

At the request of another country

Extradition cases
in Poland 2022-2024

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The purpose of extradition proceedings is not to do a “favour” for the requesting country, but to protect the public order and respect for law throughout the world.

Judge Andrzej Wachowski in the Przemyśl Regional Court decision
of 24 May 2023 (II Kop 5/23)

Extradition cases, which occur at the intersection of law and politics, often include a huge dose of drama. Extradition is not just a technical instrument of international cooperation or a “courtesy” of one country towards another. It is an act of legal solidarity between countries sharing certain values, an expression of attachment to the ideal of justice, and confirmation of the principle of the inescapability of criminal liability. But applying this instrument does require attention to the fate of the extradited person.

Extradition requests mainly involve persons accused of committing serious offences, or perpetrators of such offences hoping to escape punishment in another country. A few requests concern persons who have not been tried for their actions in their own country, but are being brought to justice before the courts of another country or an international tribunal. Today, in a time of rising geopolitical tensions, the institution of extradition (like the system of Interpol notices) is increasingly employed instrumentally. Some countries misuse extradition to prosecute their political opponents or persons who have fled persecution.

This is the first edition of a report devoted to extradition practice in Poland, in the years 2022–2024. For many months we collected and analysed statistics and decisions by the courts and prosecutors’ offices in extradition cases. Our aim was to form a picture of how this institution functions in practice.

We sought to explore such issues as:

- Who submits extradition requests to Poland
- Whom those requests concern
- How the courts and the Ministry of Justice assess the legitimacy of these requests
- What arguments play a key role in extradition decisions
- How the courts deal with objections by the person sought that the prosecutions are political
- What significance the courts ascribe to the risk of infringement of human rights in the requesting country, and what evidentiary grounds the courts use to decide these issues

- How the case law from other courts (domestic and foreign) impacts their determinations
- How international practice is reflected in Polish cases.

Compiling material for the report was not easy. We had to seek data from the regional prosecutors' offices, the common courts, the Supreme Court of Poland, the Ombudsman, and the Ministry of Justice.

Not all of our requests for information were granted, and some of the responses were selective. We don't attribute this attitude to bad faith, but to an absence of accurate and complete gathering, analysis and publication of this data by the public administration in Poland.

Most judicial rulings in extradition cases aren't published at all, and can be obtained only through the channel of access to public information. The requests are handled manually, which generates a risk of error, and can raise resistance, particularly at units handling many cases of this type, because before the data are turned over it is necessary to anonymise them. In our view, decisions from the courts should, as a rule, be published in full, so that it is possible to draw general conclusions.

We hope that our report sheds light on the extradition practice in Poland. We would like the report to serve as a tool for practitioners—judges, prosecutors, advocates—but also as a source of knowledge for our colleagues in other countries. We have drawn on their experience numerous times in the cases we handle, inquiring whether courts in other jurisdictions will grant extradition to a given country, what evidence of human rights violations they will recognise, and when, if ever, diplomatic assurances are deemed sufficient. Our report should serve as a response to these same questions within Poland.

This is the first edition of the report. We plan to update this work each year. We hope that our efforts will meet with support from public institutions, which may decide in the future to systematically compile and release data about extradition.

Extradition is after all a tool that should be used cautiously, with an awareness of its consequences and responsibility for the fate of the individual—in a world that is becoming increasingly unstable and unpredictable.

Main conclusions

Our analysis of extradition cases at prosecutors' offices, regional courts, courts of appeal, and the Supreme Court of Poland, as well as determinations made by the Minister of Justice, in 2022–2024 leads to the following conclusions:

- 1 The number of extradition cases in prosecutors' offices and before the courts in Poland is steadily rising.
- 2 The number of non-EU countries with which Poland cooperates in extradition matters is growing every year. In 2022–2024 Polish prosecutors' offices and courts cooperated on extradition matters with 49 countries.
- 3 In 2022–2024 the Minister of Justice consented to extradition of persons sought in nearly 60% of cases, and in the other cases denied the request or reversed an earlier decision to surrender the person sought.
- 4 In extradition requests from the authorities of Ukraine or Moldova, the Minister of Justice decided to turn over the person in more than 90% of cases.
- 5 In 2022–2024 the Minister of Justice denied all extradition requests from Russia and Belarus.
- 6 The preventive measure most often used in relation to persons sought in extradition proceedings was pre-trial arrest.
- 7 The most frequent legal ground for the inadmissibility of extradition was a concern that if extradition were granted, it would lead to infringement of the subject's rights and freedoms, or conflict with Polish law.
- 8 According to the Polish courts, the war in Ukraine does not constitute an automatic barrier to extradition. Initially, just after the full-scale war began in 2022, the courts pointed to the military operations in the context of extradition to Ukraine and found that it was legally inadmissible only in exceptional cases. To recognise that extradition was legally admissible, it was sufficient to obtain diplomatic assurances that the criminal proceedings would be conducted, and the eventual sentence would be served, in a safe territory not affected by the war. The possibility that the person sought would be conscripted into the army, nor concerns about the fairness of the actions of law enforcement authorities and the justice system due to the problem of corruption, were also not deemed to be a barrier to extradition.

- 9 Due to the war in Ukraine, the Polish courts have found bars to extradition in all cases involving requests from Russia. Concerns about the guarantee of a fair trial, the conditions in Russian prisons, and the possibility that torture could be used against the persons sought have also been recognised as additional grounds for the admissibility of extradition.
- 10 In over 96% of the cases involving extradition to Belarus, the regional courts found that extradition was legally inadmissible, due to concerns that the person's rights and freedoms would be violated if they were extradited. These concerns arose out of the prosecution of opposition activists, the support provided by the Belarusian authorities for the Russian aggression against Ukraine, and the lack of guarantees of a fair trial.
- 11 Support for Russian aggression has also been recognised as a legal basis for refusing extradition to certain other countries, such as Serbia.
- 12 In the case of extradition to the United States, the courts take a rather formal approach to examination of the grounds barring extradition, in particular in light of the citizenship of the person sought, the concern over infringement of rights and freedoms (including fair trial guarantees), and the ground of commission of the alleged offence in Polish territory.
- 13 The Polish courts take a cautious but balanced approach to extradition to countries of the Middle East, the Maghreb and India, paying particular attention to issues of human rights and procedural standards.
- 14 Poland is pursuing increased extradition cooperation with countries in the Caucasus and Central Asia. At the same time, the Polish authorities place great weight on assessing concerns over infringement of the subject's rights and freedoms if they were extradited, in light of the political and social realities in those countries.
- 15 In considering extradition cases, the Polish courts are beginning to take into account denials of extradition already issued in other countries (e.g. out of concern for infringement of the subject's rights and freedoms).

Methodology of the report

The report was created on the basis of data on extradition proceedings in Polish prosecutors' offices and courts, excluding cases in which extradition would be conducted pursuant to a European Arrest Warrant. The data derived from the regional prosecutors' offices (*prokuratury okręgowe*) and the regional courts (*sądy okręgowe*), all courts of appeal (*sądy apelacyjne*), the Ombudsman's Office, and the Ministry of Justice.

Unfortunately, not all of the institutions we approached agreed to share the information we requested. However, these refusals were isolated instances. In the case of the prosecutors' offices, we met with one refusal to provide statistics (Ostrołęka Regional Prosecutor's Office). Similarly, at the regional courts, only one (the Lublin Regional Court) refused to provide any data at all, claiming that the court was overburdened with duties,¹ while one court (the Warsaw Regional Court) provided the decisions on extradition only for cases from five selected countries (Ukraine, Russia, Belarus, Moldova, and the United States).

Otherwise, both the regional courts and the courts of appeal shared data about cases in 2022–2024, as well as the decisions ending the case, i.e.:

- Finding that extradition was legally admissible
- Finding that extradition was legally inadmissible, or
- Discontinuing the proceeding.

We also received data from the Ombudsman's Office, which provided responses on the number of requests to file cassation appeals to the Supreme Court it received from wanted persons, as well as the cassation appeals filed in cases where the lower courts found that extradition was legally admissible.

The Ministry of Justice provided data on the number of extradition proceedings and denials of extradition of wanted persons in 2022–2024, and also indicated the countries involved in specific decisions. Unfortunately, the ministry refused to provide the decisions denying extradition, as, according to the ministry, they are part of the case file and there is no basis in the regulations for releasing that information.²

¹ See nonfinal decision of the president of the Lublin Regional Court of 1 August 2025 (no. 11/o/2025), which was appealed against and set aside by the president of the Lublin Court of Appeal.

² See letter of 25 July 2025 from the director of the Department of International Cooperation and Human Rights at the Ministry of Justice (no. DWMPC-IV.o82o.6.2025).

The Supreme Court also denied our request for this data, asserting that releasing it was not justified in the public interest.³ Consequently, we analysed the published rulings by the Supreme Court in cases where the Ombudsman or the Prosecutor General had filed a cassation appeal.

As a result of our efforts, we managed to obtain a total of 252 decisions from the regional courts, 82 decisions from the courts of appeal, and four decisions from the Supreme Court resolving cases in which other countries had sought extradition of wanted persons. From this analysis, we were able to paint a statistical picture and to form conclusions on key issues related to the conduct of extradition cases in the prosecutors' offices and the courts.

