

## **JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS, LAW**

MARRËDHËNIET JURIDIKSIONALE ME AUTORITETET E HUAJA NË ÇËSHTJET  
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Unofficial translation of the consolidated version containing the initial Law on Jurisdictional Relations with Foreign Authorities in Criminal Matters and the following amending law:

**Amending Law no. 100/2013<sup>1</sup>**

Date of last check 2016 05 19, done by Erton Karagjozi

### **LAW No. 10 193 dated 03.12.2009 “ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS”**

In reliance on article 78 and 83 point 1 of the Constitution, on the proposal of the Council of Ministers,

#### **THE ASSEMBLY OF THE REPUBLIC OF ALBANIA**

**DECIDED:**

#### **CHAPTER I GENERAL PROVISIONS**

##### **Article 1 Object**

1. This law has the object of defining supplementary procedural rules in the field of jurisdictional relations with foreign authorities in criminal matters.
2. The provisions of this law are not applicable when it is provided otherwise in international agreements to which the Republic of Albania is a party.

##### **Article 2 Definitions**

For purposes of implementation of this law, the following terms have these meanings:

<sup>1</sup> This amending law was approved on 18.03.2013, promulgated by the Decree of the President of the Republic no. 8071, dated 29.03.2013, published in the Official Gazette no. 45, Page 2035, dated 3 April 2013. This Law enters into force on 18 of Aril 2013.

1. "Foreign judicial authorities" are foreign authorities that, according to the respective foreign law, have been given the quality to ask for, give or forward requests that create international jurisdictional relations.
2. "Local judicial authorities" are the authorities defined by law no. 8498 dated 10.06.1999 "On the ratification of the European convention 'On mutual legal assistance in the criminal field.'"
3. "Letter request" is the form in which requests that create international jurisdiction relations are presented.
4. "Ministry of Justice" is the Ministry of Justice of the Republic of Albania.
5. "Foreign citizen" is every person, with or without citizenship, who, according to Albanian legislation, is not an Albanian citizen.
6. "Sentencing state" is the state in which a person has been convicted.
7. "Requested state" is the state to which a letter request is addressed.
8. "Requesting state" is the state whose competent judicial authority submits requests that create international jurisdictional relations.

### Article 3

#### **Field of application**

The provisions of this law are applicable:

1. in proceedings that are related to criminal offences that, at the moment of submission of the request, are in the jurisdiction of the judicial authorities of the requesting state or in the Republic of Albania;
2. in proceedings that are in the jurisdiction of the European Court of Human Rights or other international courts whose jurisdiction has been accepted by the Republic of Albania.

### Article 4

#### **Types of letter requests**

Requests that create international jurisdictional relations in conformity with this law are:

1. "Letters rogatory," in which notifications of acts as well as the receipt of other acts and evidence of a criminal proceeding are included.
2. Other requests, in which the extradition of persons proceeded against criminally, the recognition and execution of foreign judicial decisions, the transfer of criminal proceedings and the transfer of convicted persons are included.

### Article 5

#### **General rules about a letter request**

1. A letter request of local judicial authorities is submitted in writing and except when this law provides otherwise should contain:

- a) the authority that has submitted the letter request, the name of the requested state and, when possible, the name of the authority to which the letter request is addressed;
- b) a precise definition of the type of request that creates international jurisdictional relations, the reasons for sending the letter request and the legal basis;
- c) a description of the criminal proceeding that is being conducted;
- ç) a description of the criminal fact, showing its time and place, the legal designation of the criminal offence, as well as a copy of the text of the domestic legal provisions applied;
- d) general personal information, mentioning the citizenship of the person who has a relation to the object of the letter request, as well as his position in the criminal proceeding;
- dh) the acts that are attached to the letter request, if any, also shown in a list;
- e) a declaration of whether the case is urgent and the time period within which execution is necessary, together with the reasons of the urgency or the time period;

ë) all other information that may be of importance for the procedure of execution of the letter request.

2. A letter request of the foreign judicial authorities and the attached documents, if they are not accompanied by a copy in the Albanian language, are translated by the Ministry of Justice.

3. A letter request is submitted by the local judicial authorities signed and sealed, and accompanied by a translation into the language of the country to which the letter request is addressed. When a foreign state has specified that it accepts letter requests in another language, the local judicial authority may submit the request in the accepted language. ~~Translation is done by the Ministry of Justice. In a case of urgency or a language that is not very well known, the translation is done by the Ministry of Justice, at the motivated request of the local judicial authority.~~ The expenses of translation are noted and forwarded to the local judicial authority to be included in prepaid procedural expenses according to article 485 of the Code of Criminal Procedure. More detailed rules about the form of the letter request, the procedure and the translation of the acts are regulated by joint instructions of the Minister of Justice and the General Prosecutor.

4. A local judicial authority, if it considers it necessary, may make additions to the letter request in conformity with the conditions of this article.

5. A letter request is delivered through the postal service, diplomatic courier. It may also be delivered through other appropriate technical means, but provided that receipt of delivery shall be confirmed.

6. Local judicial authorities execute letter requests without delay.

#### Article 6

##### **Central authority**

1. A letter request of local judicial authorities is forwarded to the foreign judicial authorities through the Ministry of Justice, except for the case when this law provides otherwise. If the Ministry of Justice observes that the letter request does not meet with conditions of article 5 of this law, it returns it to the local judicial authority for filling in the defects.

2. In urgent cases, the local judicial authorities may forward letter requests directly, except for cases when the domestic legislation provides otherwise. In a case of direct forwarding of letter requests, the local judicial authority notifies the Ministry of Justice at the same time.

3. The letter requests of foreign judicial authorities are transmitted to the local judicial authorities through the Ministry of Justice, except for cases when the domestic legislation provides otherwise.

#### Article 7

##### **Forwarding a letter request to the competent authority**

1. The Ministry of Justice opens the way to a foreign letter request after it evaluates the conditions defined in the domestic legislation. Subsequently, the letter request is forwarded to the prosecutor of the district where the letter request is to be executed, through the General Prosecutor.

2. If the local judicial authority has competence for the execution of one or more of the actions requested, then it may proceed with the execution of all the actions, if such a thing is appropriate.

3. When a local judicial authority that receives a letter request does not have competence for its execution, it forwarded the request without delay to the competent local judicial authority and notifies the Ministry of Justice at the same time.

#### Article 8

##### **Refusal of the letter request**

1. The Ministry of Justice and the local judicial authority open the way to a letter request when the conditions defined in the domestic legislation are met.
2. Those authorities may also refuse letter requests provided in article 4, point 2 of this law for other reasons provided by law.
3. In the case of criminal offences against humanity or other values protected by international law, attempts to commit them, as well as collaboration in their commission, the Ministry of Justice and the local judicial authority may not refuse a letter request with the reason that it constitutes political criminal offences.
4. The decision of refusal of a letter request contains the reasons of refusal and the legal basis.

