

## **Answers of the Republic of Bulgaria to the Implementing Questionnaire for State Parties of the International Criminal Court**

**1. Has your Government adopted any national legislation implementing the Rome Statute (“the Statute”), or otherwise enacted legislation pertaining to the Rome Statute?**

Yes, the Republic of Bulgaria has implemented the provisions of the Rome Statute in its national legislation.

**5. In implementing the Statute, did your Government draft a stand-alone legislation or did it incorporate the articles or substantive provisions of the Statute into pre-existing law?**

Bulgaria has incorporated the provisions of the Rome Statute in its pre-existing law. The substantive criminal law provisions of the Statute have been introduced into the Bulgarian legislation with the Criminal Code whereas some of the procedural provisions on cooperation have been introduced through the Criminal Procedure Code and the Law on Extradition and European Arrest Warrant.

**6. Does the implementing legislation incorporate the substantive crimes through reference to the Statute or by incorporating the crimes into domestic law?**

The crimes under the Rome Statute have been incorporated in Chapter fourteen “Outrage on peace and humanity” of the Bulgarian Criminal Code.

### **Criminal Code**

#### **Special Provision**

#### **Chapter Fourteen CRIMES AGAINST PEACE AND HUMANITY**

#### **Section I Crimes Against Peace**

##### **Article 407**

A person who in any way makes propaganda for war, shall be punished by imprisonment for up to eight years.

##### **Article 408**

A person who, directly or indirectly, through the press, by speech, over the radio or in any other way, strives to provoke an armed attack by one state on another, shall be punished for abetment to war by imprisonment for three to ten years.

##### **Article 409**

(Amended, SG No. 153/1998)

A person who plans, prepares or wages an aggressive war, shall be punished by imprisonment for a term of fifteen to twenty years, or by life imprisonment without a chance of commuting.

**Section II**  
**Crimes Against the Laws and Customs of Waging War**

Article 410

A person who in violation of the rules of international law for waging war:

a) perpetrates or orders the perpetration of, on wounded, sick, shipwrecked persons or sanitary personnel, acts of murder, tortures, or inhuman treatment, including biological experiments, inflicts or orders grave sufferings, mutilation or other impairments of health to be inflicted to such persons;

b) perpetrates, or orders to be perpetrated, major destruction or appropriations of sanitary materials or installations,

(amended, SG No. 153/1998) shall be punished by imprisonment for a term of from five up to twenty years, or by life imprisonment without a chance of commuting.

Article 411

A person who in violation of the rules of international law for waging war:

a) perpetrates or orders to be perpetrated with regard to prisoners of war murder, tortures or inhuman treatment, including biological experiments or causes or orders grave sufferings, mutilation or other impairments of health to be inflicted on such persons;

b) compels a prisoner of war to serve in the armed forces of the enemy state, or

c) deprives a prisoner of war of the right to be tried by a regular court and under a regular procedure,

(amended, SG No. 153/1998) shall be punished by imprisonment for a term of from five up to twenty years or by life imprisonment without a chance of commuting.

Article 412

A person who in violation of the rules of international law for waging war:

a) perpetrates or orders with regard to the civil population murders, tortures, inhuman treatment, including biological experiments to be perpetrated, causes or orders grave sufferings, mutilation or other serious impairments of health to be inflicted;

b) takes or orders hostages to be taken;

c) carries out or orders unlawful deportations, persecutions or detentions to be effected;

d) compels a civilian to serve in the armed forces of an enemy state;

e) deprives a civilian of his right to be tried by a regular court and under a regular procedure;

f) unlawfully and arbitrarily perpetrates or orders the perpetration of destruction or appropriations of property on a large scale,

(amended, SG No. 153/1998) shall be punished by imprisonment for a term of from five up to twenty years or by life imprisonment without a chance of commuting.

Article 413

A person who, without having such right, bears the insignia of the Red Cross or of the Red Crescent or who abuses a flag or the insignia of the Red Cross or the Red Crescent or the colour determined for transport vehicles for sanitary evacuation, shall be punished by imprisonment for up to two years.

Article 414

(1) A person who, in violation of the rules of international law for waging war destroys, damages or makes unfit cultural or historical monuments and objects, works of art, buildings and

equipment intended for cultural, scientific or other humanitarian purposes, shall be punished by deprivation of liberty for one to ten years.

(2) The same punishment shall also be imposed on a person who steals, unlawfully appropriates or conceals objects indicated in the preceding paragraph or imposes contribution or confiscation with respect to such objects.

#### Article 415

(1) (Supplemented, SG No. 62/1997, amended and supplemented, SG No. 92/2002) A person who, in violation of the rules of international law for waging war uses or orders nuclear, chemical, bacteriological, biological or toxic weapons or impermissible ways or means for waging war to be used, shall be punished by imprisonment for three to ten years.

(2) (Amended, SG No. 153/1998) If particularly grave consequences have set in therefrom, the punishment shall be imprisonment for a term of from ten up to twenty years or life imprisonment without a chance of commuting.

#### Article 415a

(New, SG No. 92/2002)

Anyone who undertakes military preparation for the use of nuclear, chemical, bacteriological, biological or toxic weaponry as means of war, shall be punished by imprisonment from one to six years.

