

**CODE OF PENAL PROCEDURE**

**BOOK ONE  
GENERAL DEFINITIONS**

[...]

**SECTION TWO  
PROSECUTION**

**CHAPTER ONE  
GENERAL PROVISIONS**

[...]

**Article 30**

**Right of the Minister of Justice to prosecute**

1. The Minister of Justice has the right to order the public prosecutor of the court of misdemeanours to carry out a preparatory investigation for any punishable act.
2. In cases of political crimes and crimes through which the international relations of the state may be disturbed, the Minister of Justice, following a concurring opinion of the Ministerial Council, has the right to postpone the commencement of prosecution or to suspend prosecution. Suspension of prosecution may be effectuated until the commencement of the trial proceedings at the latest.
3. In cases of exceptional nature, the Minister of Justice may request the public prosecutor of the Areios Pagos to order investigation and referral of the case directly to trial in absolute priority.

[...]

**CHAPTER TWO  
COMMENCEMENT AND POSTPONEMENT OF PROSECUTION**

[...]

**Article 37**

**Obligation to notify**

1. Investigating officials are under obligation to notify the competent public prosecutor without delay of any information that they have received in any way on a punishable act that is prosecuted *ex officio*.
2. All other civil servants, as well as those to whom the exercise of a public service has been assigned temporarily, are under the same obligation for the punishable acts of paragraph 1, if they have been informed thereof in the exercise of their duties.
3. The notification is made in writing and must contain all existing elements referring to the punishable act, the offenders and the evidence.

[...]

**Article 43**

**Initiation of prosecution**

1. Upon receiving the complaint or report, the public prosecutor initiates prosecution by ordering a summary investigation or an investigation or by referring the case to trial by directly summoning the defendant, as provided. However, in cases involving felonies or misdemeanours tried by the three-member court of misdemeanours, [the public prosecutor of the court of misdemeanours] initiates prosecution only when a preparatory investigation or summary investigative acts have already been performed in accordance with paragraph 2 of article 243 and adequate indications of guilt support prosecution. Additionally, a preparatory investigation need not be carried out, provided that a sworn administrative investigation resulting in adequate indications of guilt supporting prosecution has been carried out.

2. If the complaint or report is not legally founded or is manifestly unfounded in substance or is insusceptible of judicial control, the public prosecutor of the court of misdemeanours files it and submits a copy thereof to the public prosecutor of the court of appeals, while highlighting the reasons that made him not prosecute. [The public prosecutor of the court of misdemeanours] will do the same in cases when, following the carrying out of a preparatory investigation or investigative acts carried out in accordance with article 243 paragraph 2 or the sworn administrative investigation, he finds that no adequate indications of guilt have come to light to support prosecution. The public prosecutor of the court of appeals: (a) In cases falling under section one, may order the public prosecutor of the court of misdemeanours to carry out a preparatory investigation if the crime is a felony or a misdemeanour tried by the three-member court of misdemeanours, or to prosecute for any other crime and (b) In cases falling under section two, may order prosecution.

#### **Article 44**

##### **Postponement and suspension of prosecution**

1. In cases of misdemeanours, if the penalty that will most probably be imposed on the culpable person and also the other consequences thereof, as provided by the penal code, are minimal in relation to the penalty already imposed in the past for another act currently served, the public prosecutor, following confirmation by the public prosecutor of the court of appeals, has the right to postpone prosecution indefinitely by reasoned order. If, however, the prosecution has already commenced, the indefinite suspension thereof is irrevocably ordered by the judicial council or the court, following proposal by the public prosecutor.
2. A similar postponement or suspension may also be ordered under the same conditions when the defendant has already been referred to court for a graver act, unless the prosecution of the less grave act is necessary in finding the truth in general or in assessing the defendant's character.
3. In both instances mentioned above, prosecution or continuation of the suspended prosecution may be ordered at a later stage by the same authorities: (a) if the execution of the penalty imposed, which supported the order of suspension of the other act, is for any reason discontinued and (b) following the irrevocable adjudication on the charge that is pending, which supported the suspension of prosecution.
4. In cases involving suspension of prosecution in accordance with paragraphs 1, 2 and 3, the rights of the victims are not affected and may be exercised before the competent civil court.