#### Article 9 **Reciprocity**

1. A letter request of a foreign judicial authority is accepted if it contains guarantees of reciprocity given by the requesting state, which include the expectation that this state will execute a similar request addressed by the local judicial authorities.
2. Notwithstanding paragraph 1 of this article, the Ministry of Justice may open the way to letters rogatory even in the absence of express guarantees about reciprocity.

#### Article 10 **Notifications**

1. At the request of a foreign judicial authority, a local judicial authority that is proceeding gives notification of the beginning of execution of the letter request, except when the execution is immediate.
2. If the letter request is not fulfilled within the time period requested in the letter request and this has consequences in the proceeding that the foreign judicial authority is conducting, the local judicial authority that is proceeding immediately notifies the foreign judicial authority as to when it is possible for the letter request to be executed.
3. Notifications according to this article are forwarded to the foreign judicial authority through the Ministry of Justice.

#### Article 11 **Completion of letter requests and impediments to executing them**

1. If a foreign letter request does not contain information necessary for its execution, the Ministry of Justice notifies the foreign judicial authority to complete it, without forwarding it to the organ of the prosecutor's office. The letter request is forwarded by the Ministry of Justice after its completion by the foreign judicial authority.
2. If a letter request can be executed partially or in a conditioned manner, the Ministry of Justice even on its own initiative notifies the requesting state and gives it the possibility to give its opinion or to complete the request.
3. The notifications referred to in [lit. requests or requirements of] points 1 and 2 of this article may also be submitted by the local judicial authority that is proceeding if upon receipt of the acts it considers that such a thing [is necessary]. It submits the requests directly to the authority of the requesting state, notifying the Ministry of Justice at the same time.

#### Article 12 **Confidentiality**

1. At the request of a foreign judicial authority, the Ministry of Justice and the competent local judicial authority apply the rules on keeping state secrets and protection of personal data in connection [with] the information indicated in the letter request.
2. If the request referred to in paragraph 1 of this article cannot be fulfilled, the Ministry of Justice or the local judicial authority notifies the foreign judicial authority within five days.

## **CHAPTER II LETTERS ROGATORY**

### Article 13

#### **Types of letters rogatory and field of application**

1. The types of letters rogatory are:
  - a. a notification of the act of summons against a person under investigation, defendant, witness, expert, convicted person or other parties in the criminal proceeding;
  - b. a notification of the orders, decisions of judicial authorities and of other necessary documents related to the criminal proceeding in the requesting state;
  - c. measures of property security for purposes of a criminal proceeding;
  - ç. the questioning of a person under investigation, defendant, convicted person, witness and expert, even through holding a hearing session by means of telephonic and audio-visual connections;
  - d. the temporary transferring of detained persons for the purpose of questioning them;
  - dh. other investigative actions that are not prohibited by law.
2. In addition to cases of the criminal proceeding provided by article 3 of this law, the letters rogatory of foreign judicial authorities are executed in administrative proceedings if a decision rendered at the end of them may be appealed to a court with criminal jurisdiction. This rule is applicable up to the degree provided in international agreements binding on the Republic of Albania.

### Article 14

#### **Actions for the execution of letters rogatory**

1. After opening the way, the Ministry of Justice forwards the acts to the prosecutor of the district where the letter rogatory is to be executed, through the General Prosecutor, within 10 days from receipt of the acts. In urgent cases, the Ministry of Justice may forward the acts to the district prosecutor, notifying the General Prosecutor at the same time.
2. The district prosecutor submits a request in court to decide on [lit. dispose of] the execution of the letter rogatory by decision, according to the rules of the Code of Criminal Procedure. This rule is not applicable when it is otherwise provided in international agreements to which the Republic of Albania is a party.

### Article 15

#### **Direct forwarding of letters rogatory**

1. In addition to the ways of forwarding letter requests provided in articles 6 and 7 of this law and only for purposes of this Chapter, letters rogatory may also be forwarded directly between local and foreign judicial authorities in urgent cases.
2. In this case, the local judicial authority sends a copy of these letters rogatory to the Ministry of Justice at the same time.
3. This article is not applicable in the case of the letters rogatory provided by article 13 point 1 letter "d" of this law.

### Article 16

## **Presence of foreign judicial authorities in the receipt of evidence**

1. At the express request of a foreign judicial authority, the local judicial authority gives information about the time and place of execution of the letter rogatory.
2. The court may permit representatives of foreign judicial authorities to take part in the receipt of evidence and to address questions to the person who is questioned according to the rules of the Code of Criminal Procedure.

### **Article 17 Special procedure**

If a foreign judicial authority asks in a letter rogatory for special conditions to be fulfilled related to form and procedure, the local judicial authority acts for its execution in conformity with those requests, provided that the requests shall not be in violation of the fundamental principles of the legal order of the Republic of Albania.

### **Article 18 Documenting a notification**

Local judicial authorities document the performance of a notification required by foreign authorities in conformity with the rules of notification of the Code of Criminal Procedure.

### **Article 19 Untouchability of the person summoned**

1. When a person who is requested to be notified of a summons to a proceeding in Albania does not succeed in acting in conformity with the act of summons issued by the requesting state, no mandatory [or] coercive measure or criminal sanction are taken against him.
2. If the local judicial authorities call a witness or expert with a residence or domicile outside the state, during the time of [his] stay in Albania, he will not be subjected to a criminal proceeding for an offence committed before [his] appearance in Albanian territory nor will he be sent to serve a criminal sentence given by a local judicial decision rendered before his appearance.
3. Point 2 of this article is not applicable if the witness or expert, although he has been given the possibility, has not left Albanian territory within 15 days after being notified that his presence is no longer necessary. This time period does not include the period during which the witness or expert could not have left Albanian territory for lawful documented reasons.

### **Article 20 Hearing sessions through telephonic or audio-visual connections**

1. Local judicial authorities may address a request to foreign judicial authorities for questioning at a distance of a witness or expert located outside the state, through telephonic or audio-visual connections.
2. A request addressed to a foreign judicial authority for the holding of a session through telephonic or audio-visual connections should contain, in addition to the information provided by point 1 of article 5 of this law:
  - a) the name of the local judicial authority and of the persons that will direct the hearing session;
  - b) the reason why it is not possible for the witness or expert to participate personally.
3. Local judicial authorities execute foreign letters rogatory with the object of holding hearing sessions through telephonic or audiovisual connections when:

- a) the witness or expert does not desire or does not have the possibility to appear at the foreign judicial authorities, and also has given consent for the holding of the session in this form;
  - b) the competent court has approved the request of the requesting state for holding the session in this form.
4. The questioning of witnesses or experts at a distance is done by the local judicial authorities while respecting the rules of international agreements and the provisions of the Code of Criminal Procedure.

