

3. In the execution of the inquiry may be attending the representatives of the foreign state, if this is stipulated by the international treaties of the Russian Federation or by a written liability on an interaction, based on the principle of reciprocity.

4. If the inquiry cannot be executed, the received documents shall be returned with an indication of the reasons which have prevented it from being executed, through the body that has received it or along diplomatic channels, to that competent body of the foreign state, from which the inquiry was directed. The inquiry shall be returned without execution, if it contradicts the legislation of the Russian Federation, or if its execution may inflict damage upon its sovereignty or security.

Article 458. Directing the Criminal Case Materials for Conducting the Criminal Prosecution

If the crime is perpetrated on the territory of the Russian Federation by a foreign citizen who has subsequently gone outside its boundaries so that it is impossible to perform procedural actions with his participation on the territory of the Russian Federation, all the materials on the instituted and the inquisited criminal case shall be handed over to the Office of the Procurator-General of the Russian Federation, and the latter shall resolve the question of their dispatch to the competent bodies of the foreign state for carrying out the criminal prosecution.

Article 459. Execution of the Inquiries on Carrying Out the Criminal Prosecution or on Instituting a Criminal Case on the Territory of the Russian Federation

1. An inquiry from the competent body of a foreign state on carrying out the criminal prosecution with respect to a citizen of the Russian Federation, who has perpetrated a crime on the territory of the foreign state and has returned to the Russian Federation, shall be considered by the Office of the Procurator-General of the Russian Federation. A preliminary inquisition and the judicial proceedings shall be conducted in such cases in accordance with the procedure, established by the present Code.

2. If a crime is committed on the territory of a foreign state by a person, who is a citizen of Russia and who has come back to the Russian Federation before the criminal prosecution was instituted on his account at the place of the perpetration of the crime, the criminal case may be instituted and investigated by the materials, supplied by the corresponding competent body of the foreign state to the Office of the Procurator-General of the Russian Federation in conformity with the present Code, if there exist the grounds, stipulated by Article 12 of the Criminal Code of the Russian Federation.

Chapter 54. Extradition of a Person for the Criminal Prosecution or for the Execution of the Sentence

Article 460. Directing an Inquiry on the Extradition of a Person Staying on the Territory of a Foreign State

1. The Russian Federation may direct to a foreign state an inquiry on the extradition of a person for the criminal prosecution or for the execution of the sentence on the ground of an international agreement with this state, or of a written liability of the Procurator-General of the Russian Federation to extradite the persons to this state in the future on the basis of the principle of reciprocity in conformity with the legislation of the Russian Federation.

2. An inquiry on the extradition of a person on the basis of the principle of reciprocity shall be directed, if in conformity with the legislation of both states the act, in connection with which the inquiry for the extradition is forwarded, is criminally punishable and if for the perpetration of such is either envisaged a punishment in the form of the deprivation of freedom for a term of no less than one year, or a more severe punishment - in case of the extradition for the criminal prosecution, or the person is sentenced to the deprivation of freedom for a term of no less than six months - in case of the extradition for the execution of the sentence.

3. If the need arises for an inquiry on the extradition and if for this there exist the grounds and the conditions, pointed out in the first and in the second parts of the present Article, all necessary materials shall be submitted to the Office of the Procurator-General of the Russian Federation for resolving the issue of forwarding to the corresponding competent body of the foreign state an inquiry for the extradition of the person, staying on the territory of the given state.

4. An inquiry for the extradition shall contain:

1) the name and the address of the inquiring body;

2) the full name of the person, with respect to whom the inquiry for the extradition is directed, the date of his birth, the data on his citizenship, the place of his residence or of his stay, and the other data on his person, as well as, if possible, a description of his appearance, a photograph and the other materials, making it possible to identify the given person;

3) a description of the actual circumstances and the legal qualification of the act, committed by the person, with respect to whom the inquiry on the extradition is forwarded, including information on the size of the damage he has caused, with citing the text of the law envisaging responsibility for this act and with an indication of the sanctions;

4) information on the place and the time of pronouncing the sentence, which has entered into legal force, or of the resolution on bringing to the bar in the capacity of the defendant, with an enclosure of the certified copies of the corresponding documents.

