



UNITED NATIONS

E/NL.2009/11

14 May 2009

English only

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances,
the Secretary-General has the honour to communicate the following legislative text / texts*

BULGARIA

Communicated by the Government of Bulgaria

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

PENAL PROCEDURE CODE, 2006 (Extracts on International Legal Assistance for Criminal Cases)

*Note by the Secretariat: These documents are a direct reproduction of the text / texts communicated to the Secretariat.

V.09-83800 (E)



PENAL PROCEDURE CODE
(Extracts)
[...]

CHAPTER XXII
SPECIAL PROCEEDINGS

[...]

Section V

International Legal Assistance for Criminal Cases (New section, SG, No. 64/1997; prev., section VI, SG, No. 70/1999, title amend. SG No. 89/2004)

Grounds and contents of the international legal assistance (title amend. SG No. 89/2004)

Article 461

(Suppl., SG, No. 50/2003, amend. SG No. 89/2004) International legal assistance for criminal cases of another state shall be rendered subject to the terms and conditions of an entered into international treaty under which the Republic of Bulgaria is a party or subject to the principle of reciprocity. International legal assistance for criminal cases shall also be rendered to an international court, whose jurisdiction is recognised by the Republic of Bulgaria.

(1) (amend. SG No. 89/2004) The international legal assistance shall include:

1. service of documents;
2. activities for investigation;
3. collecting of evidences;
4. conceding information;
5. other forms of legal assistance if they are provided in international agreement, to which the Republic of Bulgaria is a party, or are imposed under the conditions of mutuality.

Waiver of International Legal Assistance (title amend. SG No. 89/2004)

Article 462

(amend. SG No. 89/2004) The international legal assistance may be waived, if the satisfaction of the request could endanger the sovereignty, the national security, the public order or other interests protected by law.

Appearance of a Witness and an Expert

Article.- 463

- (1) The appearance of a witness and an expert before foreign judicial authorities shall only be admitted, if an assurance has been received that the subpoenaed persons, in spite of their citizenship, shall not be prosecuted for acts committed until their being called. Upon refusal to appear, no measures of compulsion shall be applied in respect of them.
- (2) (Amend., SG, No. 50/2003) Delivery of persons detained in custody shall be admitted solely in exclusive cases by a judgement of a composition of the respective regional court on the grounds of instruments presented by the other state or by the international court, should the person give his or her consent of his or her surrender and should the stay in another state not extend the term of his or her detention in custody.

Interrogation of persons by video-conference or telephone conference (new – SG No. 89/2004)

Article 463a

- (1) Judicial body of other state may conduct interrogation through video-conference or telephone conference of a person, who is witness or expert in criminal procedure and is in the Republic of Bulgaria when this is provided in international agreement, to which the Republic of Bulgaria is a party. Interrogation through video-conference with participation of accused or suspected can be conducted only with his consent and after the participation Bulgarian judicial bodies and the judicial bodies of the other state arrange the way of conducting of the video-conference. The interrogation through video-conference or telephone conference can be conducted only if this does not contradict with the basic principles of the Bulgarian law.
- (2) In the application for interrogation of the judicial body of the other state must be pointed out:
 1. the reason due to which the personal appearing of the person is not wanted or impossible;
 2. the name of the judicial body of the other state;
 3. the data about the persons, who will carry out the interrogation;
 4. the consent of the person, who will be interrogated as witness or expert through telephone conference;
 5. the consent of the accused or the suspected, who will participate in session for interrogation through video-conference.
- (3) The Bulgarian competent bodies of the criminal procedure shall fulfill applications for interrogation through video-conference or telephone conference. For the needs of pre-trial procedure application for interrogation through video-conference or telephone conference shall be fulfilled by the National investigation service. For the needs of judicial procedure application for interrogation through telephone conference shall be fulfilled by a court equal in degree at the place of living of the person and for interrogation through video-conference – by the appellate court at the place of living of the person. The competent Bulgarian body may require the applying party to ensure the technical means for interrogation.
- (4) The interrogation shall be implemented directly by the judicial body of the applying state or under its guidance in compliance with its legislation.
- (5) Before the interrogation the Bulgarian competent body shall establish the identity of the person, who must be interrogated. After the interrogation shall be compiled a record, in which will be reflected:
 1. the date and the place of conducting it;
 2. the data about the interrogated person and his consent if such is required;
 3. the data about the participated Bulgarian persons;
 4. the fulfillment of other conditions, accepted by the Bulgarian party.
- (6) A person, who is abroad, may be interrogated by competent Bulgarian body or under its guidance through video-conference or telephone conference when the legislation of the other state admits this. The interrogation shall be conducted in compliance with the Bulgarian legislation and with the provisions of the international agreements, to which the Republic of Bulgaria is a party, regulating the pointed out techniques of interrogation.
- (7) Interrogation through video-conference or telephone conference of para 6 in the pre-trial procedure shall be implemented by investigator of the National investigation service and in the judicial procedure – by the court.
- (8) The provisions of para 1 – 5 shall be applied respectively also for the interrogation of the persons of para 6.