#### Article 21

#### **Temporary transfer of detained persons**

1. When a foreign judicial authority summons a person detained in Albania for questioning, he may be temporarily transferred to the requesting state.
2. The temporary transferring of the person is decided by the Minister of Justice if the requesting state gives guarantees for the protection and return of the person within a defined period.
3. The transferring is refused when:
  - a) the detained person does not give consent. If the detained person has given consent, he cannot revoke it;
  - b) the transferring may extend his detention;
  - c) there are other fundamental reasons for not transferring him.
4. When the presence of the detained person is necessary in criminal proceedings being conducted by local judicial authorities, the transferring may be postponed.
5. When a third state is requested to transfer a detained person through Albanian territory, his transit passage is permitted if he is not an Albanian citizen.
6. The office of Interpol, in cooperation with the homologous authority of the requesting state takes technical measures to realise the delivery of the detained person and immediately notifies the Ministry of Justice of the place and date of delivery of the temporarily transferred person. The delivery of the transferred person is performed by the Interpol Office, which immediately notifies the Ministry of Justice and the General Prosecutor.
7. The time of detention in the requesting state is calculated in the amount of the sentence served in Albania.
8. The rules provided by this article are also applicable to a person detained in Albanian territory or who has been transferred to serve a sentence given by the requesting state, when his personal appearance has been requested for purposes of a review of the decision by the requesting state.

#### Article 22

#### **Searching for and sequestration of objects**

1. At the request of foreign judicial authorities, a local judicial authority may order the permission of a search of places or the sequestration of items that can be confiscated which are located in the territory of the Republic of Albania in connection with the facts specified in the letter rogatory. The decision may be appealed within 10 days from the day following receipt of knowledge according to the rules of the Code of Criminal Procedure.
2. The competent local judicial authority performs the search and sequestration in compliance with the rules of the Code of Criminal Procedure.
3. When a third party, who has gained the right in good faith, a state authority or an injured party who has [his] residence or domicile in Albania claims ownership of the objects, documents or profits, the object provided in point 1 of this article are sent only if the foreign judicial authority guarantees their return at the end of the proceedings in connection with the evidence.

4. The sending may be postponed for as long as the objects, documents or profits are necessary for criminal proceedings that have begun in Albania.

#### Article 23

#### **Delivery of sequestered objects**

1. The objects sequestered are sent to the foreign judicial authority at its request, in execution of the letter rogatory, to be confiscated or to be returned to the lawful owner.

2. These objects include:

- a) objects used for the commission of a criminal offence;
- b) objects that come from the commission of a criminal offence or values equivalent to them;
- c) profits from a criminal offence or values equivalent to them;
- ç) other objects given with the purpose of inciting the commission of a criminal offence as well as compensation for a criminal offence.

3. The objects or profits may be kept in a permanent manner in Albania if:

- a) their owner has [his] residence or domicile in the Republic of Albania;
- b) there are serious claims of the Albanian state authorities in connection with the objects or profits;
- c) a person, who has not taken part in the commission of a criminal offence and whose claims are not guaranteed by the requesting state proves that he has earned the right to those objects and profits in good faith, as well as that the person has [his] residence in Albania.

#### Article 24

#### **Postponing the execution of requests**

1. A local judicial authority may postpone or condition the execution of requests if it may affect the good conduct of criminal proceedings started by local judicial authorities.

2. The local judicial authority notifies the foreign judicial authority, declaring the reasons for postponement or conditioning. If the notification is made directly to the foreign judicial authority, the local judicial authority informs the Ministry of Justice at the same time.

#### Article 25

#### **Expenses**

1. The Albanian state, through the Minister of Justice, may waive the reimbursement of expenses of execution of letters rogatory from the requesting state.

2. The expenses of execution of local letters rogatory are paid by the local judicial authority who has asked for the letter rogatory.

3. A witness or expert who appears in execution of a letter rogatory of local judicial authorities has the right of reimbursement of the expenses of travel and food, which are documented as a part of the procedural expenses in conformity with the Code of Criminal Procedure.

4. In case a letter rogatory of a local judicial authority has the object of the giving of testimony of an expert, then the local judicial authority may deposit ahead of time an amount for coverage of the expenses of the testimony of the expert if the foreign judicial authority expressly requests it.

5. The letters rogatory of local judicial authorities in the cases of points 2 and 3 of this article show the expenses payable and those that are reimbursable. At the request in writing of the persons summoned, they are given ahead of time a sum to cover the expenses.

6. Local judicial authorities do not pay the expenses of executing foreign letters rogatory for:

- a) the travel and stay of persons summoned to be questioned or to perform a procedural action;

- b) the temporary transferring of detained persons;
- c) the holding of hearing sessions through telephonic or audio-visual connections;
- ç) the preservation or administration of evidence or objects;
- d) the performance of procedural actions with high or extraordinary expenses.

#### Article 26

#### **Preliminary measures**

At the request of the foreign judicial authorities and in conformity with the domestic legislation, a local judicial authority takes preliminary measures for the safekeeping of evidence, of objects that can be confiscated, of the existing situation or the defence of lawful interests that are endangered.

#### Article 27

#### **Forwarding data without a request**

1. Local judicial authorities even on their own initiative forward to foreign judicial authorities information that is related to criminal offences collected during a criminal proceeding, if they judge that forwarding such information may assist in the opening of a criminal proceeding or the submission of a request for legal assistance from the foreign state. This information is forwarded if the progress of the criminal proceeding in Albania is not hindered and respecting the conditions of reciprocity.
2. The competent local judicial authority may ask the foreign judicial authorities that have received the information mentioned in the first point of this article for data about the measures taken in connection with the information forwarded. In addition, the competent local judicial authority may establish other conditions related to the use of this information in the state to which the information has been forwarded.

#### Article 28

#### **Forwarding information about foreign citizens proceeded against or convicted**

1. Every three months, the Ministry of Justice sends information to the foreign judicial authority about final criminal decisions rendered against citizens of that state. This information is taken from the register of judicial status.
2. At the request of the competent foreign judicial authorities, the Ministry of Justice forwards an abbreviated version of the final criminal decision or a certification of judicial status.
3. At the request of a foreign state, the Ministry of Justice may forward data about persons who are citizens of the requesting state and who are subjects of a criminal proceeding that has been started in the Republic of Albania. For fulfilling this request, the Ministry of Justice cooperates with the General Prosecutor.

#### Article 29

#### **Criminal judicial register of Albanian citizens convicted outside the state**

1. The Office of the Judicial Register registers in a special register abbreviated versions of decisions about Albanian citizens criminally convicted outside the state, also including Albanian citizens born outside the state. For this purpose, a special register is created at that office.
2. If the foreign judicial authorities forward information about the conviction of Albanian citizens in foreign languages, their translation is accomplished by the Ministry of Justice through the service of official translation.
3. For the use, administration and protection of information, as well as for the removal of notations in this register, the rules of domestic legislation are applied.