Section

III

Liquidation of Groups of the Population (Genocide) and Apartheid  
(Heading supplemented, SG No. 95/1975)

#### Article 416

(1) A person who, for the purpose of liquidating, completely or in part, a certain national, ethnic, racial or religious group:

- a) causes death, severe bodily injury or permanent derangement of the consciousness of a person belonging to such a group;
- b) places the group under living conditions such that lead to its full or partial physical liquidation;
- c) takes measures aimed at checking the birth rate amid such a group;
- d) forcefully transfers children from one group to another,

(amended, SG No. 153/1998) shall be punished for genocide by imprisonment for a term of from ten up to twenty years or by life imprisonment without a chance of commuting.

(2) (Previous Article 417, SG No. 95/1975) A person who commits preparation for genocide shall be punished by imprisonment for two to eight years.

(3) (Previous Article 418, SG No. 95/1975) A person who openly and directly incites genocide, shall be punished by imprisonment for one to eight years.

#### Article 417

(New, SG No. 95/1975)

A person who with the aim of establishing or maintaining domination or systematic oppression of one racial group of people over another racial group of people:

- a) causes death or severe bodily injury to one or more persons of such a group of people, or
- b) imposes living conditions of such a nature as to cause complete or partial physical liquidation of a racial group of people,

(amended, SG No. 153/1998) shall be punished for apartheid by imprisonment for a term of from ten up to twenty years or by life imprisonment without a chance of commuting.

Article 418

(New, SG No. 95/1975)

A person who for the purpose under the preceding article:

- a) unlawfully deprives of liberty members of a racial group of people or subjects them to compulsory labour;
  - b) puts into operation measures for hindering the participation of a racial group of people in the political, social, economic and cultural life of the country, and for intentional creation of conditions hampering the full development of such a group of people, in particular by depriving its members of the basic freedoms and rights of citizens;
  - c) puts into operation measures for dividing the population by racial features through setting up of reservations and ghettos, through the ban of mixed marriages between members of different racial groups or through expropriation of real property belonging thereto;
  - d) deprives of basic rights and freedoms organisations and persons, because they are opposed to apartheid,
- shall be punished by imprisonment for five to fifteen years.

**Additional Provisions**

**(Title amended, SG No. 33/2011, effective 27.05.2011)**

Article 419

In accordance with the differentiation under the preceding article punished shall be also a person who consciously allows his subordinate to commit a crime provided for in this Chapter.

Article 419a

(New, SG No. 33/2011, effective 27.05.2011, amended, SG No. 67/2023) (1) A person who publicly justifies, denies or grossly palliates a crime under this Chapter and the act was committed in a manner that could pose a risk of violence or instigates hatred among individuals or groups of people united on the grounds of race, colour, religion, origin, national or ethnic origin shall be punished by imprisonment from one to five years.

(2) The punishment under Paragraph (1) shall also apply when the crime under this Chapter was committed during and in connection with the National Socialist regime.

(3) Anyone who abet another person to commit a crime under Paragraphs 1 and 2 shall be punishable by imprisonment of up to one year.

**7. Does the implementing legislation incorporate the following aspects of cooperation with the Court and if yes, how?**

**(a) Arrest and surrender;**

These types of cooperation with the ICC are addressed by the Law on Extradition and European Arrest Warrant.

# **LAW ON EXTRADITION AND EUROPEAN ARREST WARRANT**

## **Chapter one. GENERAL PROVISIONS**

### **Extradition**

Art. 2. Extradition shall be the surrender of a person, located on the territory of one state:

1. against whom have been initiated criminal proceedings in another state or before an international court;
2. who is sought to serve custodial sentence imposed by judicial authorities of another state or an international court;
3. in respect of whom a detention order has been made by judicial authorities or by an international court.

### **Application field**

Art. 4. (1) This Act shall be applied in the presence of an international treaty to which the Republic of Bulgaria is a party and the Republic of Bulgaria shall supplement it regarding the unsettled matters.

(2) In case of absence of international treaty, the law shall be applied under the condition of reciprocity. The reciprocity shall be found by the Minister of Justice.

(3) (suppl. – SG 49/10) This Act shall also be applied in case of receipt of Bulletin of international searching of the International Organization of the Criminal Police (Interpol) or receipt of any alert through the Schengen Information System with detention and extradition purpose.

## **Chapter two. CONDITIONS FOR EXTRADITION.GROUNDS FOR REFUSAL OF EXTRADITION.**

### **Double criminality**

Art. 5. (1) Extradition shall be admitted only if the act constitutes a criminal offence as per the Bulgarian legislation and as per the legislation of the applying country, and for this offence imprisonment penalty or measure requiring detention not for shorter than 1 year or other more stiff penalty is stipulated.

(2) Extradition shall be admitted also for the purpose serving of imprisonment penalty, or if measure requiring detention of the person, imposed by the applying country for not shorter than 4 months.

(3) The act shall constitute offence in the both countries, if, not depending on the differences in the corpus delicti, the main indications are identical.

### **Persons, against which extraditions shall not be admitted**

Art. 6. (1) Extradition shall not be admitted:

1. of a Bulgarian citizen, except such provided by an entered in force international treaty, where the Republic of Bulgaria is a party to;
2. of a person, for which person refuge has been provided in the Republic of Bulgaria;
3. of a foreign citizen, who has immunity regarding the prosecution jurisdiction of the Republic of Bulgaria;
4. of a person who shall not bear penal liability as per the Bulgarian legislation;

(2) The existence of Bulgarian citizenship, of provided refuge in the Republic of Bulgaria or of immunity regarding the prosecution jurisdiction of the Republic of Bulgaria shall be assessed to the moment of receipt of the extradition request.

