

## LAW OF GEORGIA ON AMENDMENTS TO THE “CODE OF CRIMINAL PROCEDURE OF GEORGIA”

**Article 1.** To the Code of Criminal Procedure of Georgia (“saqartvelos sakanonmdeblo macne”<sup>1</sup> No. 13-14, 8.04 1998) the following amendments shall be made:

1. Paragraph 2 of article 9 shall be drafted as follows:

"2. The special rules for conducting criminal prosecution, arrest and employment of other forced criminal procedural measures shall be determined by the Constitution of Georgia, International Treaties and Agreements of Georgia, this Code and other Laws to the following categories of persons – member of the parliament of Georgia, member of the Constitutional Court of Georgia, member of the Supreme Court of Georgia and the judge of common court of Georgia, head of Control Chamber of Georgia, public defender of Georgia, member of the Bench of the of the Prosecutor Generals office of Georgia, deputy of the Supreme Representative bodies of the autonomous republics of Abkhazia and Adjara, public defender of the autonomous republic, member of the constitutional court of the autonomous republic, person possessing diplomatic immunity, also the representative of the International Criminal Court, who according to the ICC Statute enjoys immunity during execution of his duties"

2. To article 44 the following paragraph 46 shall be added:

"46. For the purpose of international cooperation in legal matters:

(a) "Surrender" means the handing over of a person by a State to the International Criminal Court, pursuant to its Statute.

(b) "Extradition" means the handing over of a person by one State to another as provided by the International Agreement or national legislation."

3. To article 247 the following paragraph 3 shall be added:

"3. The questions of cooperation of Georgia with the ICC are regulated by the Statute of the International Criminal Court (Rome Statute) and the "Law of Georgia On Cooperation with the International Criminal Court"

4. Article 252 shall be drafted as follows:

"Article 252. Submitting of Materials on Offence Committed on the Territory of Georgia by Foreign National or Stateless Person

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<sup>1</sup> Official periodical of the Parliament of Georgia

If a foreign national or a stateless person having committed an offence on the territory of Georgia has left the territory Georgia, all the investigative materials in the initiated case shall be delivered to the Prosecutor-General of Georgia and/or to the national state agency responsible for matters of cooperation with the ICC in compliance with the legislation, which shall forward them to a corresponding authority of a foreign state and/or to the ICC for further criminal prosecution, or shall address with a request for surrender of the accused to the Georgian authorities."

5. Article 256 shall be formulated as follows:

"Article 256. Extradition of a foreign national.

1) In accordance with international Agreement on cooperation in legal matter a foreign state may demand the extradition of its national being in Georgia, if he is accused of committing crime or he had been convicted on the on the territory of his own country, and/or he has committed crime against his country on the territory of Georgia"

2) A request for extradition must correspond with the requirements set out in the international agreements and must be directed by the competent authority.

3) A request may be transmitted by Technical means subject to further confirmation.

4) In case the Prosecutor General considers the request for extradition well grounded and legal, the directive on its execution is issued; if needed, the assistance of the Ministry of Foreign affairs is requested.

5) If the extradition of the individual is requested by several foreign states, the decision on to which state to surrender is taken by the Prosecutor General of Georgia upon having consulted with the Minister of Foreign Affaires and the Minister of Justice of Georgia.

6) If a citizen of the foreign State, in regard to which the request for extradition is submitted, is serving his sentence for the offense committed in Georgia, the extradition may be postponed until the completion of the sentence or exoneration from punishment on any other legal ground. If a citizen of the foreign State is under investigation as an accused for the commission of crime on the territory of Georgia, extradition may be postponed until the judgment is rendered, sentence is served or the person is exonerated from punishment on any other legal grounds.

7) In case provided for in paragraph 6 of this Article the Supreme Court of Georgia is entitled, upon having consulted with relevant authorities of the foreign state, to issue a ruling on extradition of a citizen of that state for certain period. If the courts of a foreign state issue a judgment stricter or equal to the sentence to be served in Georgia, a person must serve a sentence in his own state and is not subject to return to Georgia.

6. Article 257 shall be drafted as follows:

"Article 257. Refusal to Extradite

Extradition is inadmissible if:

- 1) the person has been granted political asylum in Georgia;
- 2) the act serving as the ground for an extradition request is not deemed to be a criminal offence in Georgia, unless otherwise provided by the international agreement of Georgia;
- 3) a valid judgment or a ruling/decision for termination of prosecution has already been rendered in respect of the person in connection with the same offence unless otherwise provided by the international agreement of Georgia;
- 4) the period of limitation prescribed by the Criminal Code of Georgia has expired unless otherwise provided by the international agreement of Georgia;

7. Article 258 shall be drafted as follows:

"Article 258. Extradition of stateless persons.

Extradition of Stateless individuals is conducted in accordance with article 256."

8. Article 259:

a) The title and paragraph 1 of article 259 shall be drafted as follows:

"Article 259. Application of Criminal Procedural Coercive Measures against Person Subject to Extradition

1) Arrest, detention, committal to a medical institution for examination of a person subject to extradition, his search, the execution of seizure, the execution upon property, and the application against him of other criminal-procedural coercive measures shall be possible in case when a request for his extradition is appended with a duly certified order/ruling issued by a competent public body for the performance of such procedural acts that restrict the constitutional rights and freedoms of citizens."

b) Paragraphs 3-4 of the same article shall be drafted as follows

"3) A person arrested on the ground of the request for extradition may be held in detention for no more than three months, unless the court order/ruling to prolong the detention for the same period is not submitted.

4) A person, subject to extradition may address the court for the purpose of defense."

9. Article 260 shall be drafted as follows:

"Article 260. Delivery of exhibits and Documents.

1) The items and documents seized from a person subject to extradition, which may be used as evidence, shall be delivered to the body requesting his or her extradition.

2. The delivery of items or documents holding material value, unless they belong to a person subject to extradition, shall be conducted after the receipt of guarantees for their safe-keeping and return to the owner. The guarantees shall be secured by the body requesting the extradition."

10. Article 621 shall be drafted as follows:

"Article 621. Consequences of Conviction

Legal consequences of conviction in respect to the person brought to Georgia for serving the sentence upon the judgments of a foreign state or/and of the ICC shall be the same as legal consequences of conviction by Georgian courts."

**Article 2.** This law enters into force on the 15<sup>th</sup> day from its publication.

The President of Georgia

Eduard Shevardnadze