted person shall apply to the Ministry of Justice of Georgia with a request for the transit of the convicted person through Georgia.
3. The Ministry of Justice of Georgia shall apply with a request for the transit of a convicted person to the competent authority of the state through which the convicted person to be transferred to Georgia is to be transited.

## **Chapter VI - Enforcement of Judgements**

### **Article 47 - Enforcement of a judgement of a competent court of Georgia in a foreign state**

1. Where there are relevant legal grounds, a competent court of Georgia may request the Ministry of Justice of Georgia to enforce its judgement in a foreign state.
2. A judgement of a competent court of Georgia shall be enforced in a foreign state in accordance with the legislation of that State.
3. A judgement delivered against a convicted person may not be enforced in Georgia with respect to that part of the judgement for the enforcement of which a request has been submitted to the foreign competent authority through the Ministry of Justice of Georgia.
4. The procedure specified in paragraph 3 of this article shall not apply if a convicted person has been sentenced to imprisonment and that person is in custody in the territory of Georgia at the moment of submitting a request to the relevant foreign competent authority for the enforcement of the judgement in a foreign state.
5. Except as provided for by paragraph 4 of this article, the competent authorities of Georgia may themselves enforce the judgement transmitted to a foreign state for enforcement if:
  - a) the judgement transmitted for enforcement to a foreign state has been withdrawn by the Ministry of Justice of Georgia before receiving a notification of enforcement from the foreign state concerned;
  - b) the foreign state has refused to enforce the judgement delivered by a competent court of Georgia;
  - c) under the agreement between the Ministry of Justice of Georgia and the relevant authority of the foreign state, the foreign state has waived its right to enforce the judgement delivered by a competent court of Georgia;
  - d) the possibility of enforcing a judgement of a competent court of Georgia in a foreign state no longer exists.
6. If a judgement of a competent court of Georgia, which has been sent to a foreign state for enforcement, has been modified or repealed due to newly discovered or identified circumstances, or the person convicted under the said judgement has been granted amnesty based on an act of amnesty or pardon in accordance with the legislation of Georgia, the competent foreign authority shall be immediately notified through the Ministry of Justice of Georgia.
7. If a convicted person was in custody in Georgia and then was transferred by a competent court of Georgia to a foreign state for the enforcement of the judgement, a request of the foreign state for consent to prosecute or enforce a judgement against this person for a different crime committed by him/her before the transfer shall be considered by the Ministry of Justice of Georgia.
8. The Ministry of Justice of Georgia shall grant the request of a foreign state specified in paragraph 7 of this article if the new crime is subject to extradition under the legislation of Georgia or is not subject to extradition only due to its failure to meet the requirements established with respect to the measure of punishment.

### **Article 48 - Form of request for the enforcement of a judgement of a competent court of Georgia in a foreign state and accompanying documents**

A request for the enforcement of a judgement of a competent court of Georgia in a foreign state shall be prepared in writing. It shall be accompanied by the following documents:

- a) the original, or a duly certified copy, of the judgement to be transmitted for enforcement in the territory of a foreign state;
- b) upon the request of a foreign state, relevant criminal case files or their duly certified copies.

### **Article 49 - Conditions for transmitting a judgement of a competent court of Georgia to a foreign state for enforcement**

Where there are relevant legal grounds, the Ministry of Justice of Georgia may submit to a competent foreign authority a request for the enforcement in a foreign state of a judgement delivered by a competent court of Georgia:

- a) if the convicted person has domicile in the foreign state concerned;



- b) if the enforcement of a judgement delivered by a competent court of Georgia will contribute to the convicted person's social rehabilitation;
- c) if the judgement under which the person is sentenced to imprisonment can be enforced in the territory of the foreign state after that person has served another prison sentence imposed on him/her under the judgement delivered by the competent foreign authority;
- d) if the foreign state concerned is the country of origin of the person convicted by a competent court of Georgia and it undertakes to enforce the judgement;
- e) if the relevant Georgian authorities consider that, even with the possibility of extradition, they cannot ensure the enforcement of the judgement and the foreign state is able to enforce the judgement delivered by a competent court of Georgia;
- f) in other cases provided for by an international or individual agreement of Georgia.