Article 30  
**Notifications about legislation**

1. At the request of local judicial authorities, the Ministry of Justice obtains [lit. takes] the text of legislation in force in other states, as well as all information about special legal questions, if this is necessary.
2. The Ministry of Justice forwards the text of domestic legislation or information about special legal questions to foreign judicial authorities when requested by them.

**CHAPTER III  
EXTRADITION**

**SECTION I  
EXTRADITION FROM THE REPUBLIC OF ALBANIA**

Article 31  
**Applicable law**

The surrender of a person under investigation, a defendant or a convicted person toward a foreign state is done according to this law, the rules of Albanian legislation and international agreements to which the Republic of Albania is a party.

Article 32  
**Conditions for extradition**

In addition to the conditions provided in the Criminal Code and the Code of Criminal Procedure, the extradition of a person toward to foreign state is permitted when the following conditions are also met:

- a) Albanian legislation provides for the criminal offence for which the foreign state has imposed a coercive security measure, a sentence of imprisonment no less than one year;
- b) the measure or remaining part of the sentence given by the final judicial decision is at least four months at the time of submission of the request for extradition;
- c) criminal prosecution or the execution of the criminal sentence has not been prescribed according to the legislation of the requesting state;
- ç) the conditions exist for starting the criminal proceeding again in the requesting state, although a criminal proceeding in Albania for the same criminal offence has been dismissed;
- d) the requesting state gives guarantees that it will not give a sentence of death or, if it has given such a sentence, will not execute it.
- dh) the person whose extradition is sought, at the time of submission of the extradition request, has not applied for or been granted asylum in Albania against the requesting state.

Article 33  
**Actions of the Ministry of Justice**

1. When it does not refuse a request for extradition, the Ministry of Justice forwards it within 10 days to the prosecutor at the competent court, through the General Prosecutor. In complicated cases, because of the volume of the acts or the need for translation, this time period may be extended up to 15 days.
2. If it finds that not all the necessary acts have been attached to the request for extradition, but nevertheless reached the conclusion that it is not a case for refusal of the request, the Ministry of Justice acts according to article 11 of this law. **The supplemental acts submitted by the requesting state are forwarded to the organ of the prosecutor's office, translated,**

~~within seven days from their receipt. The supplemental acts submitted by the requesting state are forwarded to the organ of the prosecutor's office within seven days from their receipt, also respecting the obligation for translation.~~

3. The Ministry of Justice also acts in the same way if a request to complete the acts is submitted by the local judicial authorities.

#### Article 34

### **Actions of the prosecutor's office**

1. After receiving the request for extradition, the prosecutor within 10 days orders the interested party summoned for the purpose of identifying him and in order to receive his eventual consent to the extradition.

2. The order of summons of the prosecutor contains:

a) data about the time and place of appearance;

b) the right to select a defence attorney;

c) the reason for the summons, with a short summary of the facts; and also

ç) a warning of the person's being taken in obligatorily [lit. obligatory accompaniment of the person] in case of failure of the person to appear without lawful reasons.

3. The prosecutor documents the actions with the interested person in official written records according to the rules of the Code of Criminal Procedure.

4. Subsequently, the prosecutor respects the rules of the Code of Criminal Procedure for the submission of the request to court.

#### Article 35

### **Coercive measures and sequestrations**

1. On receipt of an international arrest warrant from the Interpol Office, in which the purpose of the requesting state to extradite a foreign citizen is declared, the Ministry of Justice forwards it to the General Prosecutor within five days, in order to act according to the rules of the Code of Criminal Procedure.

2. The Ministry of Justice also acts in the same way on receipt of a request from a requesting state to order other coercive measures or for the sequestration of material evidence and objects that are the proceeds [lit. benefit] of the criminal offence as to which extradition has been or will be sought.

3. The General Prosecutor sends the acts to the prosecutor at the competent court, so that the latter will deposit the request in court no later than 15 days from the time of submission of the request of the requesting state.

4. In setting the coercive measures and the sequestration, the court respects the rules of the Code of Criminal Procedure.

5. The coercive measures and the sequestration are set if the international arrest warrant or request of the foreign state contains:

a) general personal information about the foreign citizen;

b) data about the foreign judicial authority who has issued the international arrest warrant or a copy of the act by which the coercive measure or sequestration was ordered;

c) data about the criminal offence for which the coercive measure or sequestration is sought; and

ç) the declaration of the requesting state that it will submit a request for extradition.

6. The General Prosecutor notifies the Ministry of Justice of the setting of the coercive measures and sequestrations according to this article within five days from the date of announcement of the judicial decision.

7. The Ministry of Justice notifies the requesting state within 10 days from the date of announcement of the judicial decision.

8. The coercive measures are revoked according to the time periods defined in articles 493 point 4 and 484 point 6 of the Code of Criminal Procedure. Those time periods begin to run from the time defined in those articles, even if the person whose extradition is sought has been detained on the basis of another judicial decision.

9. When the coercive measures set before the submission of the request for extradition are revoked because of the end of the time periods, a coercive measure cannot be set again against the person, except when the requesting state submits the request for extradition.

#### Article 36

#### **Arrest by the judicial police**

1. In urgent cases of the arrest of a person against whom a request for temporary arrest has been submitted, the rules of article 495 of the Code of Criminal Procedure are applicable.

2. At the request of the General Prosecutor, the Ministry of Justice realises the translation of the acts required within 24 hours.

#### Article 37

#### **Examination of a request for extradition**

1. Within five days from the deposit of the request of the prosecutor, the judge designated for the adjudication of the case sets the date of the judicial session for the examination of the request for extradition.

2. The session is conducted with the mandatory participation of the prosecutor and the defence attorney. When the selected defence attorney does not appear, the court designates a defence attorney on its own initiative.

3. During the examination of the request for extradition, the court respects the rules of the Code of Criminal Procedure.

#### Article 38

#### **International arrest warrant of Albanian citizens**

1. On receipt of an international arrest warrant from a foreign state against an Albanian citizen, in which the purpose of the requesting state for the extradition of the person is declared, immediately and in any event within five days, the Interpol Office forwards it to the Ministry of Justice.

2. Within five days from receipt of the international warrant, the Ministry of Justice forwards it to the General Prosecutor.

3. The General Prosecutor, through the prosecutor at the court competent for a criminal proceeding of the Albanian citizen, may proceed for the temporary arrest of the Albanian citizen, respecting the rules of articles 493-495 of the Code of Criminal Procedure and articles 35-36 of this law.

4. Within 10 days from receipt of the international warrant from the Ministry of Justice, the General Prosecutor, through the services of the Judicial Police:

a. verifies the precise personal data about the wanted Albanian citizen, including his citizenship;

b. obtains data about the exact location of the wanted Albanian citizen;

c. verifies whether the Albanian citizen has been convicted by a final decision of imprisonment by the local judicial authorities;

ç. verifies whether a coercive security measure has been set against the Albanian citizen for purposes of the criminal proceeding by the local judicial authorities.