**Grounds on which the extradition shall be refused:**

Art. 7. Extradition shall be refused:

1. regarding a political or related to it offence, except the offences, which by virtue of a law or an international treaty where the Republic of Bulgaria is a party to, are not considered political;
2. for a military offence, which is not an offence under the general criminal law;
3. if the person, the surrender of which is required, shall be judged by an extraordinary court in the applying country or if against him/her a sentence pronounced by a such court shall be executed;
4. if the extradition has the purpose prosecution or punishing of the person on such grounds as race, religion, citizenship, ethnic belonging, sex, citizen status or political convictions, or is assessed that a risk for aggravating of his/her situation due to some of these grounds exists;
5. if the person will be a subject of violence, torture or cruel, inhuman or humiliating penalty related with the prosecution and with the execution of the penalty as per the requirements of the international law in the applying country;
6. for a offence which has been amnestied or for which the prosecution or the execution of the penalty shall be precluded due to expiration of the limitation period as per the legislation of the Bulgarian or of the applying state;
7. if for the same offence an entered in force sentence against the same person for which person the extradition is required exists in the Republic of Bulgaria;
8. if the legislation of the applying state provides for the offence death sentence or such has been imposed, except the applying state gives sufficient legal guarantees that the death sentence shall not be imposed, or if it had been imposed – shall not be executed or shall be replaced by a different penalty.

**Grounds on which extradition may be refused**

Art. 8. Extradition may be refused:

1. for an act –judicable by the Bulgarian court;
2. if for the same offence the prosecution procedures had been terminated in the Republic of Bulgaria;
3. if against the person, whose extradition is required, pending prosecution procedures for the offence for which the extradition is required exist;
4. if the sentence had been pronounced not in the presence of the person and the person did not know about the prosecution against him/her, except the applying country gives sufficient guaranties that the person shall be provided with second hearing of the case with right of defense.
5. for an offence which has been committed outside the territory of the applying country and the legislation of the Republic of Bulgaria does not allow performance of criminal prosecution for such offence.

**Chapter Three  
EXTRADITION PROCEDURE**

**Section I**

**Extradition at the Request of Another State**

Request for Extradition

### **Article 9**

(1) A request for extradition shall be submitted by a competent authority of the requesting State in writing with the Ministry of Justice of the Republic of Bulgaria.

(2) A request for extradition can also be communicated through the diplomatic channel, the International Criminal Police Organisation (Interpol) or by other means of communication which may be arranged between the requesting State and the Republic of Bulgaria.

(3) The following shall be attached to the request for extradition:

1. the original or an authenticated copy of the conviction and sentence, the act of arraignment or the detention order or arrest warrant or other document having the same effect and issued in accordance with the procedure laid down in the law of the requesting State;

2. a statement of the offence for which extradition is requested, of the time and place of its commission, its legal description, of the amount of damages, where damages have been caused, and a copy of the applicable legal provisions, including those on the lapse of time;

3. information about the person claimed, accompanied by other information allowing to establish his/her identity and nationality;

4. information about the sentence imposed remaining to be served, where the extradition of a sentenced person is requested;

5. documents evidencing the assurance under Item 8 of Article 7 and Item 4 of Article 8.

(4) The request and the documents attached to it shall be drafted in the language of the requesting State, a translation into the Bulgarian language being also attached, unless otherwise provided for in an international treaty.

Verification of Request for Extradition

### **Article 10**

(1) The Minister of Justice or an official authorised by him/her shall verify the request and the documents attached to it.

(2) Where the request and documents attached to it fall short of the requirements under Article 9 the Minister of Justice or an official authorised by him/her shall return them to the requesting State, stating the underlying reasons.

Notice of Concurrent Requests for Extradition

### **Article 11**

Where extradition of one and the same person has been requested by two or more States in respect of one and the same or of different criminal offences, the Minister of Justice shall forthwith notify the competent authorities of the requesting States of the existence of concurrent requests for extradition.

Transmission of Request and Documents to Supreme Cassation Prosecution Office

### **Article 12**

(1) Following the verification under Article 10, the Minister of Justice shall immediately transmit the request for extradition and the documents attached to it or the request for provisional arrest to the Supreme Cassation Prosecution Office.

(2) If there are concurrent requests for extradition, the Supreme Cassation Prosecution Office shall agree on their sequence with the Ministry of Justice.

Provisional Arrest

### **Article 13**

(1) In cases of urgency the competent authorities of the requesting State may request from the Ministry of Justice or the Supreme Cassation Prosecution Office the provisional arrest of the person sought, prior to submitting a request for extradition.

(2) A request for provisional arrest shall specify the existence of an act of detention, arraignment or of a conviction and the intention of the requesting State to submit a request for extradition. The request must contain information about the criminal offence in respect of which extradition will be requested, and when and where such offence was committed, as well as particulars of the person sought.

(3) Where the request for provisional arrest was submitted by a State with which the Republic of Bulgaria has not concluded a treaty on extradition, the Minister of Justice shall notify the Supreme Cassation Prosecution Office of the existence of reciprocity.

(4) A request for provisional arrest may be sent by mail, telegraph, telex, fax, through the diplomatic channel, the International Criminal Police Organisation (Interpol), or by other means capable of producing a written record evidencing its receipt and content.