5. To the inquiry on the extradition for the criminal prosecution shall be enclosed a certified copy of the judge's resolution on the selection of taking into custody as a measure of restriction. To the inquiry on the extradition for the execution of the

sentence shall be enclosed a certified copy of the sentence, which has come into legal force, and a reference note on the unserved term of punishment.

Article 461. Limits of Criminal Liability of the Person, Extradited to the Russian Federation

1. The person, extradited by a foreign state, cannot be detained, brought forward as the defendant, convicted without the consent of the state which has extradited him, or handed over to the third state for a crime, not indicated in the inquiry for the extradition.

2. No consent of the foreign state shall be required, if;

1) the person it has extradited has not left the territory of the Russian Federation in the course of 44 days after the day of completing the criminal court proceedings, serving the sentence or being released from it on some lawful ground. Into this term shall not be included the time, when the extradited person could not leave the territory of the Russian Federation not through his own guilt;

2) if the extradited person left the territory of the Russian Federation but then returned to the Russian Federation of his own free will.

3. The demands of the first part of this Article shall not be spread to cases when the crime is committed by the person pointed out in it, after his extradition.

Article 462. Execution of an Inquiry on the Extradition of a Person Staying on the Territory of the Russian Federation

1. The Russian Federation, in conformity with an international treaty of the Russian Federation or on the basis of the principle of reciprocity, may extradite to a foreign state a foreign citizen or a stateless person, staying on the territory of the Russian Federation, for conducting the criminal prosecution or for executing the sentence for acts criminally punishable in conformity with the criminal law of the Russian Federation and with the laws of the foreign state which sent an inquiry for the extradition of the person.

2. The extradition of a person on the basis of the principle of reciprocity shall signify that in accordance with the assurances of the foreign state that has forwarded an inquiry for the extradition, it may be expected that in a similar situation extradition would be effected on an inquiry of the Russian Federation.

3. The extradition of a person may be effected in the following cases:

1) if the criminal law envisages for the perpetration of these acts a punishment in the form of the deprivation of freedom for a term of over one year, or a more severe punishment, when the person is extradited for criminal prosecution;

2) if the person, with respect to whom an inquiry for the extradition is directed, is sentenced to the deprivation of freedom for a term of not less than six months or to a tougher punishment;

3) if the foreign state which forwarded the inquiry may guarantee that the person, with respect to whom an inquiry for extradition is directed, will be prosecuted only for the crime pointed out in the inquiry, and that after completing the judicial proceedings and serving the sentence he shall be able to leave the territory of the given state without hindrance, and shall not be sent away, handed over or extradited to a third state without the consent of the Russian Federation.

4. The decision on the extradition of a foreign citizen or of a stateless person, staying on the territory of the Russian Federation and accused of committing a crime or convicted by the court of a foreign state, shall be adopted by the Procurator-General of the Russian Federation or by his Deputy.

5. The Procurator-General of the Russian Federation or the deputy thereof shall notify of an adopted decision in writing the person in respect of whom it is adopted, and shall explain thereto his/her right to appeal against this decision with court in compliance with Article 463 of this Code.

6. A decision on extradition shall enter into legal force in ten days as of the time of notifying the person in respect of whom it is adopted. In the event of appealing against the decision, the extradition shall not be effected pending the entry of the court decision into legal force.

7. If petitions for the extradition of one and the same person have arrived from several foreign states, the decision on what of these inquiries shall be satisfied shall be taken by the Procurator-General of the Russian Federation or by his Deputy. The Procurator-General of the Russian Federation or his Deputy shall inform about the adopted decision the person, with respect to whom it is adopted, in writing within 24 hours.

Article 463. Appealing the Decision on the Person's Extradition and the Judicial Check-Up of Its Legality and Substantiation

1. The decision of the Procurator-General of the Russian Federation or of his Deputy on the extradition may be appealed against with the Supreme Court of the Republic, with the territorial or the regional court, with the court of a city of federal importance, the court of an autonomous region or the court of an autonomous area at the location of the person, with respect to whom this decision is adopted or by his counsel for the defence, within ten days from the moment of receiving a notification.