3 See final decision by the First President of the Supreme Court of Poland of 5 August 2025 (no. BSA.I.0164.124.2025).

Extradition in numbers

The authorities involved in extradition proceedings in Poland are the regional prosecutor's offices, the regional courts, the courts of appeal, the Supreme Court (if a cassation appeal is filed), and the Minister of Justice. We examined these procedures in our report "[Extradition and Interpol notices: A guide to procedures](#)" (2022).

Below we present information from proceedings before the prosecutors' offices, the common courts, and the Supreme Court, as well as matters conducted within the Ministry of Justice. It appears from the data that the number of extradition cases in Poland is steadily rising from year to year. The number of non-EU countries with which Poland has cooperated in extradition matters has also risen, from 35 countries in 2020–2021 to 49 in 2022–2024.

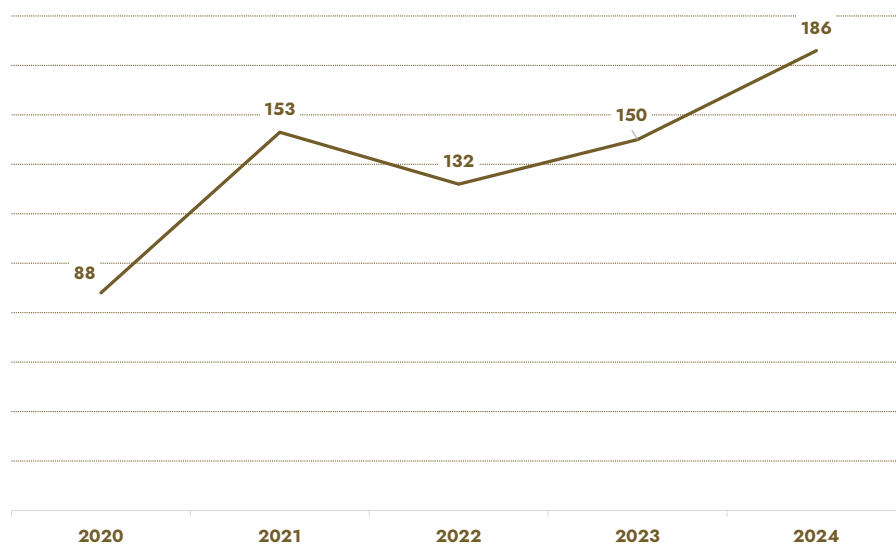
Prosecutors' offices

From 2020 to 2021 the number of extradition proceedings at the regional prosecutors' offices nearly doubled, from 88 to 153. The requests derived primarily from Russia (48 cases), Belarus (33), Ukraine (32), Turkey (21), Moldova (20), the United States (13), Uzbekistan (10), Azerbaijan (6), Tajikistan (6), Kazakhstan (5) and Kyrgyzstan (5).⁴

Following a decline from 2021 to 2022, there was a notable increase in the number of extradition cases between 2022 and 2024, from 132 to 186.

⁴ The other countries were Armenia, Iraq, Qatar, South Korea and Turkmenistan (3 cases each); Bosnia & Herzegovina, Lebanon, Pakistan, Switzerland and the UK (2 each); and Argentina, Australia, Brazil, Egypt, Georgia, Iran, Jordan, Mexico, Morocco, North Macedonia, Peru, Saudi Arabia, Serbia, and the UAE (1 each).

Graph Extradition cases at regional prosecutors' offices in 2020–2024



The extradition cases at the prosecutors' offices in this period involved extradition requests from a total of 48 countries. In line with existing trends, the most requests came from countries of the former Soviet Union (e.g. Russia, Belarus, Ukraine, Uzbekistan, Tajikistan, Azerbaijan, Georgia, Kazakhstan and Kyrgyzstan), Iran, Switzerland, the United Arab Emirates, and, among common-law jurisdictions, the US and the UK.⁵

⁵ Other requests came from Morocco (4); Argentina and Saudi Arabia (3 each); Albania, Armenia, Brazil, the Dominican Republic, Egypt, India, Jordan, Lebanon, Libya, Mexico, South Korea and Thailand (2 each); Bahrain, Canada, Chile, China, Honduras, Hong Kong, Iraq, Israel, Kuwait, Norway, Peru, Serbia, Taiwan, Turkmenistan and Vietnam (1 each).

Table 1. Extradition cases at prosecutors’ offices in 2022–2024 and the requesting countries

Country	2022	2023	2024
Ukraine	21	46	53
Belarus	5	14	27
Russia	11	3	28
Moldova	13	16	12
Turkey	13	9	10
Uzbekistan	9	9	5
US	8	5	5
Georgia	1	5	11
UK	2	7	7
Azerbaijan	3	4	6
Tajikistan	10	1	2
Iran	2	2	3
Kazakhstan	1	3	3
Kyrgyzstan	3	0	4
Switzerland	2	3	1
UAE	4	0	1
other	24	23	8

It should be pointed out that the outbreak of war in Ukraine only temporarily (in 2022–2023) reduced the number of extradition requests submitted by Russia or Belarus, and in 2024 the number of requests to the Polish authorities from those two countries returned to the level from before the war. This trend can be expected to continue in the upcoming years. It can also be expected that extradition cooperation will strengthen with Georgia, where the current basis for cooperation is the European Convention on Extradition. A growth trend was visible in 2024.

Extradition cases were distributed unevenly across different prosecutors’ offices. Some of them handled dozens of such cases, while others did not handle any.

Table 2. Extradition cases handled by prosecutors' offices in 2022–2024

Regional prosecutor's office	2022	2023	2024
Warsaw	31	48	54
Przemyśl	39	11	5
Warsaw–Praga	6	15	18
Wrocław	6	12	17
Kraków	6	9	10
Poznań	2	6	12
Gdańsk	3	2	8
Gliwice	1	7	3
Zamość	1	3	7
Chełm	1	3	6
Białystok	2	2	5
Szczecin	3	1	4
Lublin	1	5	1
Olsztyn	3	1	2
Toruń	0	2	4
Zielona Góra	1	2	3
Płock	0	2	4
Suwałki	0	0	5
Siedlce	0	1	4
Łódź	2	0	3
other	24	18	11

The most extradition cases were handled by the two regional prosecutors' offices in Warsaw (37% of all cases), and by those in the regions bordering on Ukraine, Belarus and Russia.

Common courts

When the documentation concerning an extradition request reaches the regional prosecutor's office, the office will submit an application to the court for issuance of an opinion on the inadmissibility of extradition. In response, the prosecutor's office may receive a decision from the court finding that the extradition is legally admissible, or that it is legally inadmissible. Indeed, in 2022–2024 the prosecutors' offices often requested confirmation that extradition was legally inadmissible.⁶ This applied primarily to extradition requests from Russia or Belarus.

At least 288 extradition proceedings were conducted in the regional courts in 2022–2024. In these cases, at least 139 decisions were issued finding that extradition was legally admissible, 87 decisions finding that extradition was legally inadmissible, and 6 decisions finding that extradition was partially admissible and partially inadmissible, while in at least 20 cases the courts discontinued the extradition proceeding.

Table 3. Extradition cases in regional courts in 2022–2024

Regional court	No. of cases
Warsaw	78
Przemyśl	51
Warsaw–Praga	29
Kraków	20
Wrocław	17
Łódź	13
Zamość	12
other ⁷	68

These cases involved extradition requests from 37 countries. The most requests came from the authorities of Ukraine, Belarus, Moldova, Russia, Uzbekistan, Turkey, Azerbaijan and the United States.

⁶ For example, the Gliwice Regional Prosecutor's Office indicated to us that it had issued such requests in Russian cases

⁷ The other regional courts handling such cases were in Białystok, Bydgoszcz, Gdańsk, Gliwice, Kalisz, Katowice, Krosno, Legnica, Lublin, Łomża, Olsztyn, Opole, Ostrołęka, Piotrków Trybunalski, Płock, Poznań, Rzeszów, Radom, Sieradz, Suwałki, Świdnica, Tarnów, Włocławek and Zielona Góra..

Table 4. Extradition cases in the regional courts by country in 2022–2024

Country	No. of cases
Ukraine	76
Belarus	32
Moldova	27
Russia	26
Uzbekistan	19
Turkey	17
Azerbaijan	11
us	10
Tajikistan	8
Kyrgyzstan	8
other ⁸	54

As a result of appeals, 82 extradition cases reached the courts of appeal in 2022–2024, concerning requests for extradition to 13 countries, with half of the cases involving Ukraine.

8 The other countries were Georgia, Kazakhstan and Switzerland (5 cases each); Morocco (4 cases); Egypt and Jordan (3 each); Argentina, Armenia, Australia, Saudi Arabia, South Korea, the UAE, and Vietnam (2 each); and Albania, Brazil, Honduras, Hong Kong, India, Kuwait, Lebanon, Mexico, North Macedonia, Peru, Serbia, Taiwan, Turkmenistan, and the UK (1 each).

