

ACT ON THE RECOGNITION, ENFORCEMENT AND SENDING OF JUDICIAL ACTS FOR IMPOSING PENALTIES OF IMPRISONMENT OR OF MEASURES INCLUDING IMPRISONMENT

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Chapter one. GENERAL PROVISIONS

Subject of the Act

Art. 1. This Act shall provide for the conditions and procedure for the recognition and enforcement of judicial acts, imposing penalty of imprisonment, or measures involving imprisonment, ruled in another Member State, as well as for the transmission of such acts, ruled in the Republic of Bulgaria for recognition and enforcement in another Member State.

Applicable field

Art. 2. (1) This Act shall be applied in cases, where the convicted person to whom the punishment or the measure under Art. 1 has been imposed, is located in the territory of a Member State.

(2) A judicial act may also be sent in cases where, in addition to the punishment or measure, involving imprisonment, a fine and / or confiscation has been imposed, which has not yet been collected or executed.

Certificate

Art. 3. The judicial documents or certified copies thereof shall be accompanied by a certificate in accordance with a form in Annex N1, issued by a competent authority of the Member State.

Languages

Art. 4. (1) The certificate under Art. 3 shall be transmitted together with a translation into the official language or in one of the official languages of the executing State or into another official language of the European Union, which it has indicated in a declaration, deposited with the General Secretariat of the Council of the European Union.

(2) The certificate, sent to a competent authority in the Republic of Bulgaria shall be accompanied by a translation into the Bulgarian.

(3) Translation of the judicial act shall not be required and, where necessary and after consultation, the competent authorities of the two Member States may specify the parts of the act, subject to translation.

Information exchange

Art. 5. (1) The court shall exchange information directly with the competent authorities of the other Member States in accordance with this Act.

(2) By 31 December every year the courts shall send to the Ministry of Justice information on systemic difficulties or omissions of actions by another Member State, in relation to the recognition and enforcement of requests for recognition of judicial act, ruling imprisonment, or measures, involving imprisonment.

Costs

Art. 6. (1) Where the Republic of Bulgaria is an executing State, the costs associated with the recognition and enforcement of the judicial acts shall be borne by the Bulgarian State, except for the costs of the transfer of the sentenced person, which shall be borne by the issuing State.

(2) Where the Republic of Bulgaria is an issuing State, the costs of issuing and sending the judicial acts, as well as the transfer of the sentenced person and all other expenses incurred exclusively on its territory, shall be borne by the Bulgarian State.

Chapter two.

RECOGNITION AND ENFORCEMENT OF JUDICIAL ACTS, RULED IN ANOTHER MEMBER STATE

Competent authority

Art. 7. (1) The competent authority in the Republic of Bulgaria to recognize judicial acts, imposing penalties of imprisonment, or measures involving imprisonment, ruled in another Member State shall be the District Court of the sentenced person's place of residence.

(2) Where the person's place of residence in the Republic of Bulgaria is unknown or he/she does not live in the country, competent to recognize the act shall be the Sofia City Court.

(3) Where a judicial act is sent to an authority, which is not competent to recognize it, it shall forward it officially to the relevant court. In that case, the competent court shall notify the competent authority in the issuing State of receipt of the act.

(4) The court may officially, or at the request of the sentenced person, request the competent authority of the issuing State to send the judicial act together with the certificate under Art. 3.

Conditions for recognition and enforcement

Art. 8. (1) Judicial acts, ruled in another Member State shall be recognized and enforced on the territory of the Republic of Bulgaria, when they concern deeds, which constitute crimes under Bulgarian legislation where, despite the differences between their constituencies, their basic signs coincide.

(2) Double punishment under Para. 1 shall not be required for the following crimes, where they are punishable by imprisonment for a maximum period of at least three years in the issuing State, or a measure, involving imprisonment for a maximum period of at least three years has been envisaged:

1. participation in an organized criminal group;
2. terrorism;
3. traffic of people;
4. sexual exploitation of children and child pornography;
5. illicit trafficking in narcotic drugs and psychotropic substances;
6. illicit trafficking in weapons, ammunition and explosives;
7. corruption;
8. fraud, including that, affecting the financial interests of the European Union within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests (and its protocols);
9. laundering of property, acquired from crime;
10. counterfeiting currency, including the Euro;
11. computer crimes and computer-related crimes;
12. environmental crimes, including illicit trafficking in endangered animal species and endangered plant species and varieties;
13. supporting illegal entry and residence in the country;
14. murder, grievous bodily injury;
15. illicit trade in human organs and tissues;
16. abduction, illegal imprisonment and hostage-taking;
17. racism and xenophobia;
18. organized or armed robbery;
19. illicit trafficking in cultural goods, including antiques and works of art;
20. dishonesty;

21. racketeering and extortion;
22. product counterfeiting and piracy;
23. falsification of administrative documents and trade with them;
24. counterfeiting of payment instruments;
25. illicit trafficking in hormonal substances and other growth promoters;
26. illicit trafficking in nuclear or radioactive materials;
27. Trafficking of unlawfully seized vehicles;
28. rape;
29. arson;
30. crimes under the jurisdiction of the International Criminal Court;
31. illicit hijacking of aircraft or ships;
32. sabotage.

Conducting consultations

Art. 9. (1) Before sending the judicial act and the certificate under Art. 3, the competent authority of the issuing state and the court under Art. 7 may hold consultations.

(2) Conducting consultation shall be obligatory when the Republic of Bulgaria is a state within the meaning of Art. 21, Para. 2, item 3, and the court shall immediately inform the competent authority of the issuing state whether it accepts the transmission of the judicial act.