#### **Article 50 - General procedure for enforcing in the territory of Georgia judgements delivered by foreign competent courts**

1. Where there are relevant legal grounds, a request for the enforcement in the territory of Georgia of a judgement delivered by a competent foreign court and supporting documents shall be forwarded to the relevant district (city) court through the Ministry of Justice of Georgia according to the residence of the convicted person or to a competent court designated by the President of the Supreme Court of Georgia.
2. The documents referred to in paragraph 1 of this article shall be forwarded to the relevant district (city) court only if the Ministry of Justice of Georgia deems it possible to carry out the measures relating to the enforcement in the territory of Georgia of a judgement of a competent foreign court.
3. Before a decision is made on the enforcement in the territory of Georgia of a judgement of a competent foreign court, the convicted person shall be given an opportunity to submit his/her opinions to the relevant district (city) court on the enforcement of the judgement.
4. The relevant district (city) court may become familiar with the opinions of the convicted person on the enforcement in the territory of Georgia of the judgement of a competent foreign court by hearing the convicted person in court or by means of a request for legal assistance.
5. The relevant district (city) court shall hear in person the opinions of the convicted person on the enforcement in the territory of Georgia of the judgement of a competent foreign court only upon the request of the convicted person.
6. In deciding upon the enforcement in the territory of Georgia of the judgement of a competent foreign court, the relevant district (city) court shall, in addition to the issues provided for in this Chapter, verify:
  - a) whether or not there exists a valid legal basis for the enforcement in the territory of Georgia of the judgement of a competent foreign court;
  - b) whether or not there exist the precluding circumstances referred to in Article 55(1)(a and b) of this Law;
  - c) whether or not the enforcement in the territory of Georgia of the judgement of a competent foreign court will be inconsistent with the *non bis in idem* principle;
  - d) whether or not there exist any other precluding circumstances provided for by an international or individual agreement of Georgia or the criminal legislation of Georgia.
7. In deciding upon the enforcement in the territory of Georgia of the judgement of a competent foreign court, the relevant district (city) court shall be restricted to the circumstances contained in or deriving from the foreign court judgement.
8. The relevant district (city) court shall consider the enforcement in the territory of Georgia of the judgement of a competent foreign court and deliver a decision not later than 4 months after the receipt of the documents referred to in paragraph 1 of this article.
9. The decision specified in paragraph 8 of this article shall be delivered in the form of a ruling and shall be appealed in the same way as a judgement delivered in the territory of Georgia.
10. The Ministry of Justice of Georgia shall immediately notify the foreign state concerned of the measures taken in relation to the enforcement in the territory of Georgia of the judgement of a foreign competent court.
11. Upon request, a copy of the judgement referred to in paragraph 9 of this article shall be sent to the competent authority of a foreign state.
12. The enforcement in the territory of Georgia of a judgement of a foreign competent court shall be effected under the legislation of Georgia, except as provided for by Article 53(3) of this Law.
13. In enforcing a judgement of a foreign competent court in the territory of Georgia, an act of amnesty or pardon issued either by the foreign state or by Georgia shall be used with respect to the convicted person.
14. A convicted person who was in custody in the territory of a foreign state and was then transferred to Georgia for the enforcement of the judgement, may not be proceeded against or convicted for any other crime committed before his/her transfer other than the crime for which the person has been transferred to Georgia for the enforcement of the judgement.
15. Unless otherwise provided for by an international or individual agreement of Georgia, the procedure specified in paragraph 14 of this article shall not apply if:
  - a) the state that transferred the convicted person to Georgia for the enforcement of the judgement consents;
  - b) the convicted person transferred to Georgia for the enforcement of the judgement of a competent foreign court who had the opportunity to leave





Georgia did not leave the country within 45 days of his/her final release or returned again to Georgia after leaving its territory.

16. In the case specified in paragraph 15(a) of this article, the consent from the competent foreign authority shall be requested through the Ministry of Justice of Georgia on the basis of a relevant request, which shall be accompanied by the written opinion of the convicted person and all other necessary documents.

#### **Article 51 - Procedure for enforcing in the territory of Georgia a judgement of imprisonment delivered by a foreign competent court**

1. The competent district (city) court shall, after making a decision on the enforcement in the territory of Georgia of a judgement of imprisonment delivered by a foreign competent court, impose on the convicted person a sentence stipulated under the legislation of Georgia for a similar crime.

2. The type and extent of the sentence imposed by the competent district (city) court under paragraph 1 of this article may differ from the sentence specified in the judgement of the foreign competent court.