#### **Article 45**

##### **Abstention from prosecution**

In cases involving the crime of extortion that is committed with the threat that a punishable act will be disclosed, or of fraud which, if reported by the victim, would have possibly revealed the victim's guilt of another act that is contextual to the fraud, resulting in the victim's prosecution, the public prosecutor may, following confirmation by the public prosecutor of the court of appeals and by reasoned order, definitively abstain from prosecuting the act the disclosure of which was threatened by extortion or for which the deceived may have been prosecuted, upon condition that its prosecution, when compared to the gravity of the extortion or the fraud that would have been prosecuted, is not necessary for the protection of the public interest. The provision of paragraph 4 of article 44 is also applied in this case.

#### **Article 45A**

##### **Abstention from prosecution of a minor**

1. If a minor commits a punishable act that is a petty violation or a misdemeanour, the public prosecutor may abstain from prosecution if, by researching the conditions

under which the act was committed and the character of the minor in whole, he finds that its prosecution is not necessary in order to refrain the minor from the commission of new punishable acts.

2. By order of the public prosecutor, one or more of the reformatory measures stipulated in sections (a) to (k) of article 122 of the Penal Code, as well as payment of a sum of up to 1,000 euros to a non-profit or welfare legal entity may be imposed upon the minor. By the same order, a time limit for compliance is set. If the minor complies with the measures and obligations imposed, the public prosecutor acts in accordance with the provisions of article 43 paragraph 2. In the opposite case, the public prosecutor commences prosecution in accordance with article 43 paragraph 1.

### **CHAPTER 3 COMPLAINT**

#### **Article 46**

##### **Complaint by the victim**

If the victim wishes to request prosecution of a punishable act, he submits a complaint in accordance with the provisions of article 42 paragraphs 2 and 3.

#### **Article 47**

##### **Dismissal of complaint**

1. The public prosecutor examines the complaint received and, if he finds that it is not legally founded or that it is insusceptible of judicial assessment or that it is manifestly unfounded in substance, he dismisses it by reasoned order that is served to the complaining party.
2. If a preparatory investigation or investigative acts, in accordance with article 243 paragraph 2, or a sworn administrative investigation has been performed and the public prosecutor finds that no adequate indications of guilt exist in support of prosecution, he acts as in the previous paragraph.
3. The provisions of articles 43 paragraph 1, 44 and 45 are also applied in relation to the complaint.

#### **Article 48**

##### **Right of recourse of the complaining party**

Within fifteen days from service of the public prosecutor's order as provided in paragraphs 1 and 2 of the previous article, the complaining party may appeal to the competent public prosecutor of the court of appeals and attack the order of the public prosecutor of the court of misdemeanours. The time limit may not be extended for reasons due to distance. A report on the request is drafted by the secretary of the public prosecutor's office or by the secretary of the court of misdemeanours of the place of domicile or residence of the appealing party and communicated to the secretary of the public prosecutor's office. If the public prosecutor of the court of appeals accepts the request, the last section of paragraph 2 of article 243 is applied by analogy.

#### **Article 49**

##### **Application in petty violations**

1. The provisions of articles 42, 43, 44, 46, 47 and 48 are also applied in petty violations. In relation thereto, the rights and duties of the public prosecutor of the court of misdemeanours appertain to the public accuser and, wherever no public accuser exists, they appertain to the judge of petty violations in accordance with article 27 paragraph 2; the rights of the public prosecutor of the court of appeals appertain to the public prosecutor of the court of misdemeanours and the rights of the judicial council or the court (article 44) appertain to the judge of petty violations.

2. In relation to petty violations, prosecution is also suspended, apart from the cases referred in article 44, for as long as the defendant is serving in the army for whatever reason and resides away from the seat of the competent court of petty violations. The public accuser orders the suspension by reasoned order.

#### **Article 50**

##### **Prosecution by complaint alone**

1. In exceptional cases specifically stipulated in the penal code or other laws, prosecution is initiated exclusively by complaint of the victim.
2. Following the submission of the complaint, prosecution is carried out as in the case of crimes prosecuted *ex officio*. If prosecution was ordered without a complaint, the declaration that is relevant to the complaint may be made by the victim even before the court prior to the initiation of the trial.

#### **Article 51**

##### **Resignation from the exercise of the right to complain**

1. Resignation from the right to complain by the eligible party in person or by special power of attorney is made before a notary public, the public prosecutor or any investigating official; a relevant report is drafted.
2. Resignation including terms or time limits bears no legal consequences. Revocation of the resignation is not allowed.
3. Resignation from the civil claim for reparations may also be made with the same declaration.