(3) In the framework of the consultations, the court may provide a reasoned opinion on the impossibility of improving the resocialization of the sentenced person in the Republic of Bulgaria.

(4) Where no consultation has taken place, the court may present the reasoned opinion immediately after the dispatch of the judicial act and the certificate under Art. 3 by the competent authority of the issuing state.

Actions of the court prior to the recognition of the judicial act

Art. 10. (1) After receiving the judicial act and the certificate under Art. 3 by the competent authority of the issuing state, the court shall officially request a reference about the conviction of the convicted person and a reference to the pending criminal proceedings against him.

(2) At the request of the court, the authorities of the Ministry of Interior shall check whether the convicted person is in the Republic of Bulgaria or in another Member State.

(3) Where necessary, the court shall consult with the competent authority of the issuing state to determine the nature of the convicted person's family, linguistic, cultural, social, economic or other relations in the Republic of Bulgaria with a view to improving the opportunities for his re-socialization.

Temporary detention

Art. 11. (1) Where the convicted person is in the territory of the Republic of Bulgaria, at the request of the issuing state, the court may, before receiving the judicial act and the certificate under Art. 3, or before taking a decision on recognition and enforcement order detention of the convicted person, or impose another appropriate measure under the Penal Procedure Code, in order to ensure, that the convicted person remains in the territory of the country until the decision on the recognition of the act and the execution of the punishment or the measure under Art. 1 has been taken.

(2) The determination, by which the measure under Para. 1 is taken, shall be subject to appeal and protest under the procedure of the Penal Procedure Code.

(3) No extension of the term of the punishment, or the measure under Art. 1 as a result of the detention shall be admitted in the cases under Para. 1.

Recognition and appeal proceedings

Art. 12. (1) Upon receipt of the judicial act together with the certificate under Art. 3, the court shall immediately institute proceedings for recognition and, within 14 days, shall schedule an open court hearing for consideration of the case.

(2) Where the judicial act is not accompanied by the certificate under Art. 3, the court may set a suitable time limit for its receipt.

(3) The court shall deal with the case with one judge, with the mandatory participation of a prosecutor in summoning the convicted person.

(4) If the person does not have a defender, the court shall appoint such, as well as an interpreter if the person does not speak Bulgarian language.

(5) At the court session, the court shall hear the prosecutor, the person and his counsel.

(6) The failure of the person to appear, when summoned regularly, shall not be an obstacle to the hearing of the case.

(7) The court shall discuss whether the conditions are present for:

1. recognition and enforcement under Art. 8;
2. postponement of the recognition under Art. 14;
3. refusal for recognition and enforcement under Art. 15;
4. partial recognition and enforcement under Art. 16.

(8) The court shall rule the judgment without delay, indicating the number and date of the sentence to be enforced, the case in which it has been ruled, the relevant provisions of the Penal Code, providing for liability for the crime committed, the term of imprisonment or the measure imposed by the court of the issuing state, including imprisonment and the initial regime of serving the sentence.

(9) The court shall wholly deduct the length of the served part of the punishment and the provisional detention from the total length of the imprisonment sentence imposed.

(10) The court's ruling under Para. 8 shall be subject to appeal or protest before the respective appellate court within 14 days of its announcement.

(11) The appeal and the protest shall be considered within 5 days from their submission to the appellate court under Para. 1-7. The court shall announce its ruling in an open court hearing with the participation of the parties. The ruling of the court shall be established no later than 90 days after the receipt of the court act, together with the certificate under Art. 3 and shall be final.

(12) The court under Art. 7 shall notify the competent authority of the issuing state about the entry into force of the ruling, including the grounds for refusal or the adjustment of the penalty.

Adjustment of the penalty

Art. 13. (1) Where, under the Bulgarian legislation, the maximum term of the penalty for the crime, committed is less than that imposed one in the issuing state, the court shall reduce it to this period.

(2) The court may adjust the penalty, imposed in the issuing state, when it does not correspond to the type of penalties, provided for the same deed by Bulgarian legislation. In this case, it must match as closely as possible the penalty, imposed in the issuing state. The penalty cannot be replaced by a fine.

(3) The adjusted penalty may not be more severe in nature or duration, than the one, imposed in the issuing state.

Postponement of recognition of the judicial act

Art. 14. (1) When the certificate under Art. 3 is incomplete, is manifestly inconsistent with the judicial act or has not been translated into the Bulgarian language, the court may require the competent authority of the issuing state to remedy the irregularities within 14 days. The case is postponed until the expiration of this period.

(2) When judging the need for a translation of the entire judicial act or parts of it, the court may translate it at its own expense.

Grounds for refusal of recognition and enforcement

Art. 15. (1) The court may refuse to recognize and enforce the judgment when:

1. no certificate under Art. 3 has been presented, it is incomplete or there is a clear discrepancy between it and the judicial act and has not been completed or corrected within the time limit set by the court;

2. the person is not in Bulgarian territory or in the territory of the issuing state, has not given his/her consent, when such is required and the Republic of Bulgaria is not:

a) the state, whose person is a national and in which he is domiciled;

b) the state, whose person is a national and in which he will be deported, even though he is not domiciled in it, after being released from the serving the penalty on the basis of an order for expulsion or deportation, contained in a judicial or administrative act or other measure, imposed as a result of the conviction;

c) a state, other than those referred to in letters "a" and "b", whose competent authority has given its consent the judicial act and the certificate under Art. 3 to be sent to it;

3. the recognition would be contrary to the “ne bis in idem” principle;