(5) Once the person has been located in the territory of the Republic of Bulgaria and his/her identity has been ascertained, the Supreme Cassation Prosecution Office shall detain him/her for a period of up to seventy-two hours and communicate the request for provisional arrest together with all documents to the District Prosecutor under whose geographical jurisdiction the person is located.

(6) Within the period under Paragraph (5) the District Prosecutor shall appoint a defence counsel and an interpreter to the person where he/she has no command of the Bulgarian language and shall lodge an application for his/her provisional arrest with the respective District Court.

(7) (Amended, SG No. 86/2005, SG No. 18/2024) The District Court shall examine the application according to the procedure established by Article 64 (4) and (6) of the Criminal Procedure Code and shall pronounce by a ruling imposing thereby a measure of provisional arrest or another measure of procedural coercion to ensure the participation of the person in extradition proceedings. The measure of provisional arrest shall be taken for up to forty days or another period, as provided for in an international treaty to which the Republic of Bulgaria is a party.

(8) A ruling under Paragraph (7) may be appealed and protested before the respective Appellate Court within three days.

(9) The Supreme Cassation Prosecution Office shall forthwith notify the Minister of Justice and the requesting State of the measure imposed.

(10) (Amended, SG No. 86/2005) At the request of the arrested person under the period specified in Paragraph (7) the District Court may modify the measure of provisional arrest into another measure of procedural coercion which can ensure the participation of the person in extradition proceedings, according to the procedure established by Article 65 of the Criminal Procedure Code. The ruling of the District Court may be appealed and protested before the respective Appellate Court within three days.

(11) The prosecutor shall rescind the measure of provisional arrest where, within the period of provisional arrest specified by the court, the Republic of Bulgaria does not receive a request for extradition and the documents under Article 9 (3).

(12) Release of the person shall not be an obstacle to his/her further arrest to the purpose of extradition or to the extradition itself, where the request for extradition is received after expiry of the period under Paragraph (7).

Steps to Be Taken by Prosecution Office after Receipt of Request for Extradition

#### **Article 14**

(1) Following receipt of the request under Article 9, the Supreme Cassation Prosecution Office shall open a file for the case. If there are concurrent requests, they shall be joined in a single file.



(2) The Supreme Cassation Prosecution Office shall detain the person for a period of up to seventy-two hours, including where the period of provisional arrest specified by the court according to the procedure established by Article 13 (7) has expired or another measure has been imposed to ensure the participation of the said person in extradition proceedings.

(3) The file, together with mandatory instructions, shall be transmitted to the respective District Prosecutor under whose geographical jurisdiction the person claimed is located.

(4) Within the period under Paragraph (2) the District Prosecutor shall:

1. provide the person claimed with a defence counsel, where the latter has none, and an interpreter if he/she has no command of the Bulgarian language;

2. present the person and his/her defence counsel with all documents contained in the file and take written explanations from the person;

3. explain the person his/her right to give consent for his/her immediate extradition before the court;

4. submit a motion to the respective court for the imposition of remand in custody in respect of the person claimed until completion of the extradition proceedings;

5. submit the file for examination by the respective District Court.

Imposing Measure of Remand in Custody

#### **Article 15**

(1) (Amended, SG No. 86/2005, SG No. 18/2024) In the cases under Item 4 of Article 14 (4), the District Court shall immediately hear the motion for the imposition of remand in custody as a measure restricting personal liberty according to the procedure established by Article 64 (4) and (6) of the Criminal Procedure Code.

(2) The prosecutor shall ensure the appearance of the person claimed. The participation of a defence counsel and an interpreter in the court session shall be mandatory.

(3) The ruling of the District Court may be appealed and protested within three days before the respective Appellate Court.

Institution of Judicial Extradition Proceedings

#### **Article 16**

(1) After receiving the file on the request for extradition, the District Court shall institute judicial proceedings and shall schedule a court session no later than seven days after receiving the said file.

(2) The judge-rapporteur shall terminate the proceedings in cases covered under Article 6.

(3) By the order scheduling the case for hearing, the judge-rapporteur shall pronounce on the detention of the person.

Proceedings before First Instance

#### **Article 17**

(1) A request for extradition shall be examined by the court sitting in public session in a panel of three judges with the participation of a prosecutor.

(2) The court shall appoint a defence counsel to the person claimed and an interpreter where he/she has no command of the Bulgarian language and shall explain his/her right to consent to immediate extradition and the implications thereof.

(3) The court may obtain additional information from the requesting State, specifying a period in which it must be received.

(4) At the court session the court shall hear the prosecutor, the person claimed and his/her defence counsel.

(5) The court shall deliberate on:

1. the presence of conditions under Articles 5 and 6 and whether there are grounds for refusal of extradition under Articles 7 and 8;

2. the existence of grounds for postponement of extradition or for temporary extradition.

(6) In the presence of concurrent requests for the extradition of one and the same person in respect of the same of different offences the court shall also deliberate where the crimes were committed, on the nationality of the person claimed, the seriousness of the committed offences, the sequence in their commission and the possibility of a subsequent extradition to another requesting State, the dates on which the requests were received and the existence of reciprocity. Where one of the requests has been submitted by an international criminal court, it shall take precedence over the others.

(7) (Supplemented, SG No. 52/2008) The court shall render a decision whereby extradition is granted or refused, publishing the said decision immediately after the hearing under Paragraph (4). In all cases where rendering a decision whereby the extradition is granted, the court shall impose remand in custody as a measure restricting the personal liberty of the person claimed until the actual surrender of the said person to the requesting State.