Procedure of Making a Letter of Request to Another State or International Court (Suppl., title, SG, No. 50/2003)

Article 464

- (1) (amend. SG No. 89/2004) The letter of request for international legal assistance shall contain data about the body making it; subject of the reason of the request; the full name and the citizenship of the person in respect of whom the request is made; the name and the address of the person on whom instruments must be served; where necessary, the indictment and a brief exposition of the facts thereof.

- (2) (Amend., SG, No. 50/2003, amend. SG No. 89/2004) The letter of request for international legal assistance shall be submitted to the Ministry of Justice, save if an international treaty under which the Republic of Bulgaria is a party, provides otherwise.

Implementation of a Request of Another State or International Court (Suppl. title, SG, No. 50/2003) (Suppl., SG, No. 59/2003)

Article 465

- (1) (prev. art. 465, amend. SG No. 89/2004) The request for international legal assistance shall be implemented according to the procedure provided for in the Bulgarian legislation or by order, provided in international agreement, to which the Republic of Bulgaria is a party. The request may also be implemented according to the procedure provided for in the legislation of the other state or in the Rules of Procedure of the international court, if so requested and in so far as it does not contravene the Bulgarian legislation. The other state or the international court shall be informed about the time and venue of implementation of the request, if so requested.
- (2) (new – SG No. 89/2004) The applications for legal assistance and all other messages by the competent bodies of other state, sent and received through fax and e-mail, shall be received and fulfilled by the Bulgarian competent bodies in the same procedural order as these, sent by ordinary post. The Bulgarian bodies may require certification of the authenticity of the sent materials as well as to receive the originals by express post.
- (3) The Supreme Cassation Prosecutor's Office shall create with other states joint teams for investigation, in which participate also Bulgarian prosecutors and investigation bodies. For the activity, the term and the members of the joint team for investigation agreement shall be concluded with the competent bodies of the participating states. On the territory of the Republic of Bulgaria the joint team for investigation shall observe the provisions of the international agreements, the conditions of the agreement and the Bulgarian legislation.
- (4) The Supreme Cassation Prosecutor's Office shall submit applications to other states for investigation through an agent under cover, through controlled shipments and trans-border observation and shall pronounce on such applications of other states.
- (5) Under the conditions of mutuality the foreign body, implementing investigation through an agent under cover on the territory of the Republic of Bulgaria, may collect evidences according to its national legislation.
- (6) In urgent cases of crossing of the state border for trans-border observation on the territory of the Republic of Bulgaria shall be immediately informed the Supreme Cassation Prosecutor's Office. It shall take decision for continuing or termination of the trans-border observation under the conditions and by the order of the Law of the special intelligence devices.
- (7) The fulfillment of applications of other states for controlled shipments and trans-border observation shall be implemented by the competent investigating body. It may require cooperation from the police, the customs and the other administrative bodies.