#### **Article 52**

##### **Withdrawal of the complaint**

1. The complaining party may withdraw the complaint either in person or by special power of attorney.
2. The provisions of article 42 are applied in relation to the civil servants before which the withdrawal is made and the method according to which it must be made. The withdrawal may also be made before the court throughout the trial stage and until the judgment of the court of second instance is issued, by declaration that is recorded in the minutes. A withdrawal made at a later stage is inadmissible.

#### **Article 53**

##### **Costs upon withdrawal**

The advance payment of judicial costs that in any case devolve upon the withdrawing party are not necessary for the withdrawal provided in article 52. A copy of the report provided in article 52 or the minutes is sent to the competent paymaster for collection together with the clearance of judicial costs.

[...]

### **BOOK THREE THE PRE-TRIAL STAGE**

[...]

#### **SECTION TWO Investigative acts**

[...]

#### **CHAPTER TWO Searches**

[...]

### **Article 258**

#### **Drafting of the report and custody**

As soon as the search is completed, a report is drafted in accordance with articles 149 *et seq.*. All things that have been found are confiscated and submitted to custody following the provisions of articles 259 and 264-266.

### **Article 259**

#### **Custody**

The person carrying out the investigation may submit things and documents related to the crime into custody at any time, even when they have not been confiscated but simply delivered to him.

## **CHAPTER THREE CONFISCATION**

### **Article 260**

#### **Confiscation performed in banks and other institutions**

1. The persons listed in article 251 may personally confiscate bonds from banks or other public or private institutions, which are deposited in quantities in a current account, and any other deposited thing or document even when they are deposited in safety boxes, notwithstanding the fact that they may not belong to the defendant or that they are not registered under his name, provided that they are related to the crime.
2. Such persons may research the correspondence and all acts of the bank or institution in order to locate the things that must be confiscated or to verify other circumstances that are useful in determining the truth. In the event of refusal, they perform research and confiscation of useful documents and things.

### **Article 261**

#### **Obligation to deliver documents**

Civil servants in general, to whom a public service has been assigned even temporarily, and all other persons listed in article 212 are under obligation, if ordered by the person carrying out the investigation, to deliver to the judicial authority the documents, even the originals, as well as any other object that is in their possession because of their service, office or profession, unless they declare in writing, even without reasons, that they refer to a diplomatic or military secret related to state security or a secret relating to their office or profession.

### **Article 262**

#### **Confiscation of documents**

1. If the person carrying out the confiscation believes that the declaration made in accordance with article 261, referring to a state secret from those listed therein, is not true, he seals the document or secures it in any other way without acquiring knowledge of the contents thereof, and reports to the public prosecutor of the court of appeals who informs the Minister of Justice accordingly; the Minister has the right to either allow confiscation or not, under the reservation of penal and any other liability in the event that the declaration proves to be untrue.
2. Research and confiscation of any document deposited at the Ministry of Foreign Affairs is allowed only upon permission by the ministers of Foreign affairs and Justice, who provide it if, according to their judgment, national interests are not damaged.
3. If the bearer declares that [the documents] refer to a secret of the office or profession of persons listed in article 212 and the person carrying out the confiscation believes that such declaration is not true, the latter seals the document or secures it in any other way, without acquiring knowledge of its contents and requests the board of directors of the relevant association (bar association, medical or pharmaceutical association) or from the relevant metropolitan to assess whether this document

contains a professional secret or a confession. In cases when a negative answer is given to this request, the document is confiscated, under the reservation of penal or and other liability in the event that the declaration proves to be untrue.

### **Article 263**

#### **Confiscation following the end of the investigation**

1. If the confiscation of objects or documents related to the crime was either not possible or not thought to be necessary during the course of the investigation, confiscation may be ordered by the court at any stage of the trial, even *ex officio*, in which case it is carried out by the investigating official so ordered as soon as its carrying out is possible.
2. In the event of irrevocable conviction, confiscation is ordered by the public prosecutor, even *ex officio*, whenever it is considered possible and irrespective of whether the penalty has been served or has become extinct in any other way. The court decides on the confiscated things and documents in accordance with article 373.