(8) By the decision, the court shall also pronounce on the handing over to the requesting State of any documents, papers and effects found upon the person and relating to the act. These shall also be handed over where the person has died or absconded in the mean time.

Postponement of Extradition. Temporary Extradition

#### **Article 18**

(1) By virtue of the decision granting extradition the court may postpone the actual surrender of the person claimed where criminal proceedings are pending in respect of him/her in the Republic of Bulgaria or a sentence has entered into force that is subject to enforcement, in respect of an offence, which is different from the one for which extradition has been requested.

(2) Where a postponement under Paragraph (1) may result in the expiry of the prescription period for prosecution in the requesting State or could seriously obstruct prosecution, the court may grant temporary extradition, provided the person is returned to the Republic of Bulgaria immediately after performance of the steps in respect of which temporary extradition was granted.

Procedure where Consent Is Given to Immediate Extradition

#### **Article 19**

(1) Where at the court session the person claimed gives consent to immediate extradition, the court shall ask of him/her whether he/she gives consent voluntarily and understands the implications thereof.

(2) Once the court is satisfied that consent has been voluntarily given, the latter shall be put down in the record of proceedings and signed by the person and his/her defence counsel.

(3) Where there is no ground under Article 7 for refusal of extradition, the court shall render a decision on immediate extradition within twenty-four hours. The said decision shall be final.

(4) An authenticated duplicate copy of the decision under Paragraph (3) shall be transmitted within twenty-four hours to the Minister of Justice for the purposes of notifying the requesting State and the Supreme Cassation Prosecution Office, which shall have to issue a decree for the execution of extradition.

(5) (New, SG No. 49/2010) Paragraphs 1 - 4 shall not apply in case there are pending criminal proceedings against the person claimed for an offence other than that in respect whereof extradition is requested, or in case the person is to serve a sentence for an offence other than that in respect whereof extradition is requested.

Proceedings before Appellate Court

**Article 20**

(1) The decision of the District Court shall be subject to verification by the Appellate Court following an appeal of the person and his/her counsel or a protest of the prosecutor submitted within seven days of the notification thereof.

(2) The appeal or protest shall be examined within ten days of their reception in the court according to the procedure established by Article 17.

(3) The decision of the Appellate Court shall be final.

(4) An authenticated duplicate copy of the decision of the Appellate Court shall be transmitted within twenty-four hours to the Minister of Justice for notification of the requesting State and to the Supreme Cassation Prosecution Office for the issuance of a decree on the execution of extradition.

Steps to Be Taken upon Refusal to Extradite

**Article 21**

(1) In the event of refusal to extradite, the Minister of Justice shall notify the requesting State.

(2) Where the act is triable by a Bulgarian court, the records shall be made available to the respective prosecutor for the purposes of conducting a criminal prosecution, if there are grounds for this.

(3) A refusal to extradite a foreign national against whom charges have been pressed or who has been convicted in another State shall not be an obstacle to criminal prosecution in the Republic of Bulgaria if there are grounds for this.

Extradition Requested by International Court

**Article 22**

The provisions of this Section shall also apply where extradition is requested by an international court.

**(b) Interim release and release of persons (acquittal, non-confirmation of charges, etc);**

No. Nevertheless, Bulgaria could cooperate with the ICC on the basis of the direct application of the Rome Statute.

**(c) Cooperation with OTP investigations**

The provisions of Chapter Thirty Six, Section III “International legal assistance in penal cases” of the Criminal Procedure Code allow Bulgaria to provide assistance to the ICC in investigations and evidence gathering to the fullest extent possible – for example submission of documents, investigation actions; collection of evidence, providing information, and any other forms of legal assistance as stipulated in Article 93 of the Statute.

**Penal Procedure Code**

**Chapter thirty six.**

**Procedures in connection with international cooperation on penal cases**

**Section III.**  
**International legal assistance in penal cases**

**Grounds and contents of international legal assistance**

**Article 471**

(1) International legal assistance in criminal matters shall be rendered to another state under the provisions of an international treaty executed to this effect, to which the Republic of Bulgaria is a party, or based on the principle of reciprocity. International legal assistance in criminal cases shall also be made available to international courts whose jurisdiction has been recognised by the Republic of Bulgaria.

(2) International legal assistance shall comprise the following:

1. Service of process;
2. Acts of investigation;
3. Collection of evidence;
4. Provision of information;
5. Other forms of legal assistance, where they have been provided for in an international agreement to which the Republic of Bulgaria is a party or have been imposed on the basis of reciprocity.

**Refusal of international legal assistance**

**Article 472**

International legal assistance may be refused if the implementation of the request could threaten the sovereignty, the national security, the public order and other interests, protected by law.

**Appearance of witnesses and experts before a foreign national court**

**Article 473**

(1) Appearance of witnesses and experts before foreign national judicial bodies shall be allowed only if assurance is provided, that the individuals summonsed, regardless of their citizenship, shall not incur criminal liability for acts committed prior to summonsing. In the event they refuse to appear, no coercive measures may be taken in respect thereof.

(2) The surrender of individuals remanded in custody to the purpose of being interrogated as witnesses or experts shall be only admitted under exceptional circumstances at the discretion of a panel of the respective district court, based on papers submitted by the other country, or an international court, provided the individual consents to being surrendered, and his/her stay in another state does not extend beyond the term of his/her remand in custody.