Table 5. Extradition cases in the courts of appeal in 2022–2024, by court

Court of appeal	No. of cases
Warsaw	27
Rzeszów	18
Wrocław	10
Poznań	9
Katowice	9
Szczecin	3
Białystok	3
Kraków	2
Lublin	1

In 52 cases, the court of appeal upheld the decision of the regional court finding that extradition was legally admissible, and in 10 cases upheld a finding that extradition was legally inadmissible. In 17 cases the decision by the lower court was vacated and the case remanded for reconsideration. In two cases the court of appeal reversed the decision below and held that extradition was inadmissible, while in one case the court reversed the decision below and held that extradition was legally admissible.

In one notable case, the court of appeal affirmed the refusal of extradition to Ukraine due to inconsistency with Polish law and because the family situation of the person sought was endangered by the military operations in Ukraine.⁹ In another case, the court of appeal reversed the decision below and held that extradition to Ukraine was legally admissible even though the person sought held refugee status in Poland.¹⁰

⁹ Szczecin Court of Appeal decision of 2 October 2024 (case no. II AKZ 268/24).

¹⁰ Wrocław Court of Appeal decision of 17 January 2024 (II AKZ 958/23).

Supreme Court of Poland

If the court of appeal issues a decision finding that extradition is legally admissible, or upholds a decision by the regional court finding that extradition is legally inadmissible, a cassation appeal (*kasacja*) may be filed with the Supreme Court by the Prosecutor General or the Ombudsman. In 2022–2024 the Ombudsman received eight such requests to file a cassation appeal and decided to file one such appeal. We are aware of two cassation appeals filed by the Prosecutor General.

The cassation appeals by the Prosecutor General were filed against the interests of the persons sought. In one case the Supreme Court overturned a decision finding that extradition to Vietnam was legally inadmissible,¹¹ and in the other case the Supreme Court upheld a decision finding that it was legally inadmissible to extradite the accused to Tajikistan due, among other things, to a concern that the person would face religious persecution.¹² In turn, the cassation appeal by the Ombudsman resulted in the Supreme Court overturning a decision finding that extradition was legally admissible.¹³

The Supreme Court also hears applications to reopen proceedings that ended in decision finding that extradition was legally admissible. In 2022–2024 at least one such application was taken up by the Supreme Court, and led to reopening of the case because the judges ruling on the extradition case were improper impanelled.¹⁴

It should be noted that in extradition proceedings, the rule is that preventive measures will be applied against the person sought, also during the stage of awaiting a decision from the Minister of Justice. The most common preventive measure continued to be temporary arrest, which was used in at least 145 cases, while in 15 cases measures were applied that allowed the person sought to remain at liberty (submission of a bond, or police supervision).

¹¹ Supreme Court decision of 25 July 2024 (II K 210/24).

¹² Supreme Court decision of 20 November 2024 (II KK 561/23).

¹³ Supreme Court decision of 30 May 2023 (III KK 265/21).

¹⁴ Supreme Court decision of 16 April 2024 (II KO 26/24).

Ministry of Justice

All decisions on the legal admissibility of extradition ultimately reach the Minister of Justice, who takes a final decision on the matter.

If the courts find that bars to extradition exist, the Minister of Justice cannot surrender the person. However, the minister may decide not to follow a finding that extradition is legally admissible, and nonetheless refuse extradition. The minister can also issue a decision to surrender the person, and then reverse that decision and refuse extradition.¹⁵

In 2022–2024 the Minister of Justice considered at least 305 extradition cases. During this period the minister issued a total of 174 decisions consenting to extradite the person sought, and 131 decisions refusing extradition.

¹⁵ Our firm published an article discussing such a case ([“Extraditions should finally be taken seriously”](#)) in 2022, where the Minister of Justice had initially agreed to extradite a Ukrainian citizen to Russia but then reversed that decision in light of Russia’s full-scale invasion of Ukraine.

Table 6 Decisions by the Minister of Justice consenting to extradition or refusing extradition in 2022–2024, by country

Country	2022		2023		2024	
	consent	refusal	consent	refusal	consent	refusal
Albania	1					
Argentina	1					
Armenia	1	1			1	
Australia	1					
Azerbaijan	4	2	2	2	1	
Belarus		12		4		20
Bosnia & Herzegovina						1
Egypt	1	1	1			
Georgia	1		3			
India						1
Kazakhstan		1	1		2	
Kyrgyzstan	2	1	1	2	1	1
Mexico			1			
Moldova	5	2	15 ¹⁶		11	1
Morocco	1	1	1		1 ¹⁷	
Russia		27		2		14
Saudi Arabia				1		1
Serbia		1				
South Korea	1		1	1		
Switzerland	1				1	
Taiwan			1			
Tajikistan						2
Turkey	5	2	3	3	1	4
Turkmenistan	1	1				
Ukraine	14	1	29	1	45 ¹⁸	6
United States	1	1	1	3	5	
Uzbekistan	2	3		3	2	1
TOTAL	43	57	60	22	71	52

¹⁶ Ultimately 14 persons were extradited.

¹⁷ This was consent to expansion of the scope of the extradition.

¹⁸ A total of 44 people were extradited.

The decisions taken by the Minister of Justice during this period involved extradition requests from 27 countries. In almost 60% of cases, the minister consented to extradition, and in the rest of the cases either refused extradition or reversed his previous decision allowing extradition.

Notably, over 90% of requests (88 cases) from the Ukrainian authorities resulted in issuance by the Minister of Justice of a decision to extradite the person. The percentage for extradition requests from the Moldovan authorities were similar, while in the case of Georgia all requests were granted.

Meanwhile, the Minister of Justice refused extradition in all cases submitted by the authorities of Russia (43 cases) and Belarus (36), as well as Saudi Arabia and Tajikistan (2 each), and Bosnia & Herzegovina, India, and Serbia (1 each).

Extradition cases country-by-country

Below we discuss cases in which the Polish courts ruled on the legal admissibility or inadmissibility of extradition. Notably, there are a large number of cases in which the courts find that extradition is legally inadmissible, as well as a significant number of decisions by the Minister of Justice refusing extradition. Extradition is most often refused due to a concern that if the person were extradited, their rights and freedoms would be violated, but also due to inconsistency with Polish law.

In light of the intensity of bilateral relations in this area, we focus on a discussion of the effects of cooperation by the Polish authorities with Ukraine, Russia, Belarus, Moldova, the United States, republics in the Caucasus, countries of Central Asia, and countries in the Middle East and the Maghreb, and India.

Ukraine

Since the full-scale invasion of Ukraine in 2022, Ukraine has submitted the greatest number of extradition requests to the Polish authorities. This cooperation is based on a treaty from 1993,¹⁹ as well as the European Convention on Extradition.

In 2022–2024 the prosecutor's offices conducted from 21 to 53 such cases per year. This shows that despite the war, the Ukrainian authorities are actively seeking wanted persons who have left Ukrainian territory.

Tabela 7 Regional court decisions on extradition to Ukraine

Regional court decision on extradition	Number
Admissible	68
Partially admissible	4
Inadmissible	2
Discontinuance	2
TOTAL	76

¹⁹ Agreement between the Republic of Poland and Ukraine on legal assistance and legal relations in civil and criminal matters, signed at Kyiv on 24 May 1993.

There were 41 decisions issued in the courts of appeal where an appeal was filed against the decision of the regional court.

Table 8 Court of appeal decisions on extradition to Ukraine

Court of appeal decision on extradition	Number
Affirming a finding of admissibility	32
Vacating a finding of admissibility and remanding the case to the regional court	4
Vacating a finding of admissibility and discontinuing the proceeding	1
Vacating a finding of admissibility and remanding the case to the regional court	1
Reversing the judgment below and finding admissibility	1
Reversing the judgment below and finding inadmissibility	1
Affirming a finding of inadmissibility	1
TOTAL	41

Ultimately, in 2022–2024 the Minister of Justice decided to surrender 87 people to the Ukrainian authorities.

Russia's armed aggression against Ukraine and its impact on the ability to conduct extradition cooperation has posed a key challenge for the Polish courts considering extradition requests from the Ukrainian authorities. The wanted persons often alleged that the war underway in Ukraine was a bar to extradition, arguing that:

- It would result in infringement of their rights and freedoms in the event of extradition
- It would prevent them from receiving a fair trial
- It would prevent enforcement of the sentence
- The Ukrainian justice system was not functioning properly due to the war.

Despite these arguments, it should be recognised that the view has become firmly established among the Polish courts that the war in Ukraine is not in and of itself grounds for finding that extradition is inadmissible.²⁰ Moreover, the courts acknowledge that the Ukrainian authorities have taken measures

²⁰ Zielona Góra Regional Court decision of 28 April 2023 (II Kop 35/23); Warsaw Court of Appeal decision of 24 April 2025 (II AKZ 316/25).

enabling the continuation of extradition cooperation. This was possible because soon after the outbreak of the war, the Polish and Ukrainian sides held working meetings where they reaffirmed their intention to continue their cooperation. The consequences of these meetings included forwarding information on the status of particular territories and the ability for the justice system to function there. The Polish courts recognised these efforts and upheld the continued cooperation.