### **Article 264**

#### **Copies of confiscated documents**

1. The person that carried out the confiscation may allow for the issuing of copies to the persons who bore the documents prior to the confiscation, free of charge; he may also keep copies of the documents delivered for himself, by returning the originals.
2. Civil servants and lawyers may issue copies, excerpts and certificates of the documents delivered to them by the investigating official, in original form or copies thereof. If, however, the confiscation has taken place, they must make reference of its execution.
3. In any case, the person or institution or office where the confiscation took place has the right to receive a certificate related thereto, free of charge.

### **Article 265**

#### **Judicial deposit of documents**

1. If the document that needs to be confiscated is part of a volume or book, from which it may not be detached and the person carrying out the investigation believes that taking the document alone will not be sufficient, the whole volume or book is deposited to the secretary of the court for safekeeping; by permission of the investigator or the public prosecutor, the secretary issues copies, excerpts or certificates related to parts of the volume or book to the interested parties following request, while referring to the partial confiscation.
2. In such cases, the person who bore [the volume or book] prior to the confiscation is given a copy of the report on confiscation free of charge.

### **Article 266**

#### **Safekeeping of confiscated things**

1. Confiscated things are deposited to the secretary of the court for safekeeping, unless such safekeeping is not possible for that person, in which case the person carrying out the investigation orders their safekeeping elsewhere and appoints a capable and **solvent** person as keeper. Monies and other items of value are deposited at the Deposit and Loans Fund in accordance with the provisions regulating its operation.
2. The report on the deposit makes reference to the obligation of the keeper to safekeep the things and to deliver them whenever so requested by the judicial authority; the investigating official may impose on the keeper the payment of a guarantee, which is delivered to the secretary of the court of first instance or the justice of the peace of the place of [his] domicile.
3. If a five-year period has lapsed since the confiscation of the things referred to in paragraph 1 and no irrevocable judgment has been issued thereon, the things are destroyed, if they are of no use or of no value or of low value. The destruction is

decided if it is found that they have no evidentiary value; it is carried out by a committee comprised of: (a) a public prosecutor or a deputy public prosecutor of the court of first instance, appointed together with his substitute, by the public prosecutor supervising the relevant public prosecutor's office and (b) an officer of the secretariat of the court of first instance and an officer of the public prosecutor's office, appointed with their substitutes, by the president and the public prosecutor of the court of first instance respectively.

Things that are vile or dangerous to the public health are destroyed even prior to the expiration of the five-year time limit. Guns and ammunition are delivered to the competent military authority following a written invitation by the public prosecutor. A protocol is drafted on the delivery.

#### **Article 267**

##### **Sealing**

Should the need arise, whoever carries out the confiscation seals the confiscated things or documents by either setting the seal of the office or in any other way; additionally, anyone having an interest in so doing may also set his own seal if he is present and requests to do so. The unsealing is made in their presence, if possible, after verifying that the seals have not been violated.

#### **Article 268**

##### **Copies and photographs of confiscated things. Lifting of the confiscation**

1. If possible, the person carrying out the confiscation makes copies of the confiscated documents and takes photographs or other forms of representation of confiscated objects that may alter by time or that are difficult to keep.
2. The person carrying out the investigation orders the sale of perishable objects in a public auction by preference or their destruction if the law prohibits their possession.
3. In any case, the judicial council or the court may order the lifting of the confiscation if it is improbable that in doing so, difficulties will obstruct the finding of the truth.

## **CHAPTER FIVE**

### **ARREST AND TEMPORARY DETENTION OF THE DEFENDANT**

[...]

#### **Article 288**

##### **Accumulated crimes committed by a single act and crime in continuance**

1. When the crime for which temporary detention has been ordered is accumulated to another crime committed by the same act, or if the crime was committed in continuance, the time limit provided in article 287 is calculated as of the time when the defendant was temporarily detained for the first time either for one of the accumulated crimes committed by a single act or for one of the particular acts comprising the crime in continuance.
2. As of the imposition of the temporary detention and until the issuance of a final decision, a new temporary detention of the same defendant may not be ordered for another act which, according to the data on file, prosecution could have been made or charges could have been pressed simultaneously with the prosecution resulting in the imposition of the previous temporary detention or within reasonable time from such prosecution. By exception, a new temporary detention may be ordered for another act, if the prosecution of this act could have been made only during the last three months prior to the expiration of the time limit of the previous temporary detention or the possible release of the detained person. In this case, the new temporary detention may not last for more than one year and may not be extended.