4. the court decision was ruled in relation to an act, which does not constitute a crime under Bulgarian legislation, except in the cases under Art. 8, Para. 2; the enforcement of a judicial act in connection with taxes, charges, duties or foreign currency exchange cannot be refused on the ground that the Bulgarian legislation does not provide for the same kind of taxes and duties, or does not regulate taxes, charges, duties or foreign currency exchange, in the same way, as the legislation the issuing state;

5. the execution of the punishment, determined by the judicial act has been time-barred under the Bulgarian legislation;

6. the convicted person enjoys immunity under the Bulgarian legislation;

7. the judicial act has been enacted against a person who, by virtue of his age under the Bulgarian legislation, cannot be criminally liable for the acts in connection with which the act was enacted;

8. at the moment of receipt of the judicial act by the court for serving, less than 6 months remain of the imposed punishment;

9. the judicial act was ruled in a trial, at which the convicted person did not appear in person, unless the certificate under Art. 3 explicitly contains information on compliance with one of the following conditions:

a) the person was personally summoned and thus informed in due time of the scheduled date and place of the trial or was otherwise officially informed of it, undoubtedly proving the notification of the scheduled trial and of the possibility of ruling a decision if he does not appear;

b) after having been informed of the scheduled trial in due time, the person has authorized a defense counsel or such has been appointed by the court for defense during the case and such defense has actually been given;

c) after the decision has been served in person and the person has been expressly informed of the right of appeal, or re-consideration of the case in his personal participation, where the case can be reviewed in substance with presenting new evidence and the possibility of revoking the original act, he has explicitly stated, that he does not contest the decision or has not requested a new hearing, or appeal within the prescribed time limit;

10. the issuing state has not given its consent under Art. 28, Para. 1, item 7 for prosecution, punishment or imprisonment of the sentenced person in the Republic of Bulgaria for another deed, committed prior to his surrender;

11. the punishment, imposed includes compulsory medical measures or measures, involving imprisonment, which, in spite of Art. 13, Para. 2, cannot be fulfilled by the Republic of Bulgaria in accordance with the Bulgarian legislation;

12. the judicial act refers to a crime, which according to the Bulgarian legislation is considered to have been committed in whole or in part on the territory of the Republic of Bulgaria, including a place, equated within its territory

(2) The decision under Para. 1, item 12 shall be taken by the court in exceptional circumstances and on a case-by-case basis, taking into account the particular circumstances, in particular whether the deed was committed primarily in the issuing state.

(3) Before refusing to recognize the judicial act on the grounds of Para. 1, items 1-3 and 9-12, the

court shall consult the competent authority of the issuing state and, if necessary, request the immediate provision of additional information.

Partial recognition and enforcement

Art. 16. (1) Despite the existence of a ground for refusal under Art. 15, the court may, in consultation with the competent authority of the issuing state, partially recognize the judicial act, where the recognized part being enforceable. Partial recognition and enforcement cannot lead to an extension of the penalty.

(2) Where no agreement has been reached under Para. 1, upon withdrawal of the certificate under Art. 3 by the competent authority of the issuing state, the court shall discontinue the proceedings.

Time limits of the proceedings

Art. 17. (1) The final decision on the recognition of the judicial act shall be delivered within 90 days of receipt of the judicial act and the certificate under Art. 3, except in the cases under Art. 14, Para. 1.

(2) In exceptional circumstances, where the court is unable to observe the 90-day time limit, the court shall immediately inform the competent authority of the issuing state under Art. 23, Para. 2, stating the reasons for the delay and the time, needed to make a final decision.

Enforcement of the penalty

Art. 18. (1) After the recognition of the judicial act, the court shall immediately send a certified copy of the decision of the respective prosecutor's office to take the necessary actions for execution of the punishment under the Bulgarian legislation or for realization of the transfer under Art. 26. The court shall send a certified copy of the enforceable decision for the recognition and enforcement of the Supreme Cassation Prosecutor's Office and the Ministry of Justice.

(2) After consultation with the issuing authority, the court shall respect and deduct from the time limit of the imprisonment the working days, imposed on the territory of the issuing state only if such deduction is provided for by the legislation of the issuing state and has not been indicated in the certificate under Art. 3.

(3) At the request of the competent authority of the issuing state, the court shall provide information on the applicable legal provisions on early release.

(4) At the request of the competent court, the prosecutor in the relevant prosecutor's office shall timely provide it with information concerning:

1. the impossibility to execute the punishment because the person's place of residence on the territory of the Republic of Bulgaria cannot be established;
2. the beginning and end of the early release, where this is stated in the certificate;
3. escape of the person, while serving the punishment;
4. the final serving of the punishment.

(5) After receiving the information under Para. 4, the court shall immediately inform the competent authority of the issuing state.

Termination of the execution

Art. 19. (1) The court shall immediately suspend the execution of the punishment or the measure under Art. 1:

1. when it is notified by the competent authority of the issuing state of a judgment or other act, by virtue of which the punishment or measure under Art. 1 is not enforceable;
2. upon withdrawal of the certificate under Art. 3 by the issuing state.

(2) In the cases under Para. 1, the court shall pronounce with one judge in a court session with the participation of a prosecutor and by summoning the sentenced person. The determination shall be final.

(3) The execution of the punishment shall also be terminated upon granting of amnesty under the procedure of Art. 460, Para. 1 and 3 of the Penal Procedure Code or pardon in the Republic of Bulgaria.

Chapter three.
SENDING OF JUDICIAL ACTS OF RECOGNITION AND ENFORCEMENT IN ANOTHER
MEMBER STATE

Competent authority

Art. 20. (1) Judicial acts imposing punishment imprisonment or measures, involving imprisonment shall be transmitted by the court, which first ruled them to the competent authority of the executing state.

