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**NOTE**

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From: General Secretariat of the Council  
To: Delegations  
Subject: 63nd plenary meeting of the EJN (Budapest, 6-8 November 2024)  
– Conclusions of Workshop III: extradition to third countries

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Delegations will find attached the above-mentioned conclusions.

  
  

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# 63<sup>rd</sup> PLENARY MEETING EUROPEAN JUDICIAL NETWORK 6-8 November 2024 Budapest, Hungary

## EJN Conclusions on Extradition to third countries

Effective extradition between the Member States of the European Union and third states is crucial for maintaining international justice, security, and cooperation. It ensures that individuals accused or convicted of serious crimes cannot evade justice by fleeing across borders. By facilitating the transfer of suspects or convicted persons, effective extradition strengthens the rule of law and enhances cross-border cooperation in fighting serious organized crime.

With respect to extradition, all the EU Member States are operating on various legal bases with the states outside of the EU, including provisions of their national law, reciprocity, bi-lateral agreements, Council of Europe Conventions or - in case of some specific offences - United Nations conventions.

It is relevant to mention that the Court of Justice of the EU has also shaped the extradition procedures to third countries by establishing the so-called "Petruhhin" mechanism following the judgment on case C-182/15 *Petruhhin*.<sup>1</sup> The applicability of the mechanism in practice was analysed by the EJN and Eurojust<sup>2</sup> and on the basis of the findings the EU Commission adopted Guidelines on Extradition to Third States<sup>3</sup>. However, over time new legal and procedural questions arose and the discussions during the 63<sup>rd</sup> EJN Plenary meeting provided an

<sup>1</sup> Case C-182/15 Aleksei Petruhhin – available here:

<https://curia.europa.eu/juris/document/document.jsf?text=&docid=183097&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=2980529>

<sup>2</sup> Joint report of Eurojust and the European Judicial Network on the extradition of EU citizens to third countries – available here: [https://www.ejn-crimjust.europa.eu/ejnupload/DynamicPages/2020-11\\_Eurojust-EJN-report-on-extradition-of-EU-citizens.pdf](https://www.ejn-crimjust.europa.eu/ejnupload/DynamicPages/2020-11_Eurojust-EJN-report-on-extradition-of-EU-citizens.pdf)

<sup>3</sup> Commission Notice - Guidelines on Extradition to Third State – available here: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022XC0608\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022XC0608(01))

opportunity for the EJN Contact Points to address outstanding judicial cooperation issues encountered by judicial practitioners.

The EJN Contact Points pointed out that the EJN has a crucial role in supporting the national judicial authorities in extradition proceedings due to its wide outreach beyond EU borders, appointed Contact Points in third countries as well as close cooperation with regional judicial networks around the world. By using the EJN and the EJN website e-tools, judicial practitioners may avoid delays and potential non-execution of the extradition requests already at the drafting stage of their request.

### 1. Judgment on Case C-352/22 of the Court of Justice of the European Union

One recent development affecting extradition proceedings is judgment Case C-352/22<sup>4</sup> of the Court of Justice of the European Union. The decision concerns the circumstances in which a third-country national, who has previously received refugee status in another Member State, may be extradited to their country of origin. The Court concluded that the extradition of a third country national is only permissible, if the competent authority of the Member State withdraws refugee protection and the competent court of the requested Member State decides that there are no other obstacles of extradition.

While the EJN Contact Points reported that the judicial authorities in their Member States **have already dealt with similar extradition requests** where the requested person was granted a refugee status, the discussions raised some outstanding legal and procedural differences between the national legal systems that may leave room for different applications of the Court judgment across the EU in practice. In particular, according to the national law of **some Member States, the recognition of refugee status by another Member State is a mandatory bar** to extradition, while **others emphasized that such decisions may be considered but are not automatically binding**. National Courts may still carry out an independent risk assessment concerning the extradition request. However, despite these differences in the national law, **the Contact Points reported that none of the actual cases resulted in an extradition as the refugee status was not revoked and as such, the requests from the third country were refused**. An important aspect noted by the participants was that the **refugee status is never disclosed to the state requesting extradition** or listed as a ground for refusal.