5. Within five days from the end of the actions defined in point 4 of this article, the General Prosecutor notifies the Ministry of Justice about the inability of extraditing the Albanian

citizen because of his citizenship. This notification also contains information about the ways of a criminal proceeding accepted by Albanian legislation, as the case may be, through:

- a. transferring the criminal proceedings;
- b. recognition of the foreign criminal decision; or
- c. sending the acts and evidence through letters rogatory.

6. Within five days from receipt of the notification of the General Prosecutor according to point 4 of this article, the Ministry of Justice forwards it to the foreign state that has issued the international arrest warrant.

7. If he does not proceed according to point 3 of this article, the prosecutor at the court competent for the criminal proceeding against the Albanian citizen notes in the register of notification of criminal offences the data of the international arrest warrant, for the purpose of performing verifying procedural actions for the beginning of a criminal proceeding. If the prosecutor decides not to start a criminal proceeding, he notifies the Ministry of Justice of this decision through the General Prosecutor, within five days of taking it.

8. The same way of acting is also applied if the Albanian citizenship of the person is proven during the setting and implementation of coercive measures.

9. The rules of this article are not applicable in the case of international agreements that permit the extradition of an Albanian citizen.

#### Article 39

##### **Decision of the court for extradition**

1. In addition to the conditions established in article 498 point 1 of the Code of Criminal Procedure and article 11 of the Criminal Code, the court gives a decision in favour of extradition when it finds that the conditions of article 32 of this law have also been met.

2. In other cases, the court decides against extradition.

3. The judicial decision given according to this article is deposited in the judicial secretariat within three days from its announcement.

#### Article 40

##### **Disposition of the Minister of Justice on extradition**

1. Within seven days from the date the judicial decision on extradition becomes final, the General Prosecutor forwards all the acts to the Minister of Justice.

2. In case of a judicial decision in favour of the request for extradition, the Minister of Justice may, after verifying and evaluating all the documentation, dispose of the extradition by order, respecting the time period and procedures of article 499 of the Code of Criminal Procedure.

3. If during verification of the documentation, the Minister of Justice finds deficiencies in the acts, within seven days he asks the General Prosecutor to complete them. The General Prosecutor completes the documentation within 20 days from the date the judicial decision becomes final.

4. If the Minister of Justice does not make a disposition within the time period for extradition, or in case of a judicial decision against extradition or in case of the failure of the requesting state to act on time, the rules of article 499 of the Code of Criminal Procedure are applicable.

#### Article 41

##### **Postponed or conditioned extradition**

1. In a case when the extradition is suspended according to article 500 of the Code of Criminal Procedure, the Minister of Justice may give a disposition by order of postponement in time of the extradited person after the conclusion of the criminal proceeding or the execution of a criminal sentence given in Albania.

2. At least 30 days before the end of the reason for the suspension, the General Prosecutor notifies the Minister of Justice. After this notification, the Minister of Justice notifies the requesting state as to whether the latter is still interested in the realisation of the extradition.

3. If the requesting state gives notification that it is interested in the realisation of the extradition, the Minister of Justice acts according to article 40 of this law.

4. The Minister of Justice may make a disposition by order of the temporary extradition of the person, with conditions defined in the express agreement with the requesting state. Temporary extradition is given as a disposition for the performance of urgent procedural actions, if such a thing does not hinder the criminal proceeding or the execution of the criminal decision in Albania and if the requesting state gives guarantees that the person extradited will be kept safe and will return to Albania within the time period determined in advance.

#### Article 42

#### **Principle of speciality**

1. The Minister of Justice determines in the order that makes a disposition of the extradition of a foreign citizen respect for the principle of speciality. For this purpose, at the beginning of the extradition procedure and when the guarantees have not been given, the Minister of Justice seeks from the requesting state that:

a) the extradited person should not be criminally prosecuted for another criminal offence committed before the extradition;

b) the extradited person should not be subjected to the execution of a decision about another criminal offence committed before the extradition;

c) a more severe sentence than the sentence with which he was convicted should not be applied against the extradited person, nor the death sentence;

ç) if he was tried *in absentia*, the extradited person shall have the right of review of the judicial decision rendered against him; and

d) the extradited person should not be extradited toward a third country without the consent of the Republic of Albania for the execution of a final judicial decision of imprisonment or for the execution of a coercive personal security measure for the restriction of liberty given before the extradition was permitted.

2. This principle is not respected in the cases provided by article 490 points 2 and 3 of the Code of Criminal Procedure.

#### Article 43

#### **Notification of the order of the Minister of Justice giving a disposition on the extradition**

1. The Minister of Justice immediately communicates the order that makes a disposition of the extradition of a foreign citizen to the requesting state and to the Ministry of the Interior.

2. The Interpol Office in collaboration with the homologous authority of the requesting state takes the technical measures to accomplish the delivery and notifies the Ministry of Justice immediately about the place and date of delivery of the extradited person. The delivery of the extradited person is performed by the Interpol Office, which immediately notifies the Ministry of Justice and the General Prosecutor.

#### Article 44

#### **Simplified extradition**

1. The person whose extradition is sought may give consent to surrender himself to the requesting state and to waive the right the benefit from the principle of speciality through a simplified procedure. The consent and waiver are irrevocable.

2. This consent is given by the person in a judicial session that is held with the essential participation of the prosecutor and the defence attorney. The court informs the person about the advantages, consequences of simplified extradition and the impossibility of revoking the consent and waiver. In this case, a trial on the examination of the request for extradition is not held.
3. Within five days from the holding of this session, the General Prosecutor notifies the Ministry of Justice of the consent to simplified extradition, sending a copy of the judicial minutes that document this session. The Minister of Justice notifies the requesting state within 10 days from the holding of the session.
4. The rules for ordinary extradition are subsequently not applied.

#### Article 45

#### **Re-extradition**

1. When the requesting state presents again a request for the re-extradition of a person who, after the first extradition, has avoided the criminal proceeding or the execution of the criminal sentence in the requesting state and has entered Albanian territory, the person may be re-extradited on the basis of a repeated request, applying the rules of this section.
2. In this case, the Minister of Justice, after also taking the opinion of the General Prosecutor, may notify the requesting state that it is not necessary to present the documents again that accompany the request for extradition, except for a document that proves the avoidance of the extradited person from the criminal proceeding or the execution of the criminal sentence.

#### Article 46

#### **Repetition of the judicial procedures**

If after the judicial decision on the request for extradition has become final, but before the issuance of the order of the Minister giving a disposition on the extradition, the conditions of extradition provided in article 32 of this law change, the Minister of Justice forwards the full file to the General Prosecutor, asking for the initiation of a review of the judicial decision. In this case, the rules of the Code of Criminal Procedure are applicable.