[...]

**BOOK FIVE  
SPECIAL PROCEDURES**

[...]

**SECTION THREE  
LEGAL ASSISTANCE**

**CHAPTER ONE  
EXTRADITION**

**Article 436**

**Extradition in general**

1. If no convention applies, the terms and procedure on the extradition of aliens are regulated by the provisions of the following articles.
2. These provisions apply even when a convention applies, if they do not contradict the provisions thereof; they also apply on points not covered by the convention.

**Article 437**

**Cases when extradition is permitted**

Extradition of an alien is permitted:

- (a) When the alien is accused of a punishable act for which both the Greek penal law and the law of the state requesting extradition provide custodial penalty, the maximum limit of which is two years or higher or the death penalty. In cases of accumulated crimes, extradition is allowed for each of the accumulated crimes, provided that one of them is punishable with one of the above penalties. If the person for whom extradition is requested has already been irrevocably convicted by a court of any state with a custodial penalty of at least three months for a crime not provided by article 438, section c and extradition is requested for a crime committed in recidivism according to both the Greek penal law and the law of the state requesting extradition, extradition may be allowed if this crime is punishable as a misdemeanour with any custodial penalty;
- (b) When the courts of the state requesting extradition have convicted him to a custodial penalty of at least six months for a punishable act which is characterised as a misdemeanour or a felony by both the Greek penal law and the laws of the state requesting extradition; and
- (c) When the alien explicitly consents to surrender to the state requesting his extradition.

**Article 438**

**Cases when extradition is prohibited**

Extradition is prohibited:

- (a) If the person for which extradition is requested was Greek when the act was committed;
- (b) If the competence for prosecution and punishment of the crime committed abroad belongs to the Greek courts in accordance with the Greek laws.
- (c) If, in accordance with the Greek laws, the crime is characterised as political, military, tax-related or related to the press, or is prosecuted only by complaint of the victim, or when the circumstances show that extradition is requested for political reasons;
- (d) If, in accordance with the laws of the state requesting extradition or the Greek state or the state where the crime was committed, a lawful reason preventing prosecution or execution of the sentence or a lawful reason excluding or cancelling punishment has emerged prior to the decision on extradition; and
- (e) If it is speculated that the person for whom extradition is requested will be prosecuted by the state to which he surrenders for a different act than the one for which extradition is requested.

**Article 439**

**Request for extradition by more than one state**

If more than one state requests extradition for the same crime, the extradition is ordered by preference either to the state of the offender's citizenship or to the state where the crime was committed. If simultaneous requests refer to different crimes, extradition is ordered by preference to the state where the graver crime was committed in accordance with the Greek laws or, in cases of crimes of the same gravity, to the state the request of which was the first to arrive; the obligation undertaken by one of the states requesting extradition to further extradite the offender for the remainder of the crimes is always taken into additional consideration.

**Article 440**

**Limitations in extradition**

Extradition may only be carried out upon condition that the person extradited will neither be prosecuted nor convicted by the state where he is extradited nor surrendered to a third state for other acts committed prior to the extradition, apart from the one for which he is extradited. He may be prosecuted, punished or surrendered to a third country for such acts upon condition that:

- (a) The Greek state subsequently consents. The Greek state may demand that such consent be requested according to the form provided for the request for extradition by the code, together with its supporting documents in accordance with articles 443 and 444 or
- (b) If the extradited person did not abandon, despite the absence of any obstacles, the territory of the state where he was extradited, within thirty days from the end of the trial and, in the event of conviction, from the release from prison or if he subsequently returns to the state.

**Article 441**

**Postponement of extradition**

If the person whose extradition is requested is prosecuted or has been convicted of another act in Greece, his extradition is postponed until the conclusion of the prosecution and, in the event of conviction, until the penalty is served or he is released from prison. Security measures that may have been imposed are executed as soon as he returns to Greece in any way. If, however, a five-year period has lapsed since his extradition, the court of misdemeanours of the place of his domicile decides, as soon as he returns, on whether the security measures will be executed or not by considering his personal conditions and by ruling on whether he is dangerous or not.

