

# **China's Extradition Cooperation**

# INTRODUCTION

During the Past Two Decades:

92 Incoming Requests

143 Outgoing Requests



# INTRODUCTION

## I. Legal Basis

### **Extradition Law of the People's Republic of China**

- International Conventions and Treaties
- Principle of Reciprocity



- So far, China has concluded **54** Extradition Treaties with other countries.
- China is the party to over **20** multilateral conventions which contain extradition provisions.

# INTRODUCTION

## II. Principles

- ✓ Mutual Respect for Sovereignty
- Dual Criminality
- Non-Extradition of Nationals
- Non-Extradition on Political Offences and Military Offences
- Non-Discrimination
- Prohibition of Torture
- Principle of Speciality

## **Extradition Law of the People's Republic of China**

Article 3 The People's Republic of China cooperates with foreign states in extradition on the basis of equality and reciprocity.

No cooperation in extradition may impair the sovereignty, security or public interests of the People's Republic of China.

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## **Extradition Law of the People's Republic of China**

Article 7 Request for extradition made by a foreign state to the People's Republic of China may be granted only when it meets the following conditions:

(1) the conduct indicated in the request for extradition constitutes an offence according to the laws of both the People's Republic of China and the Requesting State; ...



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## **Extradition Law of the People's Republic of China**

Article 8 The request for extradition made by a foreign state to the People's Republic of China shall be refused if:

(1) the person sought is a national of the People's Republic of China under the laws of the People's Republic of China; ...

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## Extradition Law of the People's Republic of China

Article 8 The request for extradition made by a foreign state to the People's Republic of China shall be refused if:

(3) the request for extradition is made for a political offence, or the People's Republic of China has granted asylum to the person sought;

...

(5) the offence indicated in the request for extradition is a purely military offence under the laws of the People's Republic of China or the laws of the Requesting State;

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## Extradition Law of the People's Republic of China

Article 8 The request for extradition made by a foreign state to the People's Republic of China shall be refused if:

- (4) the person sought is one against whom penal proceedings instituted or punishment may be executed for reasons of that person's race, religion, nationality, sex, political opinion or personal status, or that person may, for any of those reasons, be subjected to unfair treatment in judicial proceedings;

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## Extradition Law of the People's Republic of China

Article 8 The request for extradition made by a foreign state to the People's Republic of China shall be refused if:

- (7) the person sought has been or will probably be subject to torture or other cruel, degrading or humiliating treatment or punishment in the Requesting State;



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✓ Principle of Speciality

## **Extradition Law of the People's Republic of China**

Article 14 The Requesting State shall make the following assurances when requesting extradition:

(1) no criminal responsibility shall be investigated against the person in respect of the offences committed before his surrender except for which extradition is granted, nor shall that person be re-extradited to a third state, unless consented by the People's Republic of China, or unless that person has not left the Requesting State within 30 days from the date the proceedings in respect of the offence for which extradition is requested are terminated, or the person completes his sentence or is released before the sentence expires, or after leaving the country the person has returned of his own free will;

## II. Procedures of Extradition

Requests from Other Countries



Receiving Authority  
(MFA)



the Supreme People's Procuratorate



**Judicial Review**



the Supreme People's Court



the High People's Court



**Administrative Review**  
(MFA → State Council)



**Inform the  
Requesting State**

Compulsory Measures  
for Extradition  
(MPS)

Execution of  
Surrender  
(MPS)

Extradition Law of the People's Republic of China

# CHALLENGES & SUGGESTIONS

## As Requested State

- **Timeliness Requirements in Extradition Law**
- **Expedited Extradition in Bilateral Treaties**
- **Inter-agency Coordination Mechanism**
- **Bilateral Consultation Mechanism**

# CHALLENGES & SUGGESTIONS

## As Requesting State

### Differences of Legal Systems Still Exist

- 1. Interruption of Extradition**  
(Asylum Claims, Torture Risk Assessment)
- 2. Complex and Prolonged Procedure**  
(Wong Ho Wing case, 8 years)
- 3. Highly Confidential Procedures**



### Suggestions:

1. Mutual Respect and Mutual Trust
2. Strengthen Communication and Coordination.
3. The Improvement Needed for the Requested States to Avoid Legal Loopholes.

**Stronger Political Will is Required**

**Efficiency of UNTOC Should be Improved**



**THANK YOU!**