(2) The original of the judicial acts or their certified copies, as well as the original of the certificate under Art. 3 shall be sent to the competent authority of the executing state, where this is expressly requested by it.

(3) The judicial act and the certificate cannot be sent for recognition and enforcement of more than one Member State at the same time.

Conditions for sending

Art. 21. (1) The court may send the judicial act, provided that the sentenced person is on the territory of the Republic of Bulgaria or on the territory of the executing state and has given his consent, when such is required under the conditions of Art. 22.

(2) The judicial act, together with the certificate under Art. 3 may be sent to one of the following Member States:

1. the state, whose national is the person and in which he is domiciled;
2. the state, whose national is the person and in which he will be deported, even though he is not domiciled in it, after being released from execution of the punishment, on the basis of an order for expulsion or deportation, contained in a judicial or administrative act, or another measure, imposed as a result of the conviction;

3. a state, other than those, referred to in items 1 and 2, whose competent authority has given its consent, the judicial act and the certificate under Art. 3 to be sent to it.

(3) Before sending the judicial act and the certificate under Art. 3, the court may consult with the competent authority of the executing state to ascertain, that the execution of the punishment in that state will improve the possibilities of the person's re-socialization.

(4) The consultation shall be obligatory in the cases under Para. 2, p. 3.

(5) Where no consultation has taken place, the court shall take in account the reasoned opinion, sent to the competent authority of the executing state and shall decide whether to withdraw the certificate.

(6) In the cases under Para. 2, item 3, the court shall decide, after considering the possibilities for the person's re-socialization and for building skills and abilities for a lawful way of life in society.

Consent and opinion

Art. 22. (1) The court shall send the judicial act together with the certificate under Art. 3 to the competent authority of the executing state, accompanied by the written consent of the convicted person.

(2) Consent of the convicted person shall not be required, when the judicial act is sent to the Member State:

1. whose national is the person and in which he is domiciled;
2. in which the person will be deported, once he is released from serving the punishment, on the basis of an expulsion or deportation order, contained in the verdict or in an act of a judicial or administrative authority, or of any other measure, imposed as a result of the sentence ruled;
3. in which the person has escaped or has returned, due to a pending criminal proceedings or a verdict in force against him in the Republic of Bulgaria.

(3) In the cases under Para. 2, when the person is on the territory of the Republic of Bulgaria, the court in an open session shall give him the opportunity to express his / her opinion in writing or orally. Taking into account the age, physical or mental state of the person, the court may, at its discretion, provide

this opportunity to his legal representative. When the person expresses his or her opinion orally, the court shall send to the executing state a written record of the opinion.

(4) The court shall explain to the person his / her right to give consent to a transfer to the executing state and the consequences of exercising this right.

(5) The opinion under Para. 3 shall be taken into account when deciding whether to send the judicial act together with the certificate under Art. 3.

(6) The court shall inform the person in a language that he / she understands about the sending of the court act together with the certificate under Art. 3, using the notification form in Annex 2. The form shall be transmitted to the competent authority of the executing state for the purpose of notifying the person when he/she is on its territory.

Sending the judicial act

Art. 23. (1) The court may officially, at the request of the prosecutor or the convicted person, send the judicial act, or a certified copy thereof, together with the certificate under Art. 3 directly to the competent authority of the executing state. The act may also be sent at the request of the executing state.

(2) The judicial act shall be sent to the competent authority of the executing state by post, e-mail, fax or otherwise, allowing for a written record and authentication.

(3) Where the court has no information about the competent authority in the executing state, it shall make a request, including through the contact points of the European Judicial Network.

(4) The court shall deal with the case within 14 days at an open court hearing with participation of a prosecutor.

(5) If the person is in a place of imprisonment under the jurisdiction of the Republic of Bulgaria or has a known address in the country, or has made a request under Para. 1, in which he has specified an address for summoning, he shall be summoned for the hearing by giving him the opportunity under Art. 22, Para. 3 and, if necessary, an interpreter shall be appointed.

(6) The court shall decide by a ruling, announced at the hearing.

(7) Where the person, having made the request is outside the Republic of Bulgaria, the court shall send him the ruling to the address for summoning.

(8) The ruling under Para. 6 shall be subject to appeal or protest before the respective appellate court, within 5 days of the announcement or notification under Para. 7. The court shall examine the appeal or the protest in an open session with the participation of the parties. The decision of the appellate court shall be ruled within 7 days and shall be final.

(9) The certificate under Art. 3 shall be signed by the chairman of the court staff under Art. 20, and its validity shall be certified by the seal of the court.

(10) A certified copy of the enforced ruling under Para. 6 shall be sent to the Supreme Cassation Prosecutor's Office and to the Ministry of Justice.

Notification of the executing state

Art. 24. The court shall immediately notify the competent authority of the executing state of a judgment or an act, amending or terminating the execution of the punishment, or of an amnesty, pardon or resumption of proceedings.

Withdrawal of the certificate

Art. 25. (1) The court shall withdraw the certificate under Art. 3 where, after consultation with the competent authority of the executing state, no agreement has been reached under Art. 16, Para. 1 for a partial recognition and enforcement of the punishment, and shall terminate the proceedings.

(2) The court may withdraw the certificate:

1. before commencing the execution of the punishment in the executing state, stating the reasons therefor;

2. after having taken into account the reasoned opinion under Art. 21, Para. 5;

3. when it considers, that the applicable provisions for early or conditional release in the executing state are incompatible with the relevant provisions of the current Bulgarian legislation; in such cases, the court shall request from the competent authority of the executing state information about such provisions.