**Article 442**

**Provisional delivery of the person whose extradition is requested**

If the postponement of extradition provided in article 441 could result in prescription or other serious prosecution impediments according to the laws of the state requesting extradition, provisional extradition of the requested person may be allowed upon condition that he will be sent back as soon as the investigative acts for which he has been provisionally requested are concluded.

**Article 443**

**Request for extradition**

1. In cases falling under article 437, section a, the request that is forwarded through the diplomatic channels must be joined by the summary of charges, the arrest warrant or any other judicial act of the same validity and (if no convention prohibits so) all documents necessary so as to confirm the existence of adequate indications of guilt and refer to trial the person whose extradition is requested; in cases falling under article 437 section b, the request must be joined by the judgment against the person whose extradition is requested and evidence that such judgment is irrevocable. In any

case a copy of the law in force at the state requesting extradition punishing the act must also be forwarded at the same time; additionally, a summary description of the facts of the case and, finally, a detailed description of the characteristics of the person whose extradition is requested, together with his photograph and fingerprints are also sent, if possible. All such documents may be produced in copies certified by the court or any other competent authority of the state requesting extradition.

2. The request for extradition, together with the documents requested by paragraph 1 and the certified translation thereof are forwarded by the Minister of Foreign Affairs to the Minister of Justice; the latter, after verifying the legality of the request, sends the request and the documents through the public prosecutor of the court of appeals to the president of the court of appeals of the place of residence of the person whose extradition is requested.

#### **Article 444**

##### **Request for clarifications**

If doubts exist as to the possibility of effectuating extradition according to articles 437 and 438, the state that made the application for extradition is requested to provide clarifications; extradition may not be ordered unless the clarifications dismiss these doubts.

#### **Article 445**

##### **Arrest of the person whose extradition is requested. Confiscation of evidence**

1. Upon receiving the documents, the president of the court of appeals has the obligation to order by warrant without delay the arrest of the person whose extradition is requested and the confiscation of all evidence. The arrest warrant and the confiscation are executed under the care of the public prosecutor of the court of appeals according to articles 251-269, 277, 278b and 280.
2. In cases of urgency and especially when a valid suspicion that the person whose extradition is requested will flee exists, the arrest may take place even in the absence of a warrant, prior to the submission of the request for extradition, by order of the public prosecutor of the court of appeals; diplomatic mediation is not necessary for the arrest; however, a notification forwarded by mail or telegram by the court or other competent authority of the state requesting extradition is necessary; the notification must make reference to the arrest warrant or the decision and the crime. The public prosecutor of the court of appeals immediately informs the Minister of Justice of the arrest; the latter may order the release of the person arrested.
3. If the request for extradition is not submitted, in accordance with article 443, within three months following the arrest at the latest, the arrested person is provisionally released by order of the public prosecutor of the court of appeals. If the documents are submitted within the time limit, the provisions of paragraph 1 and of articles 448 *et seq.* apply.
4. If, subsequently to the release of the person whose extradition was requested in accordance with the above, the request for extradition of article 443 reaches the Ministry of Foreign Affairs, the extradition process will follow.
5. The person provisionally arrested may challenge his identity by filing a request before the judicial council of the court of appeals, within twenty-four (24) hours as of his presentation before the public prosecutor of the court of appeals; the council enters an irrevocable judgment after hearing the person who filed the request and his counsel. The request may be made orally before the public prosecutor of the court of appeals.

#### **Article 446**

##### **Identity verification. Imprisonment of the arrested person**

The person who has been arrested is brought before the public prosecutor of the court of appeals without delay, together with the reports of arrest and confiscation; the public

prosecutor questions his in order to verify his identity, while taking into consideration the information gathered by the authority that made the arrest. When the identity is verified, the public prosecutor of the court of appeals orders his detention at the penitentiary establishment of accused persons and forwards the reports on the arrest and confiscation and the verification of the identity to the president of the court of appeals. If the identity is challenged, paragraph 5 of article 445 is applied.

#### **Article 447**

##### **Notification of documents**

The person who has been arrested has the right to be informed either personally or through his counsel of all documents and to request copies thereof at his own expense.

#### **Article 448**

##### **Hearing on extradition**

1. Within twenty-four hours from receipt of the reports of article 446, the president of the court of appeals convenes the judicial council of the court of appeals in its three-member formation; the arrested person is brought before the council, if he so consents. He has the right to appear with counsel and an interpreter of his choice or, if he has none, to request the president of the court of appeals to appoint counsel.
2. The judicial council of the court of appeals meets in public hearing, unless the arrested person requests that the meeting be held *in camera* or he is absent from the proceeding before the council. The council may order *ex officio* that the meeting be held *in camera*.