3. If the sentence specified in the judgement of the foreign competent court is less severe than the minimum sentence stipulated for a similar crime under the Criminal Code of Georgia, the competent district (city) court shall apply with respect to the convicted person the sentence that is stipulated under the legislation of the requesting state.

4. In imposing the sentence under this article, the relevant district (city) court may not aggravate the condition of the convicted person more than is stipulated in the judgement of the foreign competent court.

5. The period when a person was in pre-trial detention or was serving a sentence under the judgement transferred to Georgia for enforcement shall be counted towards the total term of the sentence imposed by the relevant district (city) court.

#### **Article 52 - Procedure for enforcing in the territory of Georgia the judgement of a foreign competent court imposing a fine or forfeiture**

1. In making a decision on enforcing in the territory of Georgia the judgement of a foreign competent court imposing a fine or forfeiture, the competent district (city) court shall deliver a ruling on the enforcement of the fine or forfeiture imposed on a person.

2. In delivering a ruling specified in paragraph 1 of this article, the relevant district (city) court shall ensure the conversion into laris of the amount of the fine imposed or of the property to be forfeited under the judgement of a foreign competent court at the exchange rate in effect at the time of the decision.

3. The fine or the property to be forfeited specified in paragraph 2 of this article shall be collected in accordance with the procedure determined by the requesting state.

4. The fine imposed by the competent foreign court shall be paid to the state budget of Georgia, and the forfeited property shall be transferred into state ownership.

5. Property forfeited under this article, upon request, may be transferred to the requesting foreign state if it has a special interest in that property.

6. The rights of third persons with respect to the forfeited property shall be considered during the procedures specified in paragraph 4 and 5 of this article.

#### **Article 53 - Procedure for enforcing in the territory of Georgia the judgement of a foreign competent court depriving a person from the right to hold office or conduct certain activities**

1. A judgement of a foreign competent court depriving a person from the right to hold office or conduct certain activities shall be enforced in the territory of Georgia only if the Criminal Code of Georgia provides for such punishment for the same type of crime.

2. After taking account of all the necessary circumstances, the district (city) court shall decide whether or not to enforce in the territory of Georgia the judgement referred to in this article.

3. If the relevant district (city) court decides to enforce in the territory of Georgia the judgement referred to in this article, the punishment shall be imposed on the convicted person within the limits of the term of the sentence stipulated under the Criminal Code of Georgia; it shall not exceed the term of the sentence determined under the judgement of the foreign competent court.

#### **Article 54 - Provisional measures connected with the enforcement of a judgement**

1. Where a person is sentenced to imprisonment by a judgement of a competent court of Georgia and the person is in the territory of Georgia, a provisional measure of detention may be applied to the convicted person by a ruling of a competent magistrate judge after the competent foreign authority consents to the enforcement of the judgement delivered against such person.

2. The ruling specified in paragraph 1 of this article shall be delivered in order to ensure the enforcement of the judgement of a competent court of Georgia in the foreign state and the transfer of the convicted person to the foreign state concerned.

3. A person detained on the basis of the provisional measure specified in paragraph 1 of this article shall immediately be transferred to the foreign state concerned after the Ministry of Justice of Georgia receives consent for the enforcement of the judgement of a competent court of Georgia.



4. Where the Ministry of Justice of Georgia receives a request of a foreign state for the enforcement on the territory of Georgia of a judgement delivered by a foreign competent court, which imposes imprisonment on a person located in Georgia, a provisional measure of detention may be applied to this person under a ruling of the relevant magistrate judge if the act for which the enforcement in the territory of Georgia of a judgement delivered by a foreign competent court is sought is deemed to be an offence under the Criminal Code of Georgia and if remand detention can be used in the case of its commission under the Criminal Procedure Code of Georgia.

5. A provisional measure of detention may also be applied to a person convicted by a foreign competent court where the foreign competent authority expresses its wish to enforce in the territory of Georgia the judgement delivered against such person.

6. The provisional measure specified in paragraph 5 of this article shall be applied upon the request of the relevant foreign state, and it shall contain:

- a) information on the crime for which the person was convicted;
- b) information on the location and time of the crime;
- c) a description of the person having committed the crime;
- d) a brief description of the circumstances of the case that served as the basis for the judgement.

7. The application of the provisional measure specified in paragraph 5 of this article shall be decided on by the relevant magistrate judge. A provisional measure of detention may be applied with respect to a convicted person if the requirements of paragraph 4 are complied with.