<sup>4</sup> Case C-352/22 Generalstaatsanwaltschaft Hamm v A – available here: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A62022CJ0352>

The decision of the Court also has **practical and procedural implications for the national judicial authorities** that are deciding on the execution of the extradition request, as they have to initiate a consultation with the authorities of the Member State that granted the refugee status **in order to verify the existence and validity of such status**. One practical question that was discussed by the EJM Contact Points related to the exchange of information about the refugee status and **the correct channel for the judicial authorities to verify this information**. In particular, it was noted that due to the different national structures and competences, some Member States could exchange this information via police-to-police channels while some Member States could only share this information via the central judicial authorities. The discussions underlined the existence of an EU database for verifying information on individuals that were granted refugee status in the EU, namely EURODAC. However, the Contact Points emphasized that **there is still need for officially addressing the EU Member State that issued the refugee status**. It was also stressed that **the EJM could support the national judicial authorities in exchanging this information** as the Contact Points are in position to consult the correct national authorities in their countries.

While analysing the judgment and the actual practice in the Member States, the Contact Points noted that the judgment of **the Court does not address situations where subsidiary international protection was granted**. They also noted that such a situation is very relevant and probable to occur and as such additional clarification might be asked by the CJEU, in case a preliminary ruling is referred.

In conclusion, it is anticipated that more similar cases will arise in the future and as such the EJM is in a good position to support the national judicial authorities.

## **2. Competent authority to receive extradition requests**

The deadlines for receiving extradition requests are usually well described in extradition treaties and in the national law of each country. In most cases, the requested person could be arrested and kept in custody until the extradition request arrives to the competent authority of the requested state based upon an Interpol Red Notice and/or a request for preliminary detention. However, afterwards the actual extradition request and necessary additional documentation has to be submitted to the executing authorities within the prescribed deadlines.

The EJM Contact Points confirmed that in **most instances the central judicial authorities** (Ministry of Justice usually) **are competent to receive the extradition requests as well as requests and documentation related to the extension of detention pending extradition**. It

3



was noted that sometimes receiving the extradition requests and information takes longer than foreseen as the process usually involves translation and shipment of the documents. However, the vast majority of the EU Member States confirmed that **electronic submission of extradition requests is often sufficient for the executing authorities.**

The **EJN and the EJN Contact Points could always facilitate the communication and establishing direct contacts between the central authorities** in the EU Member States and the third country due to the wide reach of the Network outside of the EU.

### **3. Prison conditions and assurances provided by third states**

Following the jurisprudence of the CJEU and the European Court of Human Rights (ECtHR) as well as the obligations under the EU Charter of Fundamental Rights and the European Convention on Human Rights, the EU Member States are obliged to ensure that extradition does not result in inhumane or degrading treatment of the extradited person. As such, the **judicial authorities in the EU Member States commonly ask for assurances for the prison conditions** of the country issuing the extradition request. Most of the EJN Contact Points noted that according to their practice in extradition proceedings, **the third countries are usually willing to provide information on the prison conditions.** However, **sometimes it is challenging to obtain such assurances on case-by-case basis** as opposed to general assurances on a certain detention facility. Some of the non-EU participants had different opinions on the necessity to provide assurances in the context of extradition proceedings as well as the binding nature of the judgments of the European Courts on these countries.

Similarly to the previously addressed discussion points, the practical aspects on exchanging information and channels of communication were also raised vis-à-vis the assurances on prison conditions. It was noted that **it is difficult for the executing authorities to determine who is competent to provide the assurances**, as the request has to be addressed to them. In some countries the Ministry of Justice, Prosecutor's Office or a specialized authority for the detention facilities provides such assurances. The **EJN could be a very efficient channel for supporting the judicial authorities in obtaining assurances.**

It was pointed out that the EJN could collect and publish information on the competent authorities for issuing assurances in the EU Member States on the EJN website.