#### Article 47

#### **Delivery of sequestered objects**

1. Objects sequestered according to this section are delivered to the requesting state at its request after the disposition of the extradition.
2. The objects may be delivered even if the extradited person is not surrendered because of death or serious illness, but provided that his extradition shall have been ordered by disposition [lit. disposed].
3. If the objects have been subjected to sequestration or confiscation for purposes of a judicial proceeding in Albania, they may be kept temporarily until the end of the judicial proceeding or may be delivered to the requesting state on the condition that they be returned.
4. The provisions of this article are not applicable in the cases provided by letters "b" and "c" of point 3 of article 23 of this law.

## **SECTION II EXTRADITION FROM OUTSIDE THE STATE**

#### Article 48

#### **Announcement of international search**

1. The execution prosecutor, if he has data that the convicted person is not found within Albanian territory, may issue an order for his international search for purposes of the execution of a final criminal decision of imprisonment.
2. The prosecutor of the case, if he has data that the person wanted is not found within Albanian territory, may issue an order for his international search for purposes of the execution of a security measure restricting personal liberty.
3. The international search warrant contains:
  - a. the prosecutor who issued the search order;
  - b. general personal data of the person who is wanted and every other piece of data valid for his identification;
  - c. the court and data about the judicial decision that has set the security measure or has rendered the criminal conviction decision;
  - ç. the length of time of the security measure, when it has been set with a time limit, or the remaining time of the sentence;
  - d) the designation of the criminal offence and a summary description of the criminal fact;
  - dh) the declaration that this person is wanted for purposes of extradition.
4. The prosecutor immediately sends the international search warrant to the General Prosecutor, who forwards it to the Interpol Office for international communication of the order.
5. The General Prosecutor and the Minister of the Interior determine by joint instructions rules about the procedures for issuance of the international search warrant as well as detailed rules about the time periods and manners of exchange of information about its issuance and communication.

#### Article 49

#### **Request for extradition**

1. When a security measure restricting liberty has been set in a criminal proceeding against a person who is outside the state or a final sentence of imprisonment has been rendered against him, the Minister of Justice may submit a request for his extradition based on the information and documents forwarded from the General Prosecutor.
2. The request should meet the criteria of article 5 of this law and is submitted to the requested state through diplomatic channels.

#### Article 50

#### **Request for temporary detention**

1. In urgent cases, if there is a danger that the person whose extradition is sought will leave or hide, the Minister of Justice may, even before the submission of the extradition request, ask the requested state to detain the person temporarily.
2. A request for temporary detention contains the elements provided in article 35 of this law.

#### Article 51

#### **Guarantees in connection with the extradited person**

1. When the wanted person is extradited, he enjoys all the rights provided in article 42 of this law, with the exception of the case when the extradited person has waived these rights and when the requested state has determined such a thing expressly in the request.
2. When extradition in the Republic of Albania of a wanted person has been granted according to the conditions set in connection with the type or time period of the sentence that may be given or executed and has been accepted with those conditions, the local judicial

authorities are obliged to respect those conditions during the criminal proceeding or during execution of the sentence.

3. When the extradited person has been detained in the requested state for the criminal offence for which he has been extradited, the time that he has spent in detention is calculated in the amount of the sentence.

4. A final decision rendered against an extradited person by the local judicial authorities in his absence may be reviewed at the request of the extradited person, if the Minister of Justice has given such a guaranty to the requested state. The request for review is submitted within 30 days from the arrival of the extradited person in Albanian territory and its examination follows the rules of the Code of Criminal Procedure.

#### Article 52

### **Request for transit through the territory of the Republic of Albania and expenses**

In the case of transit passage through Albanian territory of a person extradited from one state to another, the rules of article 502 of the Code of Criminal Procedure are applicable.

## **CHAPTER IV RECOGNITION AND EXECUTION OF CRIMINAL DECISIONS**

### **SECTION I EXECUTION OF FOREIGN CRIMINAL DECISIONS**

#### Article 53

### **General provisions**

1. The Ministry of Justice and the local judicial authorities apply the rules of the Code of Criminal Procedure and of this law for the recognition and execution of foreign criminal decisions.

2. The decision of a foreign court for a sentence of imprisonment may be recognised:

a. at the request of the sentencing state, when the convicted person is an Albanian citizen and has a residence or domicile in Albania; and

b. at the request of an Albanian citizen who is serving a sentence in the sentencing state, for transfer and continuation of serving the sentence in Albania.

3. When a request comes from the sentencing state in a foreign language for the recognition of a foreign criminal decision, the Ministry of Justice may ask the sentencing state for its translation into the Albanian language. If the translation is done by the Ministry of Justice, evidence is taken of the expenses of translation to be included as a part of the procedural expenses.

4. The Ministry of Justice sends the acts within 30 days of their receipt to the prosecutor of the district of the residence or domicile of the person, through the General Prosecutor.

5. The prosecutor submits a request in court within 10 days from receipt of the acts. If the court that has received the acts finds that it is not competent to take a decision, it declares its lack of competence and sends the acts to the competent court, notifying the Ministry of Justice at the same time.

#### Article 54

### **Requests for recognition and execution of foreign criminal decisions**

1. In addition to the conditions provided in article 514 of the Code of Criminal Procedure, a foreign criminal decision is recognised and executed when the following conditions are also met:

- a. at the time of submission of the request for recognition in the Ministry of Justice, at least six months of imprisonment have remained for the sentenced person to serve;
- b. the execution of the conviction decision has not been prescribed on the basis of the domestic legislation.

#### Article 55

#### **Documents that should be attached to the request of the sentencing state**

1. The Ministry of Justice submits to the sentencing state a request to complete the documentation, without forwarding the acts to the local judicial authorities, if the request of the requesting state is not accompanied by the following documents:
  - a. the original or an identical [lit. unified] copy of the criminal decision with the determination that it is final;
  - b. the general data of the convicted person, also including data about his citizenship, residence and domicile, place of birth, as well as other data that might be important for determining the competent court that will decide on the request;
  - c. data about the execution of the decision rendered, including information about the time spent in detention and/or serving the sentence of imprisonment;
  - ç. a copy of the legal provisions on which the decision sought to be recognized is based;
  - d. a summary submission of what happened in [lit. of the progress of] the criminal proceeding.
2. When the Ministry of Justice finds that the documentation is complete, within 20 days it sends it to the competent prosecutor, through the General Prosecutor.
3. If the sentencing state does not submit the documents requested within three months, the request and the acts are returned to the sentencing state. However, the procedure begins again if the request and acts completed by the sentencing state are submitted again.
4. The request for completion of documentation may also be submitted by the local judicial authorities if they find such a thing during the examination of the request.  
This request is forwarded through the Ministry of Justice. This rule is not applicable if it is provided otherwise in a binding international agreement.

