

# Commission Guidelines on Extradition to Third Countries



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News

On 7 June 2022, the Commission presented [guidelines on extradition to third countries](#). The guidelines respond to Council conclusions on challenges and the way forward for the European Arrest Warrant and extradition procedures. The conclusions were adopted at the end of the German Council presidency in December 2020 (→ [eucrim 4/2020, 290](#)). The Council, *inter alia*, expressed the dilemma for EU Member States' authorities to handle the CJEU's 2016 landmark judgment in the Petruhhin case (→ [eucrim 3/2016, 131](#)) and several related judgments of the Court (→ e.g. [eucrim 4/2020, 289](#), and [eucrim news of 3 April 2020](#)).

The Council stressed that EU Member States are faced with two obligations: on the one hand, the duty to fulfil existing obligations under international law and to combat the risk that the offence concerned will go unpunished and, on the other hand, Member States that do not extradite their nationals are obliged, in accordance with the principles of freedom of movement and non-discrimination on grounds of nationality, to protect citizens from other Member States as effectively as possible from measures that may deprive them of the rights of free movement and residence within the EU. The Council additionally pointed out unfounded and abusive requests for extradition submitted by third countries, which form another problem.

The Commission also refers to the assessment made by Eurojust and the EJM on the practical consequences of extradition requests by third countries seeking for the extradition of EU citizens (→ [eucrim 4/2020, 288](#)). Against this background, the Commission guidelines include the following:

- Summary of the CJEU case law in Petruhhin and subsequent relevant cases;
- Analyses of scope, steps to be followed, information exchange mechanism, etc. in said extradition cases that concern the nationality exception;
- Guidelines applicable to all Member States regardless of the nationality exception, i.e. fundamental rights assessments before extradition and handling unfounded and abusive extradition requests (including politically motivated Interpol Red Notices);
- Practical aspects of the Petruhhin mechanism and politically motivated extradition requests, such as language regime and costs, and data protection issues.

Further practical information is provided in the annexes of the guidelines. The annexes include an illustration of steps to be taken concerning extradition requests for prosecution purposes, an overview of nationality exceptions, and several templates, for instance, to request additional information, to make notifications and to reply.

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