2. If the person, with respect to whom the decision on the extradition is adopted, is held in custody, the administration of the place of his detention after receiving the complaint, addressed to the court, shall immediately forward it to the corresponding court and shall inform about this the public prosecutor.

3. The public prosecutor shall direct to the court within ten days the materials, confirming the legality and the substantiation of the decision on the person's extradition.

4. Checking up the legality and the substantiation of the decision on the extradition of the person shall be performed within one month from the day of receiving the complaint by the court, consisting of three judges, in an open court session with the participation of the public prosecutor, of the person with respect to whom the decision on the extradition is adopted, and of his counsel for the defence, if he is taking part in the criminal case.

5. At the start of the session, the presiding justice shall announce what complaint is subject to consideration and shall explain to the present persons their rights, liabilities and responsibility. Then the applicant and/or his counsel for the defence shall substantiate the complaint, after which the floor shall once again be given to the public prosecutor.

6. In the course of the judicial proceedings the court shall not discuss the questions, concerning the guilt of the person who has filed the complaint, but shall restrict itself to checking up the correspondence between the decision on the extradition of the given person and the legislation and the international treaties of the Russian Federation.

7. As a result of the check-up, the court shall pass one of the following rulings:

1) on recognizing the decision on the extradition of the person as illegal or unsubstantiated, and on its cancellation;

2) on leaving the complaint without satisfaction.

8. If the decision on the person's extradition is cancelled, the court shall also cancel the measure of restriction, selected for the person who entered the complaint.

9. The court ruling on satisfying the complaint or on the refusal in this may be appealed against by way of cassation with the Supreme Court of the Russian Federation within seven days from the day of its adoption.

Article 464. Refusal in the Extradition of a Person

1. The extradition of a person shall be inadmissible, if:

1) the person, with respect to whom the inquiry for extradition has come from a foreign state, is a citizen of the Russian Federation;

2) the person, with respect to whom an inquiry on the extradition has come from a foreign state, has been granted asylum in the Russian Federation because of the possibility of his persecution in the given state on account of race, religion, citizenship, nationality, affiliation with a certain social group, or because of his political views;

- 3) with respect to the person, named in the inquiry, for the same act a sentence is passed on the territory of the Russian Federation, which has entered into legal force, or the proceedings on the criminal case are terminated;
- 4) in conformity with the legislation of the Russian Federation, the criminal case cannot be instituted or the sentence cannot be executed because of an expiry of the term of legal limitation or on another legal ground;
- 5) there is the decision of the court of the Russian Federation, which has passed into legal force, on the existence of obstacles to the extradition of the given person in conformity with the legislation and the international treaties of the Russian Federation.

2. The extradition of a person may be refused, if:

- 1) the act which has served as a ground for directing an inquiry for the extradition, is not a crime under the criminal law;
- 2) the act, in connection with which an inquiry for the extradition is forwarded, is committed on the territory of the Russian Federation, or against the interests of the Russian Federation outside its territory;
- 3) the criminal prosecution of the person, with respect to whom an inquiry for the extradition is sent is being conducted for the same act in the Russian Federation;
- 4) the criminal prosecution of the person, with respect to whom an inquiry for the extradition is entered, is instituted by way of a private charge.

3. If the extradition of the person is not taking place, the Office of the Procurator-General of the Russian Federation shall notify to this effect the competent bodies of the corresponding foreign state, with an indication of the reasons behind the refusal.

Article 465. Postponement of the Person's Extradition and the Extradition of a Person for a Time

1. If a foreign citizen or a stateless person, with respect to whom an inquiry for the extradition has come in, is subject to the criminal prosecution or is serving a term for another crime on the territory of the Russian Federation, his extradition may be postponed till the termination of the criminal prosecution, till his release from the punishment on any lawful ground, or till he has served the sentence.

2. If the postponement of the extradition may entail an expiry of the term of legal limitation for the criminal prosecution, or may inflict a damage on the inquisition of the crime, the person mentioned in the inquiry may be extradited for a time, if there has been assumed a liability to observe the terms, established by the Procurator-General of the Russian Federation or by his Deputy.