**Interrogation of individuals through a video or phone conference**

**Article 474**

(1) (Amended, SG No. 32/2010, effective 28.05.2010) The judicial body of another state may conduct an interrogation, through a video or phone conference, of an individual who appears as a witness or expert in the criminal proceedings and is located in the Republic of Bulgaria, as well as an interrogation with the participation of an accused party only if such interrogating does not run counter to the fundamental principles of Bulgarian law. An interrogation through a video conference involving the accused party or a suspect may only be conducted upon their consent

and once the participating Bulgarian judicial authorities and the judicial authorities of the other state agree on the manner in which the video conference will be conducted.

(2) The request for interrogation filed by a judicial body of the other state should indicate:

1. The reason why the appearance in person of the individual is undesirable or impossible;
2. The name of the judicial body of the other state;
3. The data of individuals who shall conduct the interrogation;
4. The consent of the individual who shall be interrogated as a witness or expert through a phone conference;
5. Consent of the accused party who will take part in an interrogation hearing through a video conference.

(3) (Supplemented, SG No. 63/2017, effective 5.11.2017) Bulgarian competent authorities in the field of criminal proceedings shall implement requests for interrogation through a video or phone conferences. For the needs of pre-trial proceedings, a request for interrogation through a video or phone conference shall be implemented by the National Investigation Service. For the need of judicial proceedings, a request for interrogation through a phone conference shall be implemented by a judge in a court of equal standing at the place of residence of the individual, and for interrogation through a video conference – by a judge in the Appellate Court at the place of residence of the individual. The competent Bulgarian authority may require the requesting party to ensure technical facilities for interrogation.

(4) The interrogation shall be directly conducted by the judicial authority of the requesting state or under its direction, in compliance with the legislation thereof.

(5) Prior to the interrogation the competent Bulgarian authority shall ascertain the identity of the person who needs to be interrogated. Following the interrogation a record shall be drafted, which shall indicate:

1. The date and location thereof;
2. The data of the interrogated individual and his or her consent, if it is required;
3. The data of individuals who took part therein on the Bulgarian side;
4. The implementation of other conditions accepted by the Bulgarian party.

(6) An individual who is abroad may be interrogated by a competent Bulgarian authority or under its direction through a video or phone conference where the legislation of said other state so admits. The interrogation shall be conducted in compliance with Bulgarian legislation and the provisions of international agreements to which the Republic of Bulgaria is a party, wherein the above means of interrogation have been regulated.

(7) The interrogation through a video or phone conference under Paragraph 6 shall be carried out in respect of pre-trial proceedings by the National Investigation Service, whereas in respect of trial proceedings - by the court.

(8) The provisions of Paragraphs 1 - 5 shall apply mutatis mutandis to the interrogation of individuals under Paragraph 6.

### **Procedure for submission of a request to another country or international court**

#### **Article 475**

(1) A letter rogatory for international legal assistance shall contain data about: the body filing the letter; the subject and the reasoning of the letter; full name and citizenship of the individual to whom the letter refers; name and address of the individual on whom papers are to be served; and, where necessary - the indictment and a brief description of the relevant facts.

(2) A letter rogatory for international legal assistance shall be forwarded to the Ministry of Justice, unless another procedure is provided by international treaty to which the Republic of Bulgaria is a party.

### **Execution of request by another country or international court**

#### **Article 476**

(1) Request for international legal assistance shall be executed pursuant to the procedure provided by Bulgaria law or pursuant to a procedure provided by an international agreement to which the Republic of Bulgaria is a part. A request may also be implemented pursuant to a procedure provided for in the law of the other country or the statute of the international court, should that be requested and if it is not contradictory to the Bulgarian law. The other country or international court shall be notified of the time and place of execution of the request, should that be requested.

(2) Request for legal assistance and all other communications from the competent authorities of another state which are sent and received by fax or e-mail shall be admitted and implemented by the competent Bulgarian authorities pursuant to the same procedure as those sent by ordinary mail. The Bulgarian authorities shall be able to request the certification of authenticity of the materials sent, as well as to obtain originals by express mail.

(3) The Supreme Prosecution Office of Cassation shall set up, together with other states, joint investigation teams, in which Bulgarian prosecutors and investigative bodies will take part. An agreement with the competent authorities of the participant states shall be entered in respect of the activities, duration and composition of a joint investigation team. The joint investigation team shall comply with provisions of international agreements, the stipulations of the above agreement and Bulgarian legislation while being on the territory of the Republic of Bulgaria.

(4) The Supreme Prosecution Office of Cassation shall file requests with other states for investigation through an under-cover agent, controlled deliveries and cross-border observations and it shall rule on such requests by other states.

(5) In presence of mutuality a foreign authority carrying out investigation through an agent under cover on the territory of the Republic of Bulgaria shall be able to collect evidence in accordance with its national legislation.

(6) In urgent cases involving the crossing of the state border for the purposes of cross-border observations on the territory of the Republic of Bulgaria the Supreme Prosecution Office of Cassation shall be immediately notified. It shall make a decision to proceed with or terminate cross-border observations pursuant to the terms and conditions of the Special Intelligence Means Act.

(7) The implementation of requests for controlled delivery or cross-border observations filed by other states shall be carried out by the competent investigation authority. It shall be able to request assistance from police, customs and other administrative bodies.

Costs for execution of request

#### **Article 477**

The costs for execution of request shall be distributed between the countries in compliance with international treaties to which the Republic of Bulgaria is a party, or on the basis of the principle of reciprocity.