Chapter four.

TRANSFER OF CONVICTED PERSONS BETWEEN MEMBER STATES. TRANSIT

Transfer of convicted persons

Art. 26. (1) If the convicted person is on the territory of the Republic of Bulgaria, his transfer to the executing state shall take place on a date, agreed between the Supreme Cassation Prosecutor's Office and the competent authority of the executing state through the Directorate for International Operational Cooperation of the Ministry of Interior, but no later than 30 days after the executing state has taken a final decision on the recognition and enforcement of the punishment or measure under Art. 1.

(2) The transfer of the person shall be carried out in compliance with a decree of the Supreme Cassation Prosecutor's Office, where the authorities of the Ministry of Justice shall provide the guards and his conveying.

(3) In cases, where the transfer of the person within the limits specified in Para. 1 period has been hindered by unforeseen circumstances, the competent authorities of the two states shall immediately establish contact. Transmission takes place immediately after the lapse of these circumstances. Transfer shall take place immediately after the lapse of these circumstances. The Supreme Cassation Prosecutor's Office through the International Operations Co-operation Directorate of the Ministry of the Interior shall immediately notify the competent authority of the executing state and the two authorities shall agree a new date, on which the transfer is to take place. In this case, the transfer shall be carried out within 10 days from the date of the agreement.

(4) Para. 1 to 3 shall also apply accordingly in cases, where the Republic of Bulgaria is an executing State.

Execution of the punishment or the measure after the transfer of the convicted person

Art. 27. (1) The competent Bulgarian authorities shall not take measures for the execution of the punishment or the measure under Art. 1, where enforcement has already begun in the executing state.

(2) The competent Bulgarian authorities shall recover their right to execute the punishment or the measure under Art. 1, if the executing state in the cases under Art. 18, Para. 4, item 3 has notified the Bulgarian court.

Principle of peculiarity

Art. 28. (1) A person, transferred to the Republic of Bulgaria, pursuant to this Act may not be prosecuted, tried or detained for an offense, committed prior to his transfer other than that, for which he was transferred, unless:

1. he has been able to leave the territory of the Republic of Bulgaria and did not do so within 45 days of his / her final release or has returned again, after leaving the territory;

2. the act does not impose a custodial sentence or a measure, involving imprisonment

3. . the criminal proceedings do not lead to the application of a measure, restricting personal liberty;

4. a fine or an alternative sanction, not related to imprisonment may be imposed on the person, even if those sanctions may lead to a restriction of his personal freedom;

5. the person has consented to be transferred;

6. after the transfer the person voluntarily declares to the competent court under Art. 7, that he waives his right under this provision and is aware of the consequences thereof; in this case the person is entitled to a defense counsel;

7. the issuing state has agreed not to apply the principle of peculiarity in cases, other than those under items 1 to 6; the request for consent shall be submitted, accompanied by a translation into the

Bulgarian language of the information under Art. 37 of the Act on Extradition and the European Arrest Warrant and the guarantees, provided under Art. 41 of the same Act.

(2) Para. 1 shall also apply in cases, where the Republic of Bulgaria is an issuing state. The request shall be submitted to the relevant court, having ruled the transfer of the person. The court shall agree, subject to the provisions of Art. 36 and Art. 39 - 41 of the Act on Extradition and the European Arrest Warrant. The decision shall be taken no later, than 30 days after receipt of the request.

Transfer on the basis of a European arrest warrant and transfer procedures between the Member States

Art. 29. (1) Where a European arrest warrant has been issued for the execution of a custodial sentence or a measure, involving detention and the wanted person resides or is on the territory of the Republic of Bulgaria, or is a Bulgarian citizen, the competent court may decide to execute the punishment or measure under the Bulgarian legislation.

(2) A Bulgarian citizen or person, residing on the territory of the Republic of Bulgaria, transferred to another Member State on the basis of a European arrest warrant for the performance of criminal proceedings, following return guarantees, shall be returned in accordance with this Act.

(3) The decision under Para. 1 shall be taken no later than 30 days after receipt of the request under Art. 44, Para. 8-13 of the Act on Extradition and the European Arrest Warrant.

Transit

Art. 30. (1) The Minister of Justice or an official, authorized by him shall accept the transit requests and accompanying documents in a manner, that certifies their written transmission and shall immediately send them to the Supreme Cassation Prosecution Office.

(2) The Supreme Cassation Prosecution Office shall authorize by decree the transit through the territory of the Republic of Bulgaria of a convicted person, subject to transfer in the executing state, provided that the following information has been provided:

1. a transit request;
2. a copy of the certificate under Art 3;
3. data about the convicted person;
4. an approved plan for transfer of the convicted person;
5. translation of the documents in the Bulgarian language.

(3) The Supreme Cassation Prosecution Office shall pronounce by decree on the request immediately, but not later than 7 days from the day of its receipt. The decree shall determine the term and place of detention of the convicted person. The adjudication may be postponed until the translation has been received by the Member State, that has made the request for transit, where such translation is required under Para. 2.

(4) The Supreme Cassation Prosecution Office shall notify the Member State, requesting the transit and the Ministry of Justice of its decision in a manner, that can certify his transfer in writing.

(5) A convicted person, who has been admitted for transit through the territory of the Republic of Bulgaria cannot be detained on any other grounds and for a longer term, than is necessary for the purposes of the transit through the territory of the Republic of Bulgaria. If the person is to be detained on the territory of the Republic of Bulgaria on a ground, different from the request for transit, the Supreme Cassation Prosecution Office shall immediately notify the requesting Member State of transit.