The arrangements made in a consultation of experts from the justice ministries of Poland and Ukraine in the videoconference on 13 April 2022 should be considered. According to the letter from the director of the Department of International Cooperation and Human Rights at the Polish ministry (dated 14 April 2022, no. DWMPC-II.8000.6.2022), the Ukrainian side will continue its existing cooperation, both in terms of complying with requests for legal assistance and in extradition procedures. The Ukrainian side stated that depending on the decision of the court, "despite the exceptional situation, it can accept its own citizens in territories not covered by the war." According to a message dated 19 July 2022 from the chief specialist from the Extradition Division at the Department of International Cooperation and Human Rights, at the present time, in cases seeking extradition to Ukraine of citizens of that country, the practice has developed, before surrendering the person sought, to obtain from the Prosecutor General's Office or the Ministry of Justice of Ukraine, depending on the request, assurances of where the person being handed over will be tried, or where the investigatory proceedings will be conducted. The Ukrainian authorities then indicate oblasts that are less exposed to military operations, thus enabling a safe extradition. Thus it should be recognised that the final decision by the Minister of Justice will take into account the safety of Y.H., and his extradition will not pose a threat to him. Ukraine as a country is in a state of war caused by Russian aggression, but despite this extremely difficult situation it maintains its organisational and institutional capacity, which is demonstrated by the fact that it has obtained the status of a candidate for membership of the European Union.

Warsaw Court of Appeal decision of 25 July 2022 (II AKz 473/22)

A verbal note by Ukraine's permanent representative on the Council of Europe dated 18 April 2022 ... advised of the inability of the Ukrainian side to guarantee full performance of its obligations under Ukraine's international agreements during the period of the Russian Federation's armed aggression and introduction of a state of war in Ukrainian territory, which should be understood to mean the inability to perform such obligations in territories temporarily occupied by Russia. In other territories of Ukraine, international agreements are being fully performed. Thus there are no grounds for finding that extradition of R.M. to his country of origin would pose a threat to his rights and freedoms, or his safety. Ukraine as a country is in a state of war caused by Russian aggression, but despite this extremely difficult situation it maintains its organisational and institutional capacity, which is indicated at least by its having obtaining the status of a candidate for European Union membership. This also demonstrates that Ukraine is a democracy respecting human rights and civil rights.

Warsaw Court of Appeal decision of 2 October 2023 (II AKz 1146/23)

The city of Pokrov is not under Russian occupation, Russian forces have not approached this city, nor is it included in the "List of territories where military operations are (or were) conducted or which are (or were) temporarily occupied by Russia." This list was approved by the Ministry for Reintegration of Temporarily Occupied Territories of Ukraine in December 2022 and is continually updated. The courts in the city of Pokrov are operating normally. Persons who have been sentenced or provisionally arrested are not held at facilities near areas where military operations are underway as a result of the armed aggression by the Russian Federation. The Ukrainian side has adopted specific legal solutions—the Act of 21 November 2023 and Decision no. 152/5 of the Minister of Justice dated 16 January 2024—concerning the situation of inmates, and has prepared a brief list of penitentiaries located mainly in the western part of Ukraine where persons deprived of their liberty may be held.

Kraków Regional Court decision of 30 July 2024 (III Kop 124/24)

Another key argument for the courts was that in the course of extradition proceedings, the Ukrainian side cooperated actively by transmitting information and documents on a timely basis.

In light of this information, the current situation on the ground in Zaporizhzhia, media reports that currently there are no military operations underway there, the intention on the Ukrainian side to continue its cooperation, and their assurances concerning taking measures to combat potential infringements of fundamental rights, extradition to the territory of Ukraine is admissible and does not violate Poland's obligations under the European Convention on Human Rights. In this situation, the regional court merely points out, by the way, that the fact that responses to requests submitted to the justice system in Ukraine are provided very quickly is confirmation that the Ukrainian justice system is functioning efficiently.

Kraków Regional Court decision of 12 May 2023 (III Kop 6/23)

Another important factor was that the Ukrainian authorities provided diplomatic assurances in many extradition proceedings. These involved in particular conducting criminal proceedings in territories far from the active war zone, as well as the intention to place the wanted persons in penitentiaries in western Ukraine or other areas not directly impacted by the war.

The Ukrainian side responded on 9 November 2022 that in the event of extradition to Ukraine and selection of the preventive measure of arrest, the person in question will be held at the jail for the territory closest to the place where the criminal proceeding is conducted, probably at the jail in Zaporizhzhia. Meanwhile, the Ukrainian side has assured that currently in the territory of Zaporizhzhia, in the Zaporizhzhia oblast, no military operations are underway. The competent authorities are taking all possible steps to maintain the normal functioning of the institutions carrying out sentences, and to ensure the safety of the staff of the institution, inmates, and persons held under conditions of a state of war. According to media reports, military operations were conducted in the territory of Zaporizhzhia in the past, but currently it is not a territory controlled by the Russian forces. According to the cited letter from the Ukrainian side, the conditions at the jail in Zaporizhzhia are comparable to the conditions at Polish penitentiaries.

Kraków Regional Court decision of 10 November 2022 (III Kop 175/22)

It should be pointed out that although a war is underway in the territory of the Republic of Ukraine, apart from occasional missile or drone attacks the war zone does not currently extend to the territory of western Ukraine, including the city of L., where the criminal proceeding will be conducted against the person sought if he is extradited.

Przemyśl Regional Court decision of 5 October 2023 (II Kop 25/23)

Importantly, the Prosecutor General of Ukraine also guaranteed that in the event of extradition of O.K. to Ukraine, the investigative proceeding will be conducted in a territory far removed from the zone of active military operations.... Thus if the measure of confinement is applied against the accused, he will be placed in a prison in the western portion of Ukraine, also equipped with an appropriate shelter.

Suwałki Regional Court decision of 16 July 2024 (II Kop 27/24)

In this respect, sometimes the courts accepted these assurances and found that extradition was admissible, while also signalling that the circumstances of the ongoing war in Ukraine should be re-examined by the Minister of Justice.

It should be added that at the present time, Ukraine has been militarily attacked by the Russian Federation, and an aggressive, barbaric war is being conducted against the Ukrainian state and people. But this circumstance does not constitute a legal barrier excluding the possibility of surrendering the person sought. The assessment of the current extremely difficult and evolving political (and military) situation in Ukraine ultimately rests with the Minister of Justice of the Republic of Poland.

Warsaw Regional Court decision of 1 July 2022 (VIII Kop 96/22)

Another important element of the diplomatic assurances was that in cases before the European Court of Human Rights involving the difficult conditions for serving sentences in penal institutions in Ukraine due to the war, the ECtHR did not apply interim measures.

According to the information submitted by the Ukrainian side, the ECtHR has not applied interim measures in cases filed by individuals against Ukraine, even though the applicants have alleged violation of their rights under Art. 2 and 3 of the European Convention on Human Rights, because of their detention under unsafe conditions due to the Russian military aggression. These decisions were made by the ECtHR taking into account information provided by the Ukrainian side concerning measures taken to ensure exercise of the rights of inmates at prisons under the conditions of the Russian military aggression. The Ukrainian side submitted detailed information to the ECtHR on the treatment of inmates in the event of missile attacks, e.g. concerning shelters equipped with facilities for rest, heat, containers of drinking water, and supplies of food and hygiene products.

Kraków Regional Court decision of 30 July 2024 (III Kop 114/24)

In 2022–2024 there were only three cases where extradition was held to be inadmissible due to the ongoing military operations. In those cases, the courts held that due to the war, it is not possible to guarantee a fair trial. However, these rulings were made in the period immediately following the start of the war and rather constitute an exception.

In light of the current international situation and the war underway in the territory of Ukraine, it should be stated that there are major doubts whether the criminal proceedings in the territory of the state requesting extradition will be conducted in compliance with all of the standards required by law. The current situation in that country gives rise to justified concern on the part of the court as to the fairness of an eventual trial in a country at war, within the meaning of Art. 6 [ECHR]. Considering that the accused does not admit to the offence he is accused of, and that at the present time the Ukrainian state has other priorities than conducting fair criminal trials, in this court's opinion there is a high probability that the circumstances alleged against the accused may not be examined with adequate thoroughness, and a ruling in this case may be issued hastily.

Zielona Góra Regional Court decision of 8 September 2022 (II Kop 79/22)

The fact cannot be ignored that in military terms, the situation in Ukraine is currently exceptional, as military operations extend to the entire territory of the country, which poses a realistic threat to the life and health of the person sought in the event of his extradition to Ukraine, and thus would expose his family to irreparable harm. While the assurances from the Ukrainian side concerning treatment of the person sought following his extradition would warrant a finding that there are no grounds for the inadmissibility of his extradition, ... this does not eliminate the risk of danger to his life and health. They do not provide a guarantee of the safety of the person sought in the territory of Ukraine, and thus any guarantee of protection of O.K.'s family life, which in turn would result in violation of regulations in force in Poland, and thus extradition of the person sought is inadmissible because it would conflict with Polish law. This does not mean that O.K. will go unpunished, in light of the Agreement between the Republic of Poland and Ukraine on legal assistance and legal relations in civil and criminal matters, signed at Kyiv on 24 May 1993, because it provides for taking over the prosecution between the contracting states.