**(d) Cooperation with the Court on the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes;**

Provisions governing ICC requests for identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes are dealt with in Chapter thirty six, Section III “International legal assistance in penal cases” of the Penal procedure Code (*pls. see above*).

**(e) Enforcement of sentences;**

No. Nevertheless, Bulgaria could cooperate with the ICC on the basis of the direct application of the Rome Statute.

**(f) Witness protection;**

The Bulgarian legislation addresses the protection of ICC witnesses in the context of MLA procedure by virtue of Chapter thirty six, Section III “International Legal Assistance in Penal Cases” of the Penal Procedure Code and the direct application of Part 9 of the Rome State. The relevant provisions allow taking and producing of evidence within the Bulgarian territory during the ICC proceedings. Physical protection to witnesses under protective orders of the ICC can also be granted under the PPC and the Law on Protection of Persons at Risk in Relation to Criminal Proceedings. In accordance with Art.476 of the PPC requests from the ICC may be executed in the manner indicated by the Court, provided that this does not contradict the Bulgarian laws.

**PENAL PROCEDURE CODE**

**Protection of witness**

Art. 123. (1) The prosecutor, the reporting judge or the Court, on the witness’s request or with the latter’s consent shall take measures to protect him/her, where there are sufficient reasons to presume that, as a result of testifying, there has arisen or may arise a real danger for the life, health or property of the witness, of his or her ascendants, descendants, brothers, sisters, spouse or of persons that he/she is in particularly close relations with.

(2) The protection of the witness shall be temporary and shall be achieved through:

1. (amend. - SG 21/14, in force from 09.04.2014) providing personal physical guarding by:

a) the bodies of the Ministry of Interior;

b) officials of the Protection Bureau at the Prosecutor General, where necessary and expressly assigned by a prosecutor under para 1;

2. keeping secret his/her identity;

(3) The measure for personal physical guarding of ascendants, descendants, brothers or sisters, spouse or persons, that the witness is in particularly close relations with, shall be taken with their consent or with the consent of their legal representatives.

(4) The act of the respective body for the protection of a witness shall state:

1. the issuing body;

2. the date, time and place of issuance;

3. the circumstances which necessitate providing measures of protection of the witness;

4. the kind of the taken measures  
5. the person's identification data  
6. the identification number which shall be given to the person whose identity shall be kept in secret

7. the signatures of the person and the issuing body.

(5) Direct access to the protected witness shall have the respective pre-trial bodies and the Court, and the defender and the trustee- if they have indicated the witness.

(6) The measures to protect the witness shall be lifted on a request of the person with regard to whom they have been taken or where there is no more need to apply them, by an act of the body under Para. 1.

(7) For the protection of life, health or property of the persons under Para. 1 who have given consent thereof, special intelligence means may be used.

(8) Within a thirty-day-period from the measure, taken under Para. 2, the prosecutor or the reporting judge may propose to include the witness and his/her ascendants, descendants, brother or sisters, spouse or persons, that the witness is in particularly close relations with, into the programme of protection under the conditions and following the order of the Law on Protection of the Persons Threatened in Connection with Criminal Procedure.

### **Protection of undercover officers in the penal procedure**

Art. 123a. (new - SG 32/10, in force from 28.05.2010) (1) No undercover officer shall be questioned as witness, where there are sufficient grounds to assume that as a result thereof may arise real threat for the life or health of the officer, of his ascendants, descendants, brothers, sisters, spouse or persons of significantly close relations with him, as well as if the exercise of his functions may be impeded.

(2) The head of the structure, providing and conducting the investigation through an undercover officer or a person authorised by him shall estimate if a threat under Para. 1 might possibly arise, and shall notify the observing prosecutor and the Court.

(3) The data of the identity of the undercover officer may be provided to the observing prosecutor or the Court upon request in writing filed with the authority under Art. 175, Para. 2, who shall issue an order in writing for disclosure of identity, if no threat under Para. 1 may arise.

(4) The authorities of the pre-trial proceedings and the Court shall take all possible measures to keep in secret the identity of the undercover officer.

## **LAW ON PROTECTION OF PERSONS AT RISK IN RELATION TO CRIMINAL PROCEEDINGS**

### **Chapter Two SPECIAL PROTECTION OF INDIVIDUALS AT RISK (Heading amended, SG No. 44/2018)**

#### **Section I Characteristics of the Special Protection of Individuals at Risk and Types of Protection (Heading amended, SG No. 44/2018)**



Article 5. (Amended, SG No. 44/2018) (1) Within the meaning of this Act, special protection shall be the implementation of a set of protection measures and activities undertaken by certain government authorities with a view to reducing the risk of committing illegal encroachment against the individuals referred to in Paragraph 3, and enhancing their safety.

(2) (Amended, SG No. 80/2021) Special protection shall be provided by means of preliminary protection and a programme for the protection of individuals at risk in confidentiality and under the terms and procedure laid down in a Minister's of Justice act.

(3) (Amended, SG No. 80/2021) Preliminary protection shall be a set of measures whereby immediate protection is provided to individuals at risk. Preliminary protection shall be provided for a period of up to 30 days, until the Minister of Justice issues an act or the Protection Board takes the decision under Article 17. The term may be extended, if necessary, by no more than 30 days.

(4) The programme for the protection of individuals at risk, hereinafter referred to as the Programme for Protection, shall be a set of measures taken in respect of individuals who have acquired a status of protection under this Act.