(6) No transit request shall be required in the case of an air carriage, without a scheduled stay. In the event of an extraordinary landing being necessary, the state making the transfer shall provide the Ministry of Justice the information, referred to in Para. 2, within 72 hours.

(7) Para. 1 to 6 shall also apply accordingly in cases, where the Republic of Bulgaria is an issuing country and there is a need for transit through the territory of another Member State.

Additional provisions

§ 1. In the meaning of this Act:

1. "Judicial act" is any final act of a court, that is punishable for a natural person.
2. "Penalty" means any custodial sentence or measure, involving imprisonment for a fixed or indefinite period, in relation to a criminal offense and as a result of criminal proceedings.
3. "Issuing State" means the Member State, in which the judicial act was delivered.
4. "Executing State" means the Member State, to which the judicial act was sent for the purposes of its recognition and enforcement.
5. "State of domicile of the person" is the state, with which the person has a lasting factual relationship in view of the existing family, social or economic relations there.
6. "Member State" is a Member State of the European Union.

§ 2. This Act shall introduce the requirements of Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ L 327/27 of 5 December 2008), as amended by Council Framework Decision 2009/299 / JHA of 26 February 2009. amending Framework Decisions 2002/584 / JHA, 2005/214 / JHA, 2006/783 / JHA, 2008/909 / JHA and 2008/947 / JHA, which strengthens the procedural rights of persons and promotes the application of the principle of mutual recognition of judgments, rendered in the absence of the person concerned during the trial.

§ 3. The execution of the judicial acts in the part, with which a fine and / or confiscation has been imposed shall be carried out pursuant to the Act on Recognition, Execution and Dispatch of Decisions for Confiscation or Forfeiture and Decisions for Imposing Financial Sanctions

§ 4. To the extent that this Act does not contain special rules, the provisions of the Penal Procedure Code shall apply.

Transitional and concluding provisions

§ 5. In the Act on Extradition and European Arrest Warrant (promulgated, SG 46/05, amend., SG, 86/05, 52/08, 49/10, SG, 53/11, 53/14 and 7/19) the following amendments and supplements shall be made:

1. In Art. 40, Para. 1, item 4, after the words "the issuing Member State", a comma is added and added "as in these cases Art. 29, Para. 2 of the Act on Recognition, Execution and Transfer of Judicial Acts for Imprisonment or Measures Involving Deprivation of Liberty. "

2. In Art. 41, sentence 2 of Art. 3 is amended as follows: "In such cases, the provisions of the Act on the Recognition, Enforcement and Transfer of Judicial Acts for the Imposition of a Penalty Imprisonment, or Measures, involving Deprivation of Liberty shall apply."

§ 6. In the relations between the Republic of Bulgaria and the Member States that have introduced the requirements of Council Framework Decision 2008/909 / JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters, imposing penalties for deprivation of liberty, or measures involving deprivation of liberty for the purpose of their enforcement in the European Union, as amended by Council Framework Decision 2009/299 / JHA of 26 February 2009, amending Framework Decisions 2002/584 / JHA, 2005/214 / JHA, 2006/783 / JHA, 2008/909 / JHA and 2008/947 / JHA, which strengthens the procedural rights of individuals and promotes the application of the principle of mutual recognition of judgments, given in the absence of the person concerned during the trial, this Act shall apply, instead of the following conventions:

1. The Convention on Transfer of Sentenced Persons of 21 March 1983 of the Council of Europe

and its Additional Protocol of 18 December 1997

2. The European Convention on the International Recognition of Sentences of 28 May 1970 of the Council of Europe.

3. Title III, Chapter 5, of the Convention of 19 June 1990 implementing the Schengen Convention of 14 June 1985 on the gradual abolition of checks at common borders; The Convention of 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

4. The Convention between the Member States of the European Communities on the Execution of Punishments, imposed abroad of 13 November 1991.

§ 7. In its relations with the Member States, the Republic of Bulgaria may continue to apply the bilateral or multilateral agreements or arrangements in force between them, as well as to conclude new ones after the entry into force of this Act, in the cases where the procedure is facilitated for enforcement of the penalties under this Act.

§ 8. Procedures and procedures for the transfer of convicted persons and the recognition of sentences, not completed before the entry into force of this Act shall be completed according to the current procedure.

§ 9. The Act shall come into force from 1 January, 2020.

The Act was adopted by the 44th National Assembly on May 29, 2019 and is stamped with the official seal of the National

Annex No 1 to Art. 3

CERTIFICATE

a)* Issuing State:

.....

* Executing State:

.....

b) The court, which delivered the judicial act for imposition of the punishment, which has come into force:

Official name:

.....

The act has been issued on (indicate date: dd-mm-yyyy):

.....

The Act has been enforced on (indicate date: dd-mm-yyyy):

.....

N of the judicial act (if known):

.....

c) Information about the contacting authority, if there are questions about the certificate:

1. Type authority: Pls. check in the relevant box:

0 Central authority

0 Court

0 Another
authority.....

2. Contact data with the authority, indicated in letter “c”, point 1:

Official name:

.....

Address:

.....

.....

Tel.: (code of the State) (code pf the region/town)

Fax: (code of the State) (code pf the region/town)

E-mail address (if known):

.....

3. Languages, in which contact with the authority may be made:

4. Contact details of the person (s) to be contacted, in order to obtain additional information in connection with the execution of the judicial act or the coordination of the transfer procedures (name, title / rank, telephone, fax, e-mail address) if they differ from those under item 2:

.....

.....

d) Information about the person, who has been imposed by the punishment:

Family name:

First/second names:

.....