#### Article 56

#### **The right to be defended with an attorney**

During the trial, the person against whom the recognition and execution of a foreign criminal decision is sought has the right to a defence attorney selected or appointed, according to the rules of the Code of Criminal Procedure.

#### Article 57

#### **Manner of proceeding by the court**

1. Within 10 days from the deposit of the request of the prosecutor, the judge of the case sets the date of the judicial session and orders the notification of the parties.
2. The session is held with the mandatory participation of the prosecutor and the defence attorney.
3. In taking the decision on the request, the court takes account of the facts found in the foreign decision.
4. In setting the sentence, as well as relying on the Albanian criminal legislation, the court respects the conditions of article 516 of the Code of Criminal Procedure, also reasoning the circumstances evaluated.
5. The rules of the Code of Criminal Procedure are applicable for depositing the decision in the secretariat and giving notice of it.

6. The decision may be appealed to a court of a higher level by the prosecutor, the convicted person or his defence attorney within 10 days from its announcement or notification.

#### Article 58

##### **Forwarding the decision**

1. Within 15 days from its becoming final, the General Prosecutor forwards a copy of the judicial decision for recognition of the foreign criminal decision to the Ministry of Justice.
2. Within 10 days from receipt of the decision of recognition from the General Prosecutor, the Ministry of Justice notifies the sentencing state.

#### Article 59

##### **Execution of a foreign criminal decision**

After recognition, the foreign criminal decision is executed in conformity with article 518 of the Code of Criminal Procedure.

#### Article 60

##### **Execution of foreign decisions in case of transfer for continuation of serving of the sentence**

1. An Albanian citizen who is serving a sentence of imprisonment in a foreign state may, at his request, be transferred to Albania to continue serving the sentence of imprisonment after the decision has been recognised by the local judicial authorities.
2. If the sentencing state subjects the act by which the convicted person has received notification about the recognition decision, the Ministry of Justice forwards this act of notification to the General Prosecutor and the court that has given the recognition decision.
3. After the foreign criminal decision has been recognised and the competent authorities of the sentencing state have accepted the transfer of the convicted person, the taking of measures begin for transferring the convicted person from the sentencing state to Albania, applying, to the extent possible, the rules for the surrender of an extradited person.
4. The manner of paying and the division of the expenses of transfer is defined by joint instructions of the Minister of Finance, the Minister of the Interior and the General Prosecutor.

#### Article 61

##### **Actions during execution of the decision**

1. A foreign judicial decision recognised according to the rules of the Code of Criminal Procedure and this law cannot be reviewed by the Albanian courts.
2. During execution, the sentence given by the foreign judicial decision may be reduced, pardoned or amnestied according to the rules of Albanian legislation in force.
3. In case the sentence is reduced, pardoned or amnestied by the sentencing state, the Minister of Justice, based on the principle of reciprocity with the sentencing state, forwards the acts sent from the sentencing state to the execution prosecutor, through the General Prosecutor. The execution prosecutor submits a request to the court that has given the recognition decision, which declares by decision the reduction or extinguishment of the sentence, as the case may be.
4. The Ministry of Justice notifies the sentencing state about the circumstances provided in this article.

## SECTION II

### **EXECUTION OF ALBANIAN CRIMINAL DECISIONS**

## **OUTSIDE THE STATE**

### Article 62

#### **Conditions of execution**

1. In addition to the conditions provided in article 529 of the Code of Criminal Procedure, the Ministry of Justice also seeks the recognition and execution of criminal decisions from a foreign state when:
  - a. a criminal decision given by a local judicial authority cannot be executed within Albanian territory; or
  - b. the execution of a criminal decision outside the state may serve a better social rehabilitation of the convicted person.
2. In submitting this request, the Ministry of Justice bases itself on the information and documents forwarded from the General Prosecutor.

### Article 63

#### **Procedure of submission of the request**

1. A request submitted to a foreign state for the execution of a criminal decision of a local court is accompanied by the documents provided by article 55 of this law.
2. The request is submitted in the language of the state where the recognition and execution of the decision is sought or in another language accepted by it.

### Article 64

#### **Transferring foreign citizens for continuation of serving a sentence rendered in Albania**

1. For transferring a foreign citizen convicted by a criminal decision rendered in Albania, the rules of article 520 of the Code of Criminal Procedure are applied.
2. The judicial session is held with the mandatory participation of the prosecutor and the defence attorney. The prosecutor sends the acts to the Ministry of Justice within 10 days from the holding of the session.
3. For the surrender of the convicted person to the sentencing state, the taking of measures begins, implementing to the extent possible the rules for the surrender of an extradited person.

### Article 65

#### **Consequences of acceptance of execution in case of review or interruption of execution of the criminal decision**

1. If after the recognition and beginning of execution of an Albanian judicial decision outside the state, the review of the judicial decision, the reduction or extinguishment of the sentence has been ordered in Albania, the General Prosecutor immediately notifies the Ministry of Justice. Within 10 days from receipt of the information and documents from the General Prosecutor, the Ministry of Justice notifies the requested state.
2. If the requested state gives notice that the execution of the decision recognised by it cannot be carried out, the Ministry of Justice immediately notifies the General Prosecutor of this fact and the execution continues in the Republic of Albania.

## **CHAPTER V**

### **TRANSFERRING CRIMINAL PROCEEDINGS**

#### **SECTION I**

## **TRANSFERRING CRIMINAL PROCEEDINGS TO FOREIGN STATES**

### **Article 66**

#### **Transferring a criminal proceeding to a foreign state**

When a person is suspected of the commission of a criminal offence punishable according to the Albanian criminal law, the Minister of Justice asks the foreign state, when the conditions of the article 67 of this law are met, to start a criminal proceeding.

### **Article 67**

#### **Conditions of transferring a criminal proceeding**

The transferring of a criminal proceeding is asked for when:

- a. the suspected person has a residence or domicile in the requested state;
- b. proceeding against the person in Albania is not possible or appropriate for one or more of the following reasons:
  - i. the suspected person is a citizen of the requested state or the requested state is his state of origin;
  - ii. the suspected person is serving or is to serve a sentence of imprisonment in the requested state;
  - iii. the requested state has started a criminal proceeding against the suspected person for the same criminal offence or for other criminal offences;
  - iv. it is considered that transferring the criminal proceeding serves the fair and appropriate resolution of the case and due legal process;
  - v. the execution in the requested state of the criminal sentence that has been given may serve a better social rehabilitation of the convicted person;
  - vi. the summoning of the suspected person and his participation in the criminal proceeding in Albania cannot be assured;
  - vii. the execution of a possible sentence of imprisonment may be difficult and may not be realised through an extradition procedure or an extradition request has been refused.