#### **Article 449**

##### **Provisional release of the person arrested**

1. The person whose extradition is requested and the public prosecutor may request the council to postpone the hearing. The council may postpone the hearing for a maximum of eight days.
2. The judicial council of the court of appeals may order the provisional release of the person who has been arrested in accordance with the provisions of articles 296, 297 paragraphs 1 and 2, 298, 300, 302-304 at any stage of the procedure. The application of paragraph 3 of article 294 is mandatory. The provisional release is lifted *ipso jure* as soon as the judgment granting extradition is published. The judicial council of the court of appeals decides on bail.

#### **Article 450**

##### **Judgment on extradition**

1. After examining the arrested person, if he has appeared, and following the presentations by the public prosecutor and the person whose extradition is requested or his counsel, the judicial council of the court of appeals enters a reasoned opinion on the request for extradition and rules: (a) on whether the person who was arrested is the same person as the one whose extradition was requested; (b) on the existence of supporting documents requested by the Code or a convention for the extradition; (c) on whether the person who has been arrested and the crime attributed to him or (in cases of extradition requests following a conviction) the crime for which he has been convicted is among the crimes for which extradition is permitted; (d) on whether the conditions of point (d) of article 438 have been met.
2. If the convention allows so, the judicial council of the court of appeals additionally examines the existence of indications on the validity of the charge made against the arrested person, based on the official evidence submitted by the state requesting extradition, and rules on whether such evidence would have allowed for his arrest and referral to trial in Greece, if the crime had been committed within the Greek territory. In order to formulate an opinion on the substance of the case, the judicial council may collect any useful evidence through one of its members, by postponing its final

decision for a maximum period of fifteen days. The provision of article 449 paragraph 2 is also applied.

#### **Article 451**

##### **Appeal against the judgment**

1. Within twenty-four hours from the issuance of the judgment, the person whose extradition is requested and the public prosecutor are permitted to file an appeal against the final judgment of the judicial council of the court of appeals before the second panel of the Areios Pagos; the secretary of the court of appeals drafts a report thereon.
2. The Areios Pagos in council formation decides on the appeal within eight days following the provisions of articles 448 and 450. The person whose extradition is requested is summoned in person or through his representative at least twenty-four hours prior to the hearing by care of the public prosecutor of the Areios Pagos.

#### **Article 452**

##### **Cases when extradition is ordered**

1. The Minister of Justice may order the extradition by decision only after the council has entered a favourable and irrevocable judgment.
2. If the council irrevocably decides that extradition should not be made, the arrested person is released by order of the public prosecutor of the court of appeals, who immediately notifies the Minister of Justice accordingly. Additionally, the person whose extradition was requested is also released if the country that requested the extradition does not receive him within two months from the notification of the decision of the Minister on the extradition. In any case, the person whose extradition is requested is released two years after the day of his arrest. This time limit may be extended for six additional months by decision of the judicial council.
3. Any doubt or objection related to the detention of the person whose extradition was requested is resolved by the judicial council of the court of appeals that is competent on the extradition, following his summoning twenty-four hours prior to the hearing. The public prosecutor and the person whose extradition is requested may file an appeal for error of law [cassation] against the judgment of the judicial council.

#### **Article 453**

##### **Return of confiscated objects**

1. Irrespective of the nature of the judgment of the judicial council in relation to the extradition, the council decides on whether the things or exhibits that have been confiscated or in any case attached to the case file must be delivered to the state requesting extradition, the person for whom extradition was requested, a third party raising rights over them or a local authority in order to them to be used in an investigation.
2. During any stage of the proceedings, the judicial council of the court of appeals irrevocably decides on claims raised by third parties having or claiming to have property rights on objects or exhibits that have been confiscated.

#### **Article 454**

##### **Submission of a new request**

Even subsequently to the irrevocable judgment refusing extradition, a new request for extradition may be submitted if it is based on elements that had not been provided for consideration to the council.