(5) The special protection may also include activities for the provision of welfare, medical, psychological, legal and financial assistance facilitating the integration of the individual in the new environment.

(6) Special protection measures shall be binding upon all state and local self-government authorities, as well as upon all legal and natural persons.

(7) In the implementation of special protection the Protection Bureau may request assistance from all bodies, which the latter shall not be allowed to refuse.

(8) (Amended, SG No. 80/2021) The Minister of Justice may conclude agreements about cooperation and interaction and may issue joint instructions on interaction with state and local self-government authorities regarding the procedure and prerequisites for providing assistance under this Act.

Article 6. (Amended and supplemented, SG No. 66/2008, effective 26.09.2008, amended, SG No. 44/2018) (1) Preliminary protection shall include the following measures:

1. personal physical protection;
2. property protection;
3. placement in a safe location;
4. (supplemented, SG No. 80/2021) placement in another location to serve the sentence or to implement the remand measure of custody.

(2) The Programme for Protection shall consist of the following measures:

1. change of the place of residence in the country;
2. change of the place of work;
3. change of the nursery or the pre-school, school and higher education institution;
4. (supplemented, SG No. 80/2021) placement in another location to serve the sentence or to implement the remand measure of custody;
5. relocation in another country under the terms stipulated in Article 27, Paragraph 1, Items 1 and 2.

(3) The measures referred to in Paragraphs 1 and 2 may be applied together or separately.

(4) If necessary, the measures referred to in Paragraph 1 may be applied together with the measures referred to in Paragraph 2 under the terms of Article 17a as long as there are reasons thereof, but for a period not exceeding the time-limit set forth in Article 5, Paragraph 3.

(5) By an express written consent of the protected individual, when applying the measures referred to in Paragraph 2, new basic data may be piled up about the person, which data differs from that of another person. While the person uses documents containing new basic data, he/she shall not use documents containing his/her previous basic data.

(6) The new basic data and the documents referred to in Paragraph 5, which have been issued thereto, shall be destroyed upon cessation of the need for its processing.

(7) (Amended, SG No. 80/2021) At the protected person's request made prior to the termination of the Programme for Protection, the Minister of Justice may authorize the use of the new basic data and of the documents issued thereto, including after completion of the Programme for Protection.

(8) Individuals at risk who have received special protection within the meaning of this Act, and in case it is possible, may participate in criminal proceedings by means of a video or telephone conference call pursuant to the procedure stipulated in the Criminal Procedure Code.

### **Chapter Three INTERNATIONAL COOPERATION**

Article 26. On grounds of an international agreement to which the Republic of Bulgaria is a party or based on mutuality the Protection Bureau may request and provide assistance in the implementation of protection as herein set forth.

Article 27. (1) (Previous text of Article 27, SG No. 66/2008, effective 26.09.2008) In presence of the conditions under Article 26, the Protection Bureau may:

1. (Amended, SG No. 66/2008, effective 26.09.2008) Move (relocate) an individual under protection in another state, if his/her protection cannot be arranged in the Republic of Bulgaria;
2. Request the provision of temporary residence for a fixed period to the individual under protection in another state, as well as personal physical protection, where necessary;
3. Provide residence to an individual transferred to the Republic of Bulgaria within the framework of a Programme for Protection, at the request of the other state;
4. Provide temporary residence in the Republic of Bulgaria to a foreign individual under protection for the period indicated in the request of the other state, as well as personal physical protection, where necessary.

(2) (New, SG No. 66/2008, effective 26.09.2008, amended, SG No. 21/2014, effective 9.04.2014, SG No. 80/2021) The Minister of Justice shall inform the Protection Board of the measures undertaken under Paragraph 1 within three days.

#### **(g) Other forms of cooperation (see in particular article 93 of the Rome Statute).**

Yes. Please see above the provisions of Chapter thirty six, Section III of the Penal Procedure Code.

#### **8. Does the implementing legislation designate a channel of communication with the Court?**

No. The relevant provisions of the Rome Statute shall apply. Requests for cooperation shall be transmitted through diplomatic channels.

**9. Does the implementing legislation create a central national authority or designate a national focal point for cooperation with the Court?**

No specific central authority or national focal point has been designated for cooperation with the Court. Depending on the cooperation sought the general rules of the Criminal Procedure Code or the Law on Extradition and European Arrest Warrant shall apply. In cases of mutual legal assistance and extradition competent to receive the requests will be the Bulgarian Ministry of Justice. Requests for cooperation shall be transmitted through diplomatic channels.

**10. Does the implementing legislation provide for the privileges and immunities of the Court? (See in particular article 48 of the Rome Statute and the Agreement on the Privileges and Immunities of the International Criminal Court)**

No. Article 48 of the Rome Statute and the Agreement on the Privileges and Immunities of the International Criminal Court (ratified by the Republic of Bulgaria on 28 July 2006) shall apply.

**11. What obstacles, if any, did your Government face in its efforts to implement the provisions of the Statute? How did your Government manage to overcome such obstacles?**

N/A

**12. Did your Government benefit from any form of assistance in the process of implementing the Statute?**

N/A

**13. Has your government initiated or considered additional steps for the implementation of the Statute in national legislation?**

Further amendments to the Criminal Code are planned as a step towards the ratification of the amendments to the Rome Statute.

*Дирекция „МПЦЕВ“, МП*

*м. юли 2024 г.*