### **Article 68**

#### **Decision to ask for transfer**

1. A decision to ask for the transfer of a criminal proceeding is taken by the organ of the prosecutor's office or the court that is proceeding. The decision may be appealed by the defendant, his defence attorney or the injured party in court within 10 days from receiving knowledge. In this case, the court decides on the appeal within five days from its submission, on the basis of the documents.
2. A decision to ask for transfer in the phase of preliminary investigations does not hinder the prosecutor from receiving evidence. The prosecutor decides to extend the time period of the investigations according to article 324 of the Code of Criminal Procedure while awaiting the decision of the requested state. He notifies the Ministry of Justice through the General Prosecutor of the decision to extend the investigative time period.
3. If the decision to ask for transfer is taken during the judicial examination, the court suspends the judicial examination and applies, to the extent possible, the rules of article 343 of the Code of Criminal Procedure. The suspension does not hinder the local judicial authority from receiving evidence that may lead to the innocence of the defendant and, when delay presents danger, any other piece of evidence sought by the parties.

### **Article 69**

#### **Forwarding the request**

1. Within 15 days from the date when the decision of transfer has become final, the prosecutor of the case, through the General Prosecutor, forwards the judicial decision of transfer and the judicial file to the Ministry of Justice.
2. Within 30 days from receipt of the acts from the General Prosecutor, the Ministry of Justice forwards them to the requested state and asks to be notified about the acceptance or not of the transfer [of] the criminal proceeding.
3. The acts are translated by the Ministry of Justice into the language of the requested state or a language accepted by it. The expenses of translation are noted and forwarded to the organ of the prosecutor's office to be included in prepaid procedural expenses according to article 485 of the Code of Criminal Procedure.

#### Article 70

### **Consequences of acceptance or refusal by the requested state**

1. The Ministry of Justice forwards to the prosecutor of the case, through the General Prosecutor, the notification of the foreign state for the acceptance or refusal of transfer of the criminal proceeding.
2. If the requested state accepts the transfer of the criminal proceeding, the local judicial authority who is proceeding orders the dismissal of the criminal proceeding for this reason.
3. If the requested state refuses the transfer of the criminal proceeding or does not send a notification within six months from receipt of the request, the local judicial authority decides to continue the criminal proceeding.

## **SECTION II**

### **TRANSFERRING CRIMINAL PROCEEDINGS FROM FOREIGN STATES**

#### Article 71

### **Conditions for acceptance of a criminal proceeding from a foreign state**

1. The Minister of Justice may accept the transfer of a criminal proceeding to Albania when:
  - a. the suspected person has his residence or domicile in Albania;
  - b. it is not possible or appropriate to proceed in the requesting state against the person for one or more of the following reasons:
    - i. the suspected person is an Albanian citizen or the Albanian state is his state of origin;
    - ii. the suspected person is serving or is to serve a sentence of imprisonment in Albania;
    - iii. the local judicial authorities have begun a criminal proceeding for the same criminal offence or for other criminal offences against the suspected person;
    - iv. it is considered that transferring the criminal proceeding serves the fair and appropriate resolution of the case and due legal process;
    - v. the execution in Albania of the criminal sentence that has been given may serve a better social rehabilitation of the convicted person;
    - vi. the summoning and participation of the suspected person in a criminal proceeding in the requesting state cannot be secured;
    - vii. the execution of a possible sentence of imprisonment in the requesting state may be difficult and cannot be realised through an extradition procedure or a request for extradition has been refused.
2. The transfer of the criminal proceeding is not accepted if any of the circumstances exist that do not permit the beginning of a criminal proceeding provided by the domestic legislation.

#### Article 72

### **Actions of the Ministry of Justice**

1. If he accepts the request for transferring the criminal proceeding, the Minister of Justice forwards the acts within 30 days to the prosecutor of the district of the residence of the suspected person, through the General Prosecutor, at the same time also notifying the requesting state.

2. The acts are translated by the Ministry of Justice. The expenses of translation are evidence and forwarded to the organ of the prosecutor's office, to be included in the procedural expenses prepaid according to article 485 of the Code of Criminal Procedure. In complicated cases, because of the volume of acts for translation, the time period defined in point 1 may be extended for an additional 15 days.

3. If he has observed that all the necessary acts have not been attached to the request for transfer, but nonetheless reaches the conclusion that it is not a case for refusal of the request for transfer, the Ministry of Justice operates according to article 11 of this law. ~~The supplemental acts submitted by the requesting state are forwarded to the organ of the prosecutor's office, translated, within seven days from their receipt. The supplemental acts submitted by the requesting state are forwarded to the organ of the prosecutor's office within seven days from their receipt, also respecting the obligation for translation.~~

4. The Ministry of Justice also operates in the same manner if a request for completion of the acts is submitted by the local judicial authorities.

#### Article 73

#### **Actions of the prosecutor**

1. The prosecutor of the judicial district or of serious crimes, on receipt of the request and the acts for transfer, registers the criminal proceeding and follows the rules of the Code of Criminal Procedure.

2. If the prosecutor decides not to start a criminal proceeding because of circumstances that do not permit the beginning of a criminal proceeding, within five days he notifies the Ministries of Justice, through the General Prosecutor, sending all the acts together with the decision not to begin. In this case, the Minister of Justice returns the acts to the requesting state, together with the decision not to start a criminal proceeding, within 20 days from receipt of the acts from the prosecutor's office.

3. The prosecutor who proceeds notifies the Ministry of Justice through the General Prosecutor for every decision that suspends or concludes the criminal proceeding. The Minister of Justice immediately forwards those acts to the requesting state.

4. At the request of the foreign judicial authority, the Ministry of Justice asks the General Prosecutor for all necessary about the progress of the criminal proceeding in Albania as well as the final judicial decision.

#### Article 74

#### **Civil lawsuit in a transferred criminal proceeding**

If the acts forwarded by the requesting state according to this Section also contain a civil lawsuit, it is examined according to the rules of the Code of Criminal Procedure.

#### Article 75

#### **Validity of actions of receipt of evidence**

The means of seeking evidence received by foreign judicial authorities are valid in a criminal proceeding accepted in Albania, except when they conflict with the fundamental principles of the Albanian legal order and the principles of international acts for the protection of the fundamental human rights and freedoms.

### **CHAPTER VI**

## **FINAL PROVISIONS**

### Article 76

#### **Subordinate legal acts**

1. The manner and procedure of the registration of sentences given to Albanian citizens by foreign judicial authorities are determined by instructions of the Minister of Justice within three months from the entry of this law into force. In the issuance of these instructions, the Minister of Justice bases himself on the principle of the protection of personal data and equality before the law.
2. The subordinate legal acts issued in implementation of article 5, point 3, article 48, point 5, article 60, point 4 are based on the principle of the good administration of funds and due legal process.

### Article 77

#### **Entry into force**

This law enters into force 45 days after publication in the Official Journal.

**SPEAKER**  
**Jozefina Topalli (Çoba)**