#### **Article 455**

##### **Request for extradition made by the Greek authorities**

A request by which the extradition from a foreign state to the Greek judicial authorities of a person charged or convicted is made by the public prosecutor of the court of appeals, in

whose district the prosecution is made or the conviction was pronounced, through the Minister of Justice; together with the request, the public prosecutor forwards all documents provided in article 443 or in the convention, a precise description of the person's features and, if possible, his photograph. Extradition may also be requested by initiative of the Minister of Justice.

#### **Article 456**

##### **Further extradition to a third country of a person extradited to the Greek judicial authorities**

When a third country requests the extradition of a person who has already been extradited to the Greek authorities, by alleging that a crime had been committed prior to the extradition and different to the one for which he was tried in Greece, such extradition may not be made without the consent of the country which extradited the person to the Greek authorities.

## **CHAPTER TWO OTHER CASES OF LEGAL ASSISTANCE**

#### **Article 457**

##### **Requests for investigative acts**

1. Requests by the Greek judicial authorities to foreign authorities for the examination of witnesses and defendants, viewing of premises, expert reports and confiscation of exhibits are forwarded by the competent public prosecutor of the court of appeals to the Ministry of Justice that initiates their performance through the Ministry of Foreign Affairs by observing international conventions and customs. In urgent cases, such requests may also be forwarded directly to the local consular authorities exercising investigative duties; however the Ministry of Justice is notified accordingly.
2. Summons are forwarded in the same way in order to be served to the defendants.

#### **Article 458**

##### **Requests by foreign judicial authorities for investigative acts**

1. Requests by foreign judicial authorities for the carrying out of one of the investigative acts listed in article 457 paragraph 1 are forwarded by the Ministry of Justice and executed by order of the competent public prosecutor of the court of appeals by the competent investigator in whose district the investigative act will be carried out, unless such act contravenes the provisions of the code or the law on the organisation of courts. Witnesses are always sworn prior to their examination; in general, the relevant provisions of the code, international conventions and customs are followed.
2. Summons to witnesses, experts and defendants, decisions or other documents of the penal procedure are served by care of the public prosecutor of the court of misdemeanours in accordance with articles 155-164. If the relevant request refers to the summoning of witnesses or experts, it is accepted only when the foreign authority that submitted it explicitly undertakes the obligation not to prosecute or detain the defendant for a crime committed prior to his appearance before the foreign authority who has summoned him.
3. The Minister of Justice, following a concurring opinion by the competent judicial council of the court of appeals, may refuse to execute the requests referred in paragraphs 1 and 2: (a) if, in accordance with the provisions of articles 437 and 438, the defendant may not be extradited for the act in relation to which the foreign judicial authority carries out the investigation; or (b) If, according to the provisions of a convention with the country submitting the request, extradition is not mandatory.

#### **Article 459**

### **Transfer of the defendant for examination**

1. Subsequent to a request by a foreign judicial authority forwarded through the diplomatic channels and following a concurrent opinion by the competent public prosecutor of the court of appeals, the Minister of Justice may order the transfer to such authority of a person detained in prison, in order for his examination as a witness to be carried out, including face-to-face interrogation with witnesses or defendants, upon condition of his immediate return.
2. Such transfer may be made only to a state which by virtue of law or convention provides the same judicial assistance to the Greek state. The cost of the transfer and return devolve upon the state requesting the transfer and are paid in advance by that state or the competent Greek consular authority, if such convenience is provided to the Greek state by the country requesting the transfer. The provision of paragraph 2 of article 458 is applied by analogy herein.

### **Article 460**

#### **Costs of witnesses and experts**

When a foreign authority is requested to serve summons to witnesses and experts, the necessary sum that must be paid to the person who is summoned for travel and living expenses must be included; a proportionate amount is paid in advance by the competent Greek authority to the person summoned, by order of the Minister of Justice, as soon as that person declares that he will attend, upon condition of payment of that amount by the requesting state. The person who receives the advance payment and by defiance does not attend is punishable with the penalty provided by the penal code for defiance. The condition of paragraph 2 of article 458 is also applied herein.

### **Article 461**

#### **Forwarding of exhibits**

1. A request by a foreign authority for the forwarding of exhibits or other objects kept by the Greek judicial authorities is carried out through the delivery of the exhibits to the Ministry of Foreign Affairs, if no special reasons dictate the opposite, upon condition of immediate return. If documents are requested, copies thereof are sent.
2. Such judicial assistance operates upon condition of reciprocity.