



Serbia: Extradition Legislation

June 2008

LL File No. 2008-001220
LRA-D-PUB-000171

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SERBIA

EXTRADITION LEGISLATION

Basic principles and procedures of extradition are defined by the Criminal Code of the Republic of Serbia.¹ The Code provides for Serbian territorial jurisdiction over: (1) all crimes committed on Serbian territory, vessels, and aircraft, by any individual; and (2) those Serbian citizens who were extradited to Serbia after committing a criminal offense abroad (arts. 7, 8). The Code states that in extradition cases, the penalties prescribed by the laws of the country where the crime was committed shall be taken into account, and punishments imposed by a Serbian court shall not be harsher than those of the foreign state. Special procedures are prescribed for the extradition of a foreign citizen who committed a criminal offense abroad and was found in Serbia (art. 9), and for the return of a foreign individual to his/her home state after being sentenced by a Serbian court (art. 6.5).

Unlike the constitutions of many other Eastern European countries, the Serbian Constitution does not prohibit the extradition of Serbian nationals to foreign states. As a rule, all extradition cases are handled by the Ministry of Justice in response to a formal extradition request submitted by a foreign state through the appropriate channels specified in the bilateral Extradition Treaty. The present Extradition Treaty between the United States and the former Yugoslavia was concluded on October 25, 1901, and entered into force on June 12, 1902. This Treaty remains valid for Serbia, which is the legal successor to the former Yugoslavia.²

Regarding Serbian citizens, the law prescribes a detailed legal procedure before the local courts, which rule on the possibility of extradition. When a local court rules to sustain a foreign extradition request, the suspect is handed over to foreign law enforcement officials. During the court hearings on extradition, the suspect is subject to mandatory detention.³ In some cases, especially those related to the extradition of war crime suspects by the United Nations International Criminal Tribunal for the Former Yugoslavia, decisions on extradition are made by the nation's Government.

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June 2008.

¹ SLUZBENI LIST 85/2005, 107/2005 (official gazette).

² See United States Department of State, BILATERAL TREATIES IN FORCE 2007 at 309, available at <http://www.state.gov/documents/treaties/83046.pdf> (last visited June 27, 2008).

³ Criminal Code of the Republic of Serbia, art. 11, SLUZBENI LIST, *supra* note 1.