Costs of the Implementation of the Request

Article 466

The costs of the implementation of the request shall be divided between the parties in accordance with the international treaties under which the Republic of Bulgaria is a party or subject to the principle of reciprocity.

Section VI

Transfer of criminal procedure (new section – SG No. 89/2004)

Transfer of criminal procedure from other state (new – SG No. 89/2004)

Article 466a

- (1) Application for transfer of criminal procedure from other state shall be sent to:
 1. the Supreme Cassation Prosecutor's Office – for the pre-trial procedure;
 2. the Ministry of Justice – for the judicial procedure.
- (2) The application for transfer of criminal procedure from other state shall be accepted by the body of para 1 when:
 1. the action, for which the request is made, constitutes a crime according to the Bulgarian law;
 2. the person is criminally responsible according to the Bulgarian law;
 3. the person is permanently staying on the territory of the Republic of Bulgaria;
 4. the person is citizen of the Republic of Bulgaria;
 5. the crime, for which the request is made, is not considered as political or connected with political crime or as military crime;
 6. the request does not aim persecution or punishment of the person due to his race, religion, citizenship, ethnic origin, sex, civil status or political beliefs;
 7. against the person has started criminal procedure in the Republic of Bulgaria for the same or for other crime;
 8. the transfer of the procedure is in the interest of establishing of the truth and the most important evidences are on the territory of the Republic of Bulgaria;
 9. the execution of the sentence, if such is decreed, will improve the opportunities of the sentenced person for socialization;
 10. the personal presence of the person can be ensured in the procedure in the Republic of Bulgaria;
 11. the sentence, if such is decreed, can be executed in the Republic of Bulgaria;
 12. the request does not contradict with the international obligations of the Republic of Bulgaria;
 13. the request does not contradict with the basic principles of the Bulgarian penal and penal – procedure law.
- (3) If the body of para 1 respects the application it shall immediately send it to the competent bodies of the penal procedure according to the provisions of this code.
- (4) Each procedural action, implemented by a body of the applying state in compliance with its national legislation, shall be used by the Republic of Bulgaria with the same evidential force, with which it would be used if it is implemented by a Bulgarian body.

Transfer of criminal procedure to other state (new – SG No. 89/2004)

Article 466b

- (1) If the person, against who has started criminal procedure in the Republic of Bulgaria is citizen of other state or permanently stays in other state the bodies of para 2 can send application for transfer of the criminal procedure to this state.
- (2) Application for transfer of criminal procedure to other state upon proposal of the competent Bulgarian body of the penal procedure shall be sent:
 1. by the Supreme Cassation Prosecutor's Office – for the pre-trial procedure;
 2. by the Ministry of Justice - for the judicial procedure.
- (3) Application for transfer of criminal procedure to other state can be made when:
 1. the extradition from the asked state of the person, committed the crime, is impossible, is not permitted or is not required due to other reason;
 2. for establishing the facts, for determining the penalty or for execution of the sentence it is expedient the criminal procedure to be conducted in the asked state;

3. the person, committed the crime, is or will be extradited in the asked state or due to other reason is possible his personal appearance in the criminal procedure in this state;
4. the extradition of a person, sentenced by Bulgarian court with a sentence entered into force to imprisonment, is not possible or is not permitted by the asked state or the execution of the sentence in this state is not possible.
- (4) If the asked state admits the transfer of the criminal procedure it cannot continue on the territory of the Republic of Bulgaria against the person, committed the crime, and the imposed sentence of para 3, item 4 for the crime, in connection with which is made transfer of the criminal procedure, shall not be executed.
- (5) The bodies of the pre-trial procedure or the court shall continue the criminal procedure or send the sentence for execution if the asked state:
 1. after accepting the application for transfer does not form criminal procedure;
 2. later revokes its decision for transfer of the criminal procedure;
 3. does not continue the procedure.

[...]