Maiden name, where applicable:

Nicknames, where applicable:

.....

Sex:

Nationality:

Id N, or N of social security (if known):

.....

Date of birth:

Place of birth:

Last known addresses/places of residence:

.....

Language/s, which the person understands (if known):

.....

OThe convicted person is located:

O In the issuing State and his transfer will be performed in the executing State.

O In the executing State and the execution will be performed in this State

.....

Additional information, which is to be produced, if available and referable:

1. Photo and fingerprints of the person and / or contact details of the person to be contacted in order to be received this information:

.....

2. Type and N of identity card or passport of the person:

.....

3. Type and N of the residence permit of the person:

.....

4. Other useful information about the person and his family, social or professional ties with the executing State:

.....

.....

e) Request for provisional arrest by the issuing State (when the person is in the executing State):

O The issuing State shall request the executing State to detain the person or take other action to ensure that he remains on its territory until a decision has been taken on the recognition and enforcement of the punishment.

0 The issuing State has already requested the executing State to detain the person or take other action to ensure that he remains on its territory until a decision has been taken on the recognition and enforcement of the punishment. Enter the name of the authority in the executing State, that took the decision on the person's detention request (if applicable and known):

.....

.....

.....

f) Connection with a previous European Arrest Warrant (EAW):

0 An EAW has been issued for the purpose of executing a custodial sentence or a detention measure and the executing State undertakes to execute the punishment or the measure, requiring detention (Article 4, Para. 6 of the EAW Framework Decision).

Date of issuing EAW and N, if known:

.....

Name of the authority, having issued the EAW:

.....

Date, on which the decision for execution of the punishment is taken, and N, if known

.....

Name of the authority, which has issued the decision for execution of the punishment:

.....

☐ An EAW has been issued for the purpose of prosecuting a person, who is a national of / or residing in the executing State, the executing State having transferred the person, under the condition that he / she will be returned to the executing State to serve the custodial sentence or measure, requiring detained, ruled against him in the issuing Member State (Article 5, Para. 3 of the Framework Decision on EAW).

Date, on which the decision was taken for transfer of the person:

.....

Name of the authority, which has issued the decision for transfer:

.....

N of the decision, if known:

Date of transfer of the person, if known:

g) Grounds for sending the judicial act and the certificate (where box “f” is filled in, this box is not to be filled in):

The judicial act and the certificate shall be sent to the executing State in order to testify to the assurance of the issuing authority, that execution of the punishment by the executing State will contribute to the attainment of the objective of facilitating the person's re-socialization and:

☐ a) the executing State is the State, whose national is the person and in which he lives;

☐ b) the executing State is the State, of which the person is a national and in which he will be deported, after being released from the execution of the punishment under an expulsion or deportation order, contained in a judicial or administrative act or other measure, taken as a result of the judicial act; if the expulsion or deportation order is not contained in the act, indicate the name of the issuing authority, the date of issue and, if known, the number:

.....
.....

☐ c) the executing State is a State, other than the State. referred to in letters "a" or "b" and whose competent authority has given its consent to the sending of the judicial act and the certificate of that State;

☐ d) the executing State has made notification under Art. 4, Para. 7 of the Framework Decision, and

☐ it is confirmed that, to the knowledge of the competent authority of the issuing State, the person has lived and has been continuously and legally resident for at least five years in the executing State and will retain his right of permanent residence in that State;

☐ it is confirmed, that the person is national of the executing State;

h) A judicial act, which imposes the punishment:

1. The act refers to in total offenses.

Summary of the facts and description of the circumstances, in which the offense (s) was / were committed, including the time and place and the nature of the person's participation:

.....
.....

Type and legal characterization of the offense (s) and applicable legal provisions, on the basis of which the judicial act was ruled:

.....
.....

2. If the offense (s) under letter (h), p. 1 constitutes one or more of the offenses, listed below as defined by the law of the issuing State and punishable in the issuing State by imprisonment or by a measure, involving deprivation for at least three years, indicate this in the relevant box (s):

0 participation in a n organized criminal group;

0 terrorism;

0 traffic of people;

0 sexual exploitation of children and child pornography;

0 illegal traffic of narcotic and psychotropic substances;

0 illegal traffic of weapons, ammunitions and explosives;

0 corruption;

0 fraud, including one, that affects the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities financial interests;

0 laundering of property, acquired from crime;

0 counterfeiting currency, including the Euro;

0 crimes, connected with computers;

0 environmental crime, including illicit trafficking of endangered animal species and endangered plant species and varieties;

0 assisting illegal entry and residence;

0 murder, grievous bodily injury;

0 illicit trade in human organs and tissues;

0 kidnapping, illicit deprivation of liberty and detention of hostages;

0 racism and xenophobia;

0 organized and armed robbery;

0 illicit trafficking in cultural goods, including antiques and works of art;

0 fraud;

0 racketeering and extortion;

0 product counterfeiting and piracy;

0 counterfeiting and / or trade with administrative documents;

0 counterfeiting payment instruments;

0 illicit trafficking in hormonal substances and other growth promoters;

0 illicit trafficking of nuclear, or radioactive materials;

0 trafficking in stolen vehicles;

0 rape;

0 arson;

0 crimes within the jurisdiction of the International Criminal Court;

0 illicit hijacking of aircraft or ships;

0 sabotage.

3. If the offense (s), referred to in point 1 is / are not covered under point 2 or if the conviction and the certificate have been sent to the Member State, which has declared that it will make a double criminality check (Art. 7, Para. 4 of the Framework Decision), describe exhaustively the relevant offense (s):

.....
.....
.....

i) Type of judicial act, imposing the punishment:

1. State, whether the person appeared in person at the trial, resulting in the act:

1. 0 Yes, the person appeared in person at the trial that led to the act.