8. The term of the provisional measure of detention applied to a convicted person in Georgia for the purpose of enforcing a judgement of a foreign competent court may not exceed the term determined by the judgement, otherwise the convicted person shall be released immediately from detention.

9. A convicted person detained in Georgia shall also be released from detention if the provisional measure determined under paragraph 5 of this article has been applied to him/her and, within 18 days of his/her arrest, the Ministry of Justice of Georgia has not received from the competent foreign authority a request and materials relating to the enforcement of the judgement.

10. Upon the arrest of a convicted person for the enforcement of a judgement referred to in this Chapter, the relevant district prosecutor shall be notified according to the location of the person; the prosecutor shall, within 48 hours, apply to the relevant magistrate judge, according to the place of arrest, for the application of a provisional measure of detention against the convicted person.

11. A magistrate judge shall decide on the application of a provisional measure of detention to the convicted person in accordance with Article 206 of the Criminal Procedure Code of Georgia and taking account of the characteristics of the enforcement procedures. The decision of the magistrate judge may be appealed to the Investigative Chamber of the Court of Appeals within 7 days after it has been served on the convicted person. The Chamber shall review the appeal within 5 days.

12. The term of the provisional measure provided for by this article shall be two months, which may be extended by two months due to the enforcement requirements, but not more than twice.

13. In the case specified in paragraph 13 of this article, the relevant magistrate judge shall extend the term of the provisional measure of detention upon a reasonable motion of the prosecutor. The decision of the magistrate judge may be appealed to the Investigative Chamber of the Court of Appeals in accordance with Article 207 of the Criminal Procedure Code of Georgia.

14. Where a competent foreign authority requests the enforcement in the territory of Georgia of a judgement imposing a forfeiture of property, such property may be provisionally seized for securing its possible forfeiture.

15. The procedure specified in paragraph 14 of this article shall be conducted in accordance with the Criminal Procedure Code of Georgia.

#### **Article 55 - Grounds for refusing to enforce in the territory of Georgia judgements delivered by foreign competent courts**

1. The judgements of competent foreign courts shall not be enforced in the territory of Georgia if:

- a) the act for which the person was sentenced in the foreign state is not deemed to be a crime under the legislation of Georgia and the person with respect to whom the judgement was delivered would not be subject to prosecution or punishment if such act were committed in Georgia;
- b) the enforcement of the judgement of the competent foreign court contravenes the fundamental principles of the Georgian legal system;
- c) the crime with respect to which the competent foreign court delivered the judgement is deemed a political or military crime in Georgia;
- d) there is a reasonable belief that the judgement of the competent foreign court was delivered or the person's condition was aggravated based on his/her race, nationality, ethnic origin, religion, political opinions and other similar circumstances;
- e) the enforcement of the judgement of the competent foreign court contravenes the international commitments of Georgia;
- f) the relevant Georgian authorities are conducting proceedings in relation to the same crime with respect to which the enforcement of the judgement is sought;
- g) with respect to the crime for which the enforcement of the judgement is sought there exists a judgement of a Georgian court or the relevant Georgian authorities have made a final decision to discontinue the prosecution against the person;
- h) the relevant Georgian authorities have made a final decision on refusing to initiate a criminal prosecution for the crime for which the person's extradition has been requested;



- i) the crime for which the enforcement of the judgement is sought has been committed outside the requesting state;
- j) Georgia is not able to enforce the judgement delivered by the competent foreign court;
- k) the relevant Georgian authority considers that the foreign state can itself enforce the judgement of its competent court;
- l) with respect to the crime for which the enforcement of the judgement is sought the period of limitation has elapsed under the Criminal Code of Georgia, which exempts the person from serving the sentence;
- m) the judgement of the competent foreign court only deprives the person of the right to hold office or to conduct certain activities.

2. In addition to the conditions provided for in paragraph 1 of this article, a judgement of a foreign competent court shall not be enforced in Georgia where there exist any precluding circumstances stipulated under an international or individual agreement of Georgia.

#### **Article 56 - Effect of judgements delivered by foreign competent courts on proceedings conducted in Georgia**

During proceedings conducted in Georgia against a person, the authority conducting the proceedings shall take into account the judgement delivered against the person for another crime in a foreign state only where so required by a relevant international or individual agreement.

### **Chapter VII - Final Provision**

#### **Article 57 - Entry into force**

This Law shall enter into force on 1 October 2010.

**President of Georgia**

**M. Saakashvili**

**Tbilisi**

**21 July 2010**

**No 3541-სს**