Article 466. Selection or Application of a Selected Measure of Restriction to Provide for the Person's Probable Extradition

1. When an inquiry is received from a foreign state for a person's extradition and, with this, a judicial decision on taking in respect of this person a measure of restraint in the form of placing in custody is not presented, the prosecutor, for the purpose of ensuring the possibility of the person's extradition, shall resolve the issue on the necessity to select a measure of restriction for the person in the procedure stipulated by this Code.
2. If to an inquiry on the person's extradition there is enclosed the decision of a judicial body of the foreign state on taking the person into custody, the prosecutor shall have the right to place the person under home arrest or to take him/her into custody without confirming said decision by a court of the Russian Federation.
3. The Procurator-General of the Russian Federation or his Deputy shall immediately notify the competent body of the foreign state, which has directed the inquiry for the person's extradition.

Article 467. Handing Over the Extradited Person

1. The Russian Federation shall notify the foreign state about the place, time and date of handing over the extradited person. If the given person is not accepted within fifteen days from the date fixed for handing him/her over, he/she may be released from custody.
2. If a foreign state cannot accept the person subject to extradition due to circumstances which are not dependent on it and notifies the Russian Federation on it, the date of handing him/her over shall be postponed. The date of handing over may be postponed in the same procedure, if the Russian Federation cannot hand over the person subject to extradition due to circumstances which are not dependent on it.
3. In any case, the person shall be subject to release upon the expiry of thirty days as of the date fixed for handing him/her over.

Article 468. Handing Over the Objects

1. When handing over the extradited person to the corresponding competent body of a foreign state, the objects, which are the instruments of the crime, as well as the objects with the traces of the crime on them or those acquired in a criminal way may also be handed over. These objects shall be handed over under an inquiry, even if the extradition of the inquired person cannot take place because of his death or on account of any other reasons.
2. The handing over of the objects, pointed out in the first part of this Article, may be temporarily suspended, if the given objects are necessary for the proceedings on another criminal case.

3. To provide for the lawful interests of the third persons, the handing over of the objects, pointed out in the first part of this Article, shall take place only if there exists a liability of the corresponding institution of the foreign state on returning these objects after the proceedings on the criminal case are completed.

Chapter 55. Handing Over the Person Sentenced to the Deprivation of Freedom, for Serving the Sentence in the State of Which He Is a Citizen

Federal Law No. 58-FZ of June 29, 2004 amended Article 469 of this Code

Article 469. Grounds for Handing Over the Person Sentenced to Deprivation of Liberty

Seen as the grounds for handing over the person sentenced by a court of the Russian Federation to deprivation of freedom, for serving the sentence in the state of which he is a citizen, as well as for handing over a citizen of the Russian Federation sentenced by a court of a foreign state to the deprivation of liberty, for serving the sentence in the Russian Federation, shall be the court decision based on the results of considering the proposal of the federal executive body authorised in the sphere of the execution of penalties or the application of the convict or a representative thereof, as well as of the competent authority of a foreign state in compliance with an international treaty of the Russian Federation or an agreement in writing between the competent authority of the Russian Federation and the competent authority of the foreign state on the basis of the principle of reciprocity.

Article 470. Procedure for Considering by Court the Issues Connected with Handing Over a Person Sentenced to Deprivation of Liberty

Federal Law No. 58-FZ of June 29, 2004 amended part 1 of Article 470 of this Code

1. The proposal of the federal executive body authorised in the sphere of the execution of penalties, as well as an application of the convict, a representative thereof, or the competent authority of a foreign state on handing over a person sentenced to deprivation of liberty for serving his/her sentence in the state of which this person is a citizen, shall be considered by the court in the procedure and within the time period which are established by Articles 396, 397 and 399 of this Code subject to the requirements of this Article and Articles 471 to 472 of this Code.

2. Where it is impossible for the court to consider the issue of handing over the convict due to the incompleteness or absence of required data, the judge shall be entitled to postpone its consideration and to request for missing data or to direct the convict's application without consideration thereof to the competent authority of the Russian Federation for collecting required information in compliance with regulations of an international treaty of the Russian Federation, as well as for the preliminary coordination of the issue on the convict's handing over with the competent authority of a foreign state.