Szczecin Court of Appeal decision of 2 October 2024 (II AKz 268/24)

With respect to the assurances submitted by the Ukrainian side, it is hard to accept that they are fully capable of being carried out, in particular taking into account the current situation in that country. No matter how one looks at it, it is waging a conventional war on several fronts, and therefore it is hard to believe that the [Ukrainian] state is functioning normally, or likewise its institutions, including the prosecutorial authorities and the justice system. It is much more justified to say that the state itself and its institutions are functioning under a state of higher necessity, in a non-standard manner, as it is hard to imagine a more exceptional situation in which the rights and freedoms of the person sought might be violated, than war. Going further, we must share the position of the court of first instance that under Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law." In light of the current international situation of [Ukraine] and the war underway in its territory, we must express doubts whether this right is currently guaranteed in the territory of that country.

Poznań Court of Appeal decision of 24 October 2022 (II AKz 561/22)

Sometimes the persons sought argued that there was a threat of infringement of their rights and freedoms because they could be conscripted into the armed forces. In these cases as well, the courts recognised that this was not a bar to extradition.

The court at its own initiative considered the case, and that after eventual release from arrest in Ukraine the accused would be exposed to being conscripted into the military and sent to the front. However, the current situation of Ukraine justifies the restriction of fundamental rights of citizens of that country, at least with respect to being conscripted into the military. In the court's view, an infringement of human rights on this ground cannot be regarded as a circumstance referred to in Criminal Procedure Code Art. 604 §1(7) [i.e. potential infringement of the subject's rights and freedoms as a bar to extradition]. The court also does not regard the seizure of the place where the accused resided in Ukraine by Russian occupying forces as relevant for this case. Despite the war and partial occupation, Ukraine is a functioning state organism, as indeed exemplified by this proceeding.

Sieradz Regional Court decision of 31 October 2023 (II Kop 7/23)

In the case of mobilisation, it should be stated that this situation applies to all citizens of Ukraine, and thus it cannot be said to infringe the rights and freedoms of the person sought, because this is not an exceptional situation only with respect to him. Nonetheless, in the opinion of the court of appeal, the assurance from the Ukrainian side that it is seeking extradition for the purpose of serving a sentence is sufficient.

Katowice Court of Appeal decision of 12 December 2023 (II AKz 1424/23)

The evidence gathered does not indicate that the rights and freedoms of the person being extradited would be infringed in concreto. Even analysing the aspect of the fear of potential participation in the war, it should be pointed out that according to commonly available knowledge, the conscription age in Ukraine is 18 and the mobilisation age is 27, and thus the fact that the person in question is in his 20s should not be taken to mean that a finding that surrendering him to the Ukrainian authorities for the purposes of a criminal trial pending there will automatically result in military service by him, with all the related consequences, although this is a complicated issue.

Gliwice Regional Court decision of 26 February 2024 (IV Kop 105/24)

Despite the military operations, the prosecutorial authorities and the justice system of that country are operating normally. There are no signals from international human rights organisations of drastic or widespread violation of the rights and freedoms of criminal suspects, accused or convicts. It should be stressed that the person sought is not a citizen of Ukraine and is not at risk of compulsory military service or direct engagement in combat.

Wrocław Court of Appeal decision of 14 October 2024 (II AKz 612/24)

The circumstances raised by the person sought concerning the death of his brothers or the probability that he would be sent to the war front are not legal grounds for a mandatory or optional finding that extradition is inadmissible.

Rzeszów Regional Court judgement of 8 December 2024 (II Kop 18/24)

Finally, an important argument for the Polish courts in finding the legal admissibility of extradition was that the Ukrainian authorities ensured the principle of reciprocity.

Undoubtedly, the court cannot issue a decision finding that extradition is inadmissible based on an assumption that Ukraine will not respect the principle of reciprocity or an inference from the circumstances raised by the party that the rights arising under the Convention for the Protection of Human Rights and Fundamental Freedoms are not respected in the requesting state.

Szczecin Court of Appeal decision of 8 February 2023 (II AKz 799/22)

Ukraine ensures reciprocity in its legal contacts with the Republic of Poland, and there are no grounds for undermining this principle, which should be the rule. A situation where the person sought could go unpunished for criminal offences should also be avoided.

Warsaw Court of Appeal decision of 29 August 2023 (II AKz 405/22)

Another issue analysed by the courts was concerns about the proper functioning of the Ukrainian prosecutorial authorities and courts due to the problem of corruption. These allegations forced the courts to examine whether such concerns were concrete or abstract.

The courts typically found that these concerns would not render extradition inadmissible, and stressed that the Ukrainian authorities had undertaken systemic measures to combat corruption in the justice system. Ukraine's declared intention to become a member of the European Union was also an important argument in this respect.

It also appears from this court's trial practice that acquittals and dismissals are also often issued by the Ukrainian courts, which undoubtedly shows that the rulings of those courts are free from the influence of third parties and are objective, and thus the phenomenon of corruption and the lack of judicial independence does not affect the entire Ukrainian justice system. Moreover, irregularities of this type affect almost every country, including major democracies, which does not mean that the justice system of a given country is affected by corruption to such a degree that it cannot guarantee respect for human rights, and moreover, appellate review can check and eliminate such irregularities.

Warsaw Regional Court decision of 22 March 2022 (VIII Kop 15/22)

Despite earlier reservations concerning corruption in state institutions, Ukraine has undergone reforms recently, despite the devastating Russian invasion, so that, to become a member of the European Union, it will meet the EU's standards for protection of human rights. It has made impressive achievements on this path, as demonstrated by obtaining the formal status of a candidate country. Thus there are no grounds to acknowledge the concerns raised by defence counsel that Z.S. will not be afforded a fair trial before an independent court.

Warsaw Court of Appeal decision of 6 September 2023 (II AKz 823/22)

In this context, the courts held that extradition was inadmissible in only one case. In the course of that proceeding, it was shown that the life of the wanted person would be endangered if he were placed in a Ukrainian penitentiary because he had cooperated with Polish law enforcement authorities. And in that case, corrupt ties between the police and the criminal underworld were also revealed.²¹

On the latter issue, it is worth considering how the assessment of threats to the guarantee of a fair trial due to corruption is impacted by the recently publicised attempt to establish oversight by the Prosecutor General of Ukraine over the anti-corruption services NABU and SAP, which is regarded as a display of weakening of the fight against corruption and impinging on the independence of these services.²²

However, it does not appear that this issue is changing the general approach of the Polish courts to assessing bars to extradition. It is highly likely that the courts will continue to find that these threats and concerns are only of an abstract, systemic nature. The Polish courts will continue to require wanted persons to put forth evidence that they are specifically exposed to the risk of an unfair trial due to corruption in the law enforcement authorities and the Ukrainian courts. Such allegations are extremely difficult to prove, particularly when the case does not involve the extradition of politicians, public officials, former police officers, or businesspeople.

In other cases where extradition was held to be inadmissible, this resulted from a finding that there were other bars to extradition. These had to do

²¹ Kraków Regional Court decision of 16 December 2024 (III Kop 135/24).

²² Marcin Jędrzyak, [“Ukraine: The independence of anti-corruption bodies is being dismantled amid scandals involving top politicians,”](#) Centre for Eastern Studies, 23 July 2025.

with the grounds of *ne bis in idem*,²³ *res judicata*,²⁴ Polish citizenship held by the wanted person,²⁵ and holding of refugee status. In the last of these, a court of appeal has held that extradition is inadmissible because the grant of refugee status is not in itself a bar to extradition.²⁶ And in two cases where extradition was found to be partially inadmissible, this resulted from failure to meet the condition of double criminality.

²³ Siedlce Regional Court decision of 26 April 2022 (II Kop 5/22).

²⁴ Gdańsk Regional Court decision of 19 May 2023 (XIV Kop 78/22).

²⁵ Zamość Regional Court decision of 20 March 2024 (II Kop 9/24).

²⁶ Wrocław Court of Appeal decision of 17 January 2024 (II AKz 958/23).

Russia

Before the outbreak of the war in Ukraine, the Russian Federation was Poland's largest partner in extradition cooperation, conducted under a treaty from 1996.²⁷

The war has altered the rules for this cooperation. In 2022–2024 there was a fluctuation in the number of extradition applications from Russia (falling to three cases at prosecutors' offices in 2023). But in 2024 the number of Russian extradition cases noticeably increased, returning to the levels before the invasion of Ukraine.

In the regional courts, there were a total of 26 such cases in 2022–2024. In 25 of the cases, the courts held that extradition was legally inadmissible, while in one case the proceeding was discontinued. This means that the regional courts found bars to extradition in all of the cases. These bars arose mainly out of concern for infringement of the wanted person's rights and freedoms, or because extradition would be inconsistent with Polish law. The courts pointed to the absence of fair trial guarantees, as well as the conditions in Russian penitentiaries and the possibility that the wanted persons would face torture. In one case the court also found that the prosecution was politically motivated,²⁸ and in another that the condition of double criminality was not fulfilled.²⁹ Ultimately, in 2022–2024 the Minister of Justice refused to surrender any of the 43 persons sought by the Russian authorities.