2. 0 No, the person did not appear in person at the trial, resulting in the act.

3. If you have made a check in a box under 2, please confirm that one of the following is true:

0 3.1.1. the person was summoned personally on (day / month / year) and was thus informed of the scheduled date and place of the trial, resulting in the act and was informed of the possibility of such an act if he does not appear in the trial;

OR

0 3.1.2. the person has not been personally summoned, but by other means has actually received official information on the scheduled date and place of the trial, which led to the act in a manner, that unequivocally proves that he has been informed of the scheduled trial and the possibility of issuing such an act, if he does not appear in court;

OR

0 3.2. after having been informed of the scheduled trial, the person has authorized a counselor, nominated by the person concerned or the State, in order to defend him or her at the trial and has actually been protected by that defense counsel;

OR

0 3.3. the act was personally served to the person on (day / month / year) and he was expressly informed of the right to a retrial or appeal, in which he or she has the right to participate and which allows the case to be reviewed in nature, including in the light of new evidence, which may lead to the repeal of the original act, and

0 лицето изрично е заявило, че не оспорва съдебния акт;

OR

☐ the person did not request a retrial or appeal within the applicable time limit.

4. If you have made a check in a box under points 3.1.2, 3.2 or 3.3, please provide information on how the relevant condition is met:

.....
.....

2. Data about the term of the punishment:

2.1. Total duration of the punishment (days):

2.2. The whole term of imprisonment, served in connection with the punishment or measure, involving deprivation of liberty, in respect of which the judicial act was delivered (days):

....., to (...) (date on which the calculation was made: dd-mm-yyyy):

2.3. Number of days to be deducted from the total length of the sentence for reasons, other than those, referred to in point 2.2 (eg. amnesty, pardon or other measures, connected with the punishment):, as from (date, on which calculation is made: dd-mm-yyyy):

2.4. Date of expiry of the sentence in the issuing State:

☐ Not applicable, as at the moment the person is not detained.

☐ The person is detained and the punishment imposed under the law of the issuing State will be fully enforced on (date: dd-mm-yyyy) 1:

3. Type of punishment:

☐ imprisonment

☐ measure, including deprivation of liberty (indicate the type):

.....

j) Information on conditional early release:

1. Under the law of the issuing State, the person is entitled to a conditional early release after serving:

☐ half of the term of punishment

☐ two third of the term of punishment

☐ other part of the term of punishment (indicate what):

2. The competent authority of the issuing State wishes to be informed of:

☐ the applicable legal provisions of the executing State on the conditional early release of convicted persons;

☐ the commencement and end of the conditional early release.

k) Opinion of the person:

1. 0 The person could not be heard, because he was already in the executing State.

2. 0 The person is in the issuing State, and:

2.1. ☐ has requested the sending of the judicial act and the certificate

0 has given consent for sending the judicial act and the certificate

0 has not given consent for sending the judicial act the certificate (indicate the reasons of the person):

.....
.....

2.2. 0 The statement of the person has been attached.

0 The opinion of the person has been sent to the executing State (date: dd-mm-yyyy):

l) other circumstances of significance for the case (information upon choice):

.....
.....

m) Concluding information:

The text of the judicial act/s is attached to the certificate.

Signature of the authority, issued the certificate and/or its representative, certifying the validity of the contents of the certificate

.....

Name:

Position (title/rank)

Date:

Official stamp (if any)

¹ Enter the date, on which the punishment would have been fully served (without taking into account the possibility of early or conditional release) if the person remains in the issuing State.

² The competent authority of the issuing State must apply all relevant judicial acts, necessary to provide all information concerning the punishment or the measure, involving deprivation of liberty to be enforced. All available translations of the judicial acts may also be applied.

Annex No 2 to Art. 22, Para. 6

Form for notifying the person

NOTIFICATION OF THE PERSON

We, hereby notify you of the decision of (competent authority of the issuing State) to forward the judgment to (competent court of the issuing State) of (date of the judicial) (number of the judicial act, if known) of (executing State) for the purposes of its recognition and enforcement of the punishment or measure imposed, including deprivation of liberty, in accordance with the national legislation, adopted in implementation of Council Framework Decision 2008/909 / JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters, imposing penalties for deprivation of liberty, or measures involving deprivation of liberty for the purpose of their enforcement in the European Union.

For the execution of the punishment, the law of (executing State) shall be applied.

The authorities of that State will be competent to decide on the enforcement procedures and to define the related measures, including the grounds for conditional early release

The competent authority of (the executing State) must deduct the entire length of the custodial sentence already, served in respect of the custodial sentence or the measure, including deprivation of liberty, of the total length of the custodial sentence to be served.

The competent authority of (the executing State) may only adapt the punishment, only if it is incompatible with the law of that State in respect of its term or nature. The adapted penalty may not be more severe than the punishment, imposed in (the issuing State) in respect of its nature or duration.

Relevant acts of the EU legislation

Decisions:

COUNCIL FRAMEWORK DECISION 2009/299 / JHA of 26 February 2009 amending Framework Decisions 2002/584 / JHA, 2005/214 / JHA, 2006/783 / JHA, 2008/909 JHA and 2008/947 /

JHA, which strengthens the procedural rights of individuals and encourages the application of the principle of mutual recognition of judgments, rendered in the absence of the person concerned during the trial.

COUNCIL FRAMEWORK DECISION 2008/909 / JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures, involving deprivation of liberty for the purpose of their enforcement in the European Union