



Tool 4.3 Extradition checklist

Overview

This tool provides a checklist for the content of effective extradition requests.

The Informal Expert Working Group on Effective Extradition Casework Practice of the UNODC Legal Advisory Programme met in Vienna in 2004 to discuss the most common impediments in major legal traditions to efficient and effective extradition (see Tool 4.2). The product was a report containing a comprehensive package of recommendations. Also included in that report was a checklist for the content of extradition requests, supporting documents and information. This checklist is provided below.

Extradition checklist

Mandatory content/document requirements for all requests

Identity of the person sought

A description of the person sought and other information which may be relevant to establishing his or her identity, nationality and location

Facts and procedural history of the case

An overview of the facts and procedural history of the case, including the applicable law of the requesting State and the criminal charge against the person sought

Legal provisions

A description of the offence and applicable penalty, with an excerpt or copy of relevant parts of the law of the requesting State

Statute of limitations

Any relevant limitation period beyond which prosecution of a person cannot lawfully be brought or pursued

Legal basis

A description of the basis upon which the request is made, e.g. national legislation, the relevant extradition treaty or arrangements or, in the absence thereof, by virtue of comity

If the person sought is accused of an offence (but not yet convicted)*Warrant of arrest*

The original or certified copy of a warrant issued by a competent judicial authority for the arrest of that person, or other documents having the same effect.

Statement of the offence(s)

A statement of the offence(s) for which extradition is requested and a description of the acts or omissions constituting the alleged offence(s), including an indication of the time and place of commission. Also the maximum sentence for each offence, the degree of participation in the offence by the person sought and all relevant limitation periods.

Evidence

Identity evidence is always required. Check whether sworn evidence is required. If so, check whether the witness must depose that he or she both knows the persons sought and knows that the person engaged in the relevant acts or omissions constituting the relevant offence(s). Suspicion of guilt for every offence for which extradition is sought must be substantiated by evidence. Check in advance whether it must take the form of sworn or unsworn evidence of witnesses, or whether a sworn or unsworn statement of the case will suffice. If a statement of the case will suffice, check whether it has to contain particulars of every offence. Where sworn evidence is required, check if this has to show prima facie evidence of every offence for which extradition is sought. If so, clarify what is required and admissible to establish that or any lesser test. Ensure all is provided in the form required.

If the person sought is convicted of an offence

An original or a certified/authenticated copy of the original conviction/detention order, or other documents having the same effect, to establish that the sentence is immediately enforceable. The request should also include a statement establishing to what extent the sentence has already been carried out. A statement indicating that the person was summoned in person or otherwise informed of the date and place of hearing leading to the decision or was legally represented throughout the proceedings against him or her, or specifying the legal means available to him/her to prepare his/her defence or to have the case retried in his/her presence. A document setting out the conviction and a statement affirming that there is an intention to impose a sentence.

Signature of documents, assembly of request and attachments*Warrants of arrest and conviction/detention order*

Check in each case whether the warrant or order must be signed by a judge, magistrate or other judicial officer, or officer of State.

Check whether the officer of State must also sign each separate document.

Assembly of request

Check whether all the documents included in the request and attachment must be bundled together, and what if any seals are required to prevent later arguments that documents have been added or removed.

Transmission of the request

Ensure the request and attachments are transmitted by the channel agreed with the requested State (not necessarily the diplomatic channel). Monitor the transmission and delivery to ensure crucial time limits are met.

Optional additional content/documents

Identity of authority

Identification of the office/authority requesting the provisional arrest/extradition.

Prior communication

Details of any prior contact between officers in the requesting and requested States.

Presence of officials

An indication as to whether the Requesting State wishes its officials or other specified persons to be present at or participate in the execution of the extradition request and the reason why this is requested.

Indication of urgency and/or time limit

An indication of any particular urgency or applicable time limit within which compliance with the request is required and the reason for the urgency or time limit.

Use of other channels

Where a copy of the request has been or is being sent through other channels, this should be made clear in the request.

Language

The request and accompanying documents should be made in or accompanied by a certified translation (of the whole, not only of part of the documents) in a language specified by the requested State (or if that State permits more than one, the preferred language indicated after consultation).

Supplementary documents

If the documents provided do not suffice after checking in advance of the request with the requested State, provide the needed supplementary information/documents.

Note: This checklist was not intended by the Expert Working Group to be a universally exhaustive checklist.



The full report of the Informal Expert Working Group on Effective Extradition Casework Practice can be downloaded at:
www.unodc.org/pdf/ewg_report_extraditions_2004.pdf