The grounds for not permitting extradition in cases filed by Russia were primarily related to the aggression against Ukraine and the international standing of Russia following 2022. For this reason as well, and also due to Russia's removal from the Council of Europe,³⁰ the courts found the diplomatic assurances provided by the Russian authorities inadequate.

27 Agreement between the Republic of Poland and the Russian Federation on legal assistance and legal relations in civil and criminal matters, signed at Warsaw on 16 September 1996.

28 Zamość Regional Court decisions of 4 May 2022 (II Kop 14/22) and 15 June 2022 (II Kop 20/22); Przemyśl Regional Court decision of 22 April 2022 (II Kop 17/22).

29 Warsaw-Praga Regional Court decision of 3 December 2024 (V Kop 101/24).

30 Warsaw-Praga Regional Court decisions of 15 March 2024 (V Kop 24/24), 7 August 2024 (V Kop 72/24), 12 November 2024 (V Kop 90/24) and 3 December 2024 (V Kop 101/24).

Today, such an assurance must also be assessed in light of the actions of the authorities of that country in the international forum. It will have the power to neutralise the concerns referred to in Criminal Procedure Code Art. 604 §1(7) if such actions are consistent with the substance of the assurances. But in light of the Russian Federation's aggression against Ukraine, it should be treated as common knowledge within the meaning of Criminal Procedure Code Art. 168 that these actions currently are criminal in nature, and also may be regarded as war crimes committed against the civilian population, but at the same time, in false propaganda, they are portrayed by representatives of the highest authorities of the Russian Federation as defensive measures. Condemnations of these actions by the international community confirm this assessment of the actions of the Russian Federation. This follows from the resolution by the United Nations General Assembly of 12 October 2022, which demanded the immediate invalidation of the decisions of 21 February and 29 September concerning the Russian Federation's annexation of the Donetsk, Kherson, Luhansk, and Zaporizhzhia oblasts in Ukraine, and demanded immediate withdrawal of all armed forces from the territory of Ukraine. As determined, these actions constitute a violation of the territorial integrity and sovereignty of Ukraine and are inconsistent with the United Nations Charter.

Warsaw Regional Court decision of 28 October 2022 (VIII Kop 196/22)

These assurances are not persuasive that the person sought, who is engaged in social activism in favour of the autonomy of the community of Ukrainians in the Republic of Komi and is currently a citizen of a country in a state of war with the country requesting extradition, will certainly not be subject to infringement of his fundamental rights and freedoms when serving the sentence of imprisonment.

Zamość Regional Court decision of 15 June 2022 (II Kop 20/22)

Currently, it is true that the bilateral treaty between the Republic of Poland and the Russian Federation on legal relations in criminal matters has not been repudiated, and that exclusion of Russia from the Council of Europe does not result in loss of force of existing international agreements concluded under the auspices of that organisation. However, cooperation with Russia cannot be conducted ignoring the current conditions, including that the Russian Federation has not complied with the provisional order of the International Court of Justice in The Hague dated [16] March 2022 or the resolution of the UN General Assembly of 2 March 2022 (ES-11/1) calling for immediate cessation of military operations against Ukraine, and that the International Criminal Court, as well as the Polish prosecutor's office, is conducting an investigation into the offences of aggression, genocide, crimes against humanity, and war crimes committed in connection with the aggression against Ukraine. According to the Agreement between the Republic of Poland and the Russian Federation on legal assistance and legal relations in civil and criminal matters, signed at Warsaw on 16 September 1996, the competent authority may refuse to provide legal assistance if providing it could endanger the security, public order or other important interests, or would be inconsistent with the fundamental principles of law or international obligations of the requested party (Art. 17 of the agreement). Moreover, in the case of an extradition request, extradition shall not occur if it is inadmissible under the law of the requested party (Art. 64(1)(5)), which may be applied e.g. in the event of fear of infringement of the human rights of the person sought or a threat to the person's safety. In turn, surrendering a convict to his country of origin for the purpose of serving a sentence there is possible only with the convict's consent (Art. 90([2])), so long as it will not endanger the sovereignty, security, public order or other important interests of the requested party and will not conflict with the fundamental principles of law or international obligations of the requested party (Art. 90(7)).

Olsztyn Regional Court decision of 11 April 2022 (II Kop 13/22)

Currently, in light of the armed aggression committed by the Russian Federation against Ukraine, cooperation in criminal matters is practically suspended. The very fact of the launch of military operations—directed also against the civilian population—undermines the trust in the Russian executive authorities and justice system concerning respect for fundamental rights, which does not require deeper justification. It should be mentioned that the Russian Federation is in a state of war with Ukraine, and in these actions is using persons deprived of their liberty and serving prison sentences.

Kraków Regional Court decision of 7 June 2024 (III Kop 49/24)

Concerns about infringement of the wanted person's rights and freedoms in the event of extradition were also analysed under the circumstances of

specific court cases. These concerns were particularly highlighted in cases where the wanted persons were engaged in activities of political opposition.

As is relevant under the circumstances of this case, during interrogation O.Z. did not admit to committing the offences she was accused of and gave testimony in which she stated that she had witnessed frauds in K. which were backed by her superiors. In 2019 she began working with the staff of the opposition leader A.N. in the city of K., presenting documents confirming fraud by her leadership and recording a film on this subject concerning corruption and money laundering. At that time, criminal proceedings were also initiated against her in the Russian Federation, her family began to be intimidated, her son was forced to leave for France, and a lawyer from A.N.'s staff began to collect documents proving O.Z.'s innocence. In the meantime, the person sought managed to leave the Russian Federation, and also received information from a person from the Russian railway that they were attempting to suppress the corruption case, and that Z. herself may be charged with extremism due to her cooperation with the opposition.

Przemyśl Regional Court decision of 6 June 2022 (II Kop 25/22)

The testimony by the person sought should be noted, in which he stated that from 2012 to 2016 he was active in the territory of the Russian Federation in an opposition organisation, and in 2014 took part in elections to the [parliament] of the Russian Federation as an oppositionist. Meanwhile, until 2016, i.e. until his departure from Russia, within a social organisation he spoke up against the state monopoly in the functioning of taxi drivers. With respect to the offence alleged against him, he stated that the criminal cases against him were initiated for political reasons and because he was doing business in the area of mobile telephones, in which the market leader was the company [...], which belonged to L.P. Also highly relevant is the testimony by the person sought involving making his property, hostels in the city of K., available for the needs of the Ukrainian army, which indisputably could be regarded by the Russian side as treason.

Przemyśl Regional Court decision of 27 April 2022 (II Kop 22/22)

The documents presented by the Russian side, including the justification for the order for temporary arrest, confirm the version of the person sought that he was serving in the Federal Security Service of Russia and fled the territory of that country, and this gives rise to the concern, in combination with the substance of the allegations against him, that the Russian side is using the institution of extradition in this case to settle scores with a disloyal former state official, familiar with the operational techniques employed by the Russian services, which also appears from the justification. It is also telling, as the prosecutorial authority does not dispute, that, as the person sought asserts, he has obtained refugee status in Ukraine. This in turn generates a further fear that due to the ongoing Russian-Ukrainian war, after extradition A.C. may be treated by the Russian authorities as a traitor and an enemy of that country.

Przemyśl Regional Court decision of 15 April 2022 (II Kop 19/22)

The cases where a bar to extradition was the citizenship of the person sought (particularly Ukrainian³¹ or Chechen citizenship) require a separate discussion.

In her testimony, she stated that she is a cross-country skier and travelled from Russia to W. for a skiing competition. Later she was supposed to return to K., but an acquaintance urged her to fly with him to M. At the airport in Russia the accused was detained by Russian customs officers, who found a tablet of ecstasy in her luggage. I.D. had no idea where the tablet found on her came from, and only the acquaintance, whom she had recently met, had access to her luggage. The accused stated that previously her sponsor had been Gazprom, but following Russia's annexation of K. she began to represent Ukraine. The Russians then requested that she relinquish her Ukrainian citizenship, while offering her help in her career development. When she was still in the territory of Russia, other items were sought against her to aid in accusing her of smuggling and possession of narcotics. The Russians proposed that she should pay EUR 100,000 to receive a suspended sentence in the Russian Federation. I.D. could not afford that, and left for Ukraine, where she changed her name (she was previously known as I.T.) While in Ukraine, the accused reported to the prosecutor's office in B. and stated that she was a person sought by the Russian Federation, presenting the circumstances of her case. Then a document was issued pursuant to which she could not be detained based on the [Interpol] notice, and that she could work normally.

Przemyśl Regional Court decision of 3 June 2022 (II Kop 32/22)

³¹ Przemyśl Regional Court decisions of 12 April 2022 (II Kop 8/22) and 3 June 2022 (II Kop 32/22); Warsaw-Praga Regional Court decision of 15 March 2024 (V Kop 24/24).