Article 471. Reasons for the Refusal to Hand Over the Person Sentenced to Deprivation of Liberty for Serving Punishment in the State of Which He/She Is a Citizen

Handing over of the person, sentenced to deprivation of liberty by a court of the Russian Federation for serving the term in the state of which he/she is a citizen, may be refused in cases, when:

- 1) none of the deeds for which the person is convicted, is recognized as a crime in accordance with the legislation of the state of which he is a citizen;
- 2) the punishment cannot be executed in the foreign state as a result of:
 - a) the expiry of the term of legal limitation or for other grounds, stipulated by the legislation of this state;
 - b) non-recognition by a court or other competent authority of a foreign state of the sentence passed by a court of the Russian Federation without establishing the procedure for, and terms of, the convict's serving punishment on the territory of the foreign state;
 - c) incompatibility of the terms of, and procedure for, serving punishment by the convict determined by a court or other competent authority of the foreign state;
- 3) guarantees of execution of the sentence in the part of the civil claim have not been received from the convict or from the foreign state;
- 4) no consensus is reached on handing over the convict on the terms, stipulated by an international treaty of the Russian Federation;
- 5) the convict has a permanent place of residence in the Russian Federation.

Article 472. Procedure for the Court's Resolution of Questions Involved in Execution of the Sentence Passed by Court of a Foreign State

1. If a court, when considering a presentation (application) for passing over a citizen of the Russian Federation sentenced to deprivation of liberty by a court of a foreign state, comes to the conclusion that the deed for which the citizen of the Russian Federation is convicted is not a crime under the laws of the Russian Federation, or the sentence of the foreign state's court may not be executed by virtue of the expiry of the limitation period, as well as for any other reason provided for by laws of the Russian Federation or an international treaty of the Russian Federation, it shall issue a ruling on the refusal to recognize the sentence of the foreign state's court.

2. In all other instances the court shall issue a decision on the recognition and execution of the foreign state's sentence, and shall indicate the following:

- 1) the title of the foreign state's court, the date and place of passing the sentence;
- 2) data on the last place of residence of the convict in the Russian Federation, on his/her place of employment and occupation prior to sentencing;
- 3) the description of the crime, of whose commission the convict is found guilty, and the criminal law of the foreign state under which he/she is convicted;
- 4) the article of the Criminal Code of the Russian Federation under which the crime committed by the convict is punishable;
- 5) the type and term of the inflicted punishment (principal and additional ones), the served term and the term of punishment which the convict has to serve in the Russian Federation, the start and end thereof, the type of correctional facility, the procedure for indemnification under a civil claim.

3. If under the Criminal Code of the Russian Federation the maximum term of deprivation of liberty for a given crime is less than that inflicted under the sentence of the foreign state's court, the court shall determine the maximum term of liberty deprivation for committing this crime provided for by the Criminal Code of the Russian Federation. If under the Criminal Code of the Russian Federation deprivation of liberty is not provided for as a punishment for the crime committed by the person, the court shall determine another punishment matching the maximum punishment inflicted under the sentence of the foreign state's court within the limits established by the Criminal Code of the Russian Federation for this crime.

4. Where the sentence of a foreign state's court concerns two or several deeds, not all of which are crimes in the Russian Federation, the court shall determine what part of the punishment inflicted under the sentence of the foreign state's court shall apply to the deed which is criminal.

5. The court's decision shall be executed in the procedure established by Article 393 of this Code.

6. In the event of reversal or alteration of a sentence passed by a foreign state's court or of applying in respect of the person serving punishment in the Russian Federation acts of amnesty or clemency issued in the foreign state, the issues concerning the reviewed sentence of the foreign state's court, as well as the application of the acts of amnesty or clemency shall be settled in compliance with the requirements of this Article.

Article 473. Abolished

Federal Law No. 92-FZ of July 4, 2003 supplemented this Code with Part Six

Part Six. Forms of Procedural Documents