It is well known that due to the tense political situation between the Russian Federation and Ukraine, Ukrainian nationals are exposed to worse treatment by the Russian authorities. This problem applies to persons who have taken active part in the armed conflict in D. It has now come to a situation which one side refers to as a “military operation” and other side as a “war.” However, as stated in the record of the session on 12 April 2022, counsel for the person sought submitted evidence in the form of a certificate from the “National Guard of Ukraine” that the half-brother of the person sought (co-accused) is undergoing military service in Ukraine. Thus the person sought, and the co-accused, potentially belong to that group of people. Moreover, at the session on 7 April 2022, the person sought explained that he had previously travelled to D. with humanitarian aid. And although he holds both Russian and Ukrainian citizenship, because of the latter state affiliation (held since birth) there is a fear of worse treatment due to his Ukrainian nationality.

Przemyśl Regional Court decision of 12 April 2022 (II Kop 8/22)

The report states that several people in the Russian Federation have been convicted for allegedly belonging to group N., supporters of the late theologian S.N., who were banned by Russia as extremists in 2008, even though there is no evidence of their use of violence. In October 2021, the authorities were going to arrest more than 15 alleged supporters of N. In August, J.K., who was stripped of his Russian citizenship in 2019 after serving a prison sentence on charges of collaborating with N., was released after more than two and a half years in deportation detention. He remains stateless and without identity documents. Since the end of 2020, at least 11 people have been convicted for alleged links to T.J., an international missionary movement banned in Russia since 2009 as extremist, although it rejects violence. At least 13 others were detained in 2021, and authorities charged five and deported several others. Since November 2020, at least eight people have been convicted and dozens detained for their alleged participation in [...], a pan-Islamist movement that seeks to establish a caliphate but condemns violence to achieve that goal. Russia banned the group as a terrorist organisation in 2003. In May 2021, the appellate court upheld the convictions of 10 people sentenced to prison terms ranging from 11 to 22 years. According to the Memorial Human Rights Centre, as of October 2021 more than 170 people had served prison sentences after conviction for participating in this organisation. The information cited testifies to the threats to people of Chechen nationality and followers of [...], to whom the person sought belongs.

Warsaw Regional Court decision of 28 October 2022 (VIII Kop 196/22)

Strikingly, in one case the court refused extradition to Russia merely because the persons sought resided in Ukraine, as this alone could expose them to infringement of their rights and freedoms in the event of extradition.³²

Finally, there was one case where extradition was held to be legally inadmissible because the person sought had been granted asylum.³³

32 Przemyśl Regional Court decisions of 22 April 2022 (II Kop 17/22) and 27 April 2022 (II Kop 22/22).

33 Kraków Regional Court decision of 17 January 2023 (III Kop 11/22).

The most common objections raised as bars to extradition in international proceedings in Europe and in proceedings for execution of European Arrest Warrants are infringement of the right to respect for private life and family life, and provisions banning inhuman treatment in connection with overcrowded prison cells. The court takes judicial notice of the practice of the British, Swedish and Italian courts refusing to execute European Arrest Warrants specifically because the person sought has established his life centre in the country of execution, established a family, works there and observes its laws. The national courts applying the proportionality test weigh on one hand the interest of the justice system of the requesting state, and on the other hand the right of the person sought to private and family life. Undoubtedly the person sought, V.D., may assert the right to respect for private and family life. The person sought has stayed and worked legally in Poland since 2019, i.e. for three years. He supports two daughters, one of whom resides with him permanently in Poland. He has chosen to make our country the centre of his professional and family life. V.D. has permanent employment, where he is valued, and based on his attitude it can be assumed that his employer will continue employing him. V.D. plans to remain longer in Poland, as demonstrated by his filing of an asylum application in our country, which was the reason for stay of the extradition proceeding. Of course, there are multilateral agreements governing extradition relations between various states, which generally do not treat asylum as an absolute bar to extradition. There are treaties, however, which do contain such a clause, and these are mainly treaties between EU member states and non-European countries. In the case at hand, it seems reasonable to hold that asylum is tantamount to the inadmissibility of extradition to the state where the prevailing conditions constituted the basis for awarding protection in Poland, and in the court's view such conditions may exist in the territory of the Russian Federation. As a male adult, the person sought is subject to mandatory military service in Russia, and thus extraditing him to that country may result in his being forcibly conscripted into the army, and subjected there to inhuman or degrading treatment or punishment. Consequently, this may raise the fear that under the current political and social conditions, he will be deprived of his rights to a fair trial, particularly as he would be surrendered to Russia for the purpose of conducting a criminal proceeding against him, and to serve an existing sentence of imprisonment.

Kraków Regional Court decision of 17 January 2023 (III Kop 11/22)

It is apparent from the foregoing that the Polish courts have taken a clear, categorical approach to reviewing extradition requests from the Russian authorities. This highly restrictive approach was not changed by the gravity of the underlying offences (the requests included allegations of homicide, participation in organised crime, narcotics and financial crimes).

Notably, the Polish authorities displayed a similar attitude toward applications from countries backing Russia's aggression in Ukraine. This has to do

with Belarus, but also Serbia. In one case in 2022, the court initially held that extradition of a Ukrainian citizen sought by Serbia was legally admissible. But upon review, the court of appeal reversed the ruling below and held that extradition of the Ukrainian was legally inadmissible in light of Serbia's support for Russia's invasion of Ukraine.

It is common knowledge, and also with a historical basis, that the society and authorities of the Republic of Serbia are favourably inclined towards the Russian Federation, with is currently waging a full-scale war with the Republic of Ukraine, during which numerous acts of lawlessness, cruelty and violation of international standards have been reported, and even outright extermination due to Ukrainian nationality. Serbia is the only country in Europe, excluding Belarus, which, beyond supporting the UN resolution, does not condemn Russia's invasion of Ukraine. This position arises from political and economic ties and from the sympathy of Serbian society for Russia, which is relevant one month before national elections. Most of the media in Serbia are dependent on the governing parties, serving to maintain their power, and generally parrot Russian propaganda.

Wrocław Court of Appeal decision of 23 May 2022 (II AKz 345/22)

Belarus

As in the case of Russia, before the full-scale invasion of Ukraine in 2022 Belarus was one of Poland's most active partners in extradition cooperation, based on a bilateral treaty from 1994.³⁴

Recently, there has been a noticeable decline in the number of extradition requests issued by the Belarusian authorities. While in 2020–2021 there were about 16–17 such cases per year in the Polish prosecutors' offices, and 27 in 2022, by 2024 the number of cases had fallen to five. It should be stressed that the Belarusian authorities do transmit complete extradition requests, and thus meet the procedural requirements, the prosecutors in Poland usually seek a decision from the court finding that extradition is legally inadmissible.

In 2022–2024 at least 31 decisions were issued in which the regional courts found that extradition to Belarus was barred, and in one case that extradition was admissible, which means that about 96% of the cases led to a negative

³⁴ Agreement between the Republic of Poland and the Republic of Belarus on legal assistance and legal relations in civil, family, employment and criminal matters, signed at Minsk on 26 October 1994.

finding by the regional courts on the possibility of extradition. Ultimately, in 2022–2024 the Minister of Justice refused to extradite 36 persons sought by Belarus.

The grounds for refusing extradition were primarily inconsistency with Polish law, concern about infringement of the person's rights and freedoms, and political prosecution. These barriers were characterised by the Polish courts as systemic, because the Belarusian authorities are unable to guarantee a fair criminal trial or to protect wanted persons against torture, because the Belarusian justice system is not independent and is corrupt.

In the light of the evidence gathered in this case, there is not the slightest doubt that the request for extradition of the person sought is based on false information, and that the Belarusian authorities are illegitimately using the tool of extradition to eliminate the accused from society, which is to prevent him from pursuing further opposition activity against the regime of A.L., who grasps in his hands the executive, legislative and judicial powers in Belarus, in order to exercise authoritarian rule, which can only mean widespread violation of human rights, affecting all spheres of life and society as a whole. It is not possible to surrender the person sought to the Belarusian justice system, because no justice system exists at all in Belarus within the meaning of the standards of a democracy governed by the rule of law.

Warsaw Regional Court decision of 26 January 2022 (VIII Kop 256/21)

The justice system in Belarus has been entirely subordinated to the executive power and is controlled by the special services. The scale of human rights violations in Belarus is confirmed by reports from the Helsinki Foundation for Human Rights and Amnesty International, and almost daily media reports. Thus there is no doubt that the current social and political situation in Belarus does not guarantee the accused a fair and just trial, in the sense that his case would be heard by an autonomous, impartial and independent court. And this is a fundamental right of every person, guaranteed by Art. 3 and 6 of the European Convention on Human Rights.

Białystok Regional Court decision of 19 July 2024 (III Kop 33/24)

Further barriers to extradition arose from the assessment of the wanted persons' individual situation. In particular, the courts pointed out that the request concerned persons being prosecuted for activity in the political opposition, or the persons had ties to Poland (e.g. their permanent residence), or they had sought or obtained international protection.

While the charge against the accused is not strictly speaking an offence against the existence and functioning of the state, the accused has shown that the charge was made against him in the context of his earlier participation in demonstrations against the current policy in Belarus, and thus de facto is politically motivated.

Białystok Regional Court decision of 4 May 2024 (II Kop 34/24)

Art. 68 §1(5) of the agreement of 26 October 1994 provides that extradition will not occur if it relates to a political offence. While the second charge against the accused is not strictly speaking an offence against the existence and functioning of the state, refusal to display a portrait of Lukashenko, in the context of the wanted person's earlier participation in demonstrations against Lukashenko's rule, is an expression of an adopted political stance, and therefore the charge against him is of a political nature.

Białystok Regional Court decision of 12 October 2023 (III Kop 71/23)

While the charges against the accused are not strictly speaking an offence against the existence and functioning of the state, the accused showed that the drug charge was filed against him after he had left Belarus, when his computer was searched and information about the war in Ukraine was found there. In this context, it appears that the drug charge may be politically motivated.

Białystok Regional Court decision of 13 May 2024 (III Kop 21/24)

Taking these considerations into account, in the court's view there is a well-founded fear that in the state requesting extradition the rights and freedoms of the extradited person will be violated, which constitutes a negative ground for extradition of the person sought. It should be pointed out, by the way, that T.D. is seeking a temporary residence permit in Poland, has his regular place of residence here, and work in which he receives very good references, and while at liberty he also complied with the preventive measures ordered against him.

Suwałki Regional Court decision of 27 November 2024 (II Kop 43/24)

The courts also found bars to extradition in the relations between Belarus and Russia and in Belarus's support for the invasion of Ukraine, and thus concerning Belarus's international standing.

Even the right of the Belarusian authorities to submit this extradition request is questionable, as this instrument is only available to entities of international law endowed with sovereign authority. Meanwhile, Belarus's position as an utter vassal of Russia is evident on the international arena. The government of Poland does not recognise the Belarusian government as legal, nor does any other member state of the European Union. Thus, from the point of view of international law, Belarus does not currently have the standing to participate in international relations in criminal matters.

Warsaw Regional Court decision of 22 January 2022 (VIII Kop 262/21)

In this context, it is necessary to point out the current geopolitical situation in Europe related to Russia's military aggression against Ukraine, in which armed conflict Belarus actively supports the Russian aggressor. Undoubtedly, the actions taken by the Belarusian authorities related to the war in Ukraine are contrary to the security of the Polish state, and they are therefore unacceptable and condemned by the authorities of the Republic of Poland. Thus for the Polish state authorities to undertake any cooperation with the Belarusian state authorities based on the principle of reciprocity would be contrary to the interests of the Republic of Poland, including the interests of the Polish justice system.

Sieradz Regional Court decision of 14 May 2024 (II Kop 3/24)

Thus if the accused were handed over to the authorities of the Republic of Belarus, his right to have his case heard by an independent and impartial court established by law could be violated. He could also be subjected to cruel, inhuman or degrading treatment or punishment in connection with the criminal proceedings. In the cited ruling, the Supreme Court also pointed to the aspect of the Republic of Belarus waging a hybrid war against the Republic of Poland, political persecution of its own citizens, disrespect for the standards of the rule of law and the protection of human rights and civil rights in a general and systemic sense, including by subordinating the judiciary to the president, and torture and inhuman treatment by law enforcement officials of persons detained, arrested pending trial, or convicted. This is reflected in publicly available information and reports by international and non-governmental organisations.

Suwałki Regional Court decision of 27 November 2024 (II Kop 43/24)

Finally, the regional courts have found that extradition was barred due to a lack of double criminality. This situation arose when the extradition requests

involved prosecution for avoiding military service in Belarus³⁵ and for fiscal offences violating the financial interests of Belarus.³⁶

The only known instance during this period of a decision finding extradition to Belarus legally admissible involved prosecution for possession of large quantities of narcotics, where the person had previously served a sentence in Belarusian prisons. During the course of the extradition proceeding, the person was also serving a sentence for an offence committed in Poland.³⁷ This case was exceptional, as in other cases studied involving prosecution for drug offences, the regional courts found numerous times that extradition was prohibited, despite the criminality of the alleged offence.³⁸ Even in the case discussed, it cannot be ruled out that the Minister of Justice refused extradition.

United States

Extradition cooperation between Poland and the US functions under a bilateral treaty from 1996³⁹ and also under the EU's extradition treaty with the US from 2003.⁴⁰

Under these documents, the Polish and American authorities can extradite wanted persons, including their own citizens. Neither country is bound to extradite its own nationals, but can do so if its executive authority finds in its discretion that it is "proper and possible to do so." However, if extradition is refused solely on the basis of the nationality of the person sought, then, if asked to do so by the requesting state, the requested state must submit the case to its own competent authorities for a decision as to prosecution.⁴¹

It should also be pointed out that the possibility of extraditing a Polish citizen is limited by the Polish Constitution, which specifies that it is only allowed, under an international agreement, when the condition of double criminality is met and, in addition, the offence must have been committed outside of

35 Warsaw-Praga Regional Court decisions of 4 March 2023 (V Kop 2/24) and 5 November 2023 (V Kop 79/24).

36 Warsaw-Praga Regional Court decision of 24 April 2024 (V Kop 32/24).

37 Olsztyn Regional Court decision of 6 June 2023 (II Kop 54/23).

38 Warsaw Regional Court decision of 24 April 2024 (VIII Kop 58/24); Olsztyn Regional Court decision of 6 July 2023 (II Kop 61/23).

39 Extradition treaty between the United States of America and the Republic of Poland, signed at Washington on July 10, 1996.

40 Agreement on extradition between the United States of America and the European Union, signed at Washington on June 25, 2003.

41 Art. 4 of the US/Poland extradition treaty.

Polish territory. Also for this reason, extradition cooperation with the United States exhibits a quite formal approach to examination of the grounds for inadmissibility of extradition, particularly with respect to the citizenship of the person sought, concern over infringement of rights and freedoms, including the guarantee of a fair trial, as well as the commission of the alleged offence in Polish territory.

The number of extradition requests transmitted to Poland by the American authorities has remained at a steady level for several years. In 2022–2024 Polish prosecutors' offices handled in total an average of five to eight cases per year involving extradition to the US.⁴²

In turn, the regional courts issued at least 10 decisions in such cases in 2022–2024. In five of the cases the court found that extradition was legally admissible, in four cases it was not admissible, and in one case the proceeding was discontinued because the person sought was no longer in Poland and there were also doubts whether the person sought had previously been convicted for the acts covered by the extradition request.⁴³

Meanwhile, at least five proceedings involving extradition to the US were pending in the courts of appeal in 2022–2024 pursuant to appeals. In three cases the courts of appeal affirmed decisions finding that extradition was legally admissible, in one case a decision allowing extradition was reversed due to the accused's inability to mount a defence in the court proceeding,⁴⁴ and in the remaining case the court of appeal affirmed a decision finding that extradition was barred.

Ultimately, in 2022–2024 the Minister of Justice agreed to surrender seven persons sought by the American authorities, and refused extradition of four such persons.

In terms of the grounds for finding that extradition was barred, the regional courts most often relied on the wanted person's Polish citizenship as the basis for denying extradition. This led to a finding that extradition was barred in four cases.⁴⁵

⁴² In 2020–2021 there were a total of 10 such cases.

⁴³ Warsaw Regional Court decision of 27 September 2022 (VIII Kop 128/22).

⁴⁴ Warsaw Court of Appeal decision of 15 December 2022 (II AKz 1182/22).

⁴⁵ Słupsk Regional Court decision of 3 November 2023 (II Kop 15/23); Gliwice Regional Court decision of 31 August 2022 (IV Kop 16/22); Warsaw Regional Court decision of 13 June 2023 (VIII Kop 107/23).

It should be clarified that in one of these cases, the court also found that the conditions of double criminality and territoriality were not met, and there were also doubts surrounding the statute of limitations on the offence.⁴⁶

In the second case, the court also pointed out that a criminal proceeding had been conducted in Poland concerning the same acts as those covered by the extradition request, and additionally determined that the alleged acts were committed in Polish territory.⁴⁷

In the third case, the regional court found that due to oversights by the American authorities, and omission of evidence favourable to the person sought, there was a realistic fear of violation of the person's rights and freedoms, including the right to a fair trial.⁴⁸

The additional arguments raised by the defence during the proceeding for consideration of the extradition request, related to the medical report from the ambulance and the attempt by the American side to conceal this evidence from the defence, provide significant support for the claim that a top-down assumption of the guilt of the person sought was adopted there, without examining the defence's remarks. It is relevant that the American side had the indicated reservations by the defence at its disposal but still did not take the trouble of verifying them objectively. In the opinion of the regional court, this demonstrates how realistic is the threat of infringement of the subject's right to a fair trial, which is all the more relevant when it is remembered that in this case the guilt of the accused will be decided by a jury.

Bydgoszcz Regional Court decision of 4 February 2022 (III Kop 2/21)

In another case, the basis for refusal was a finding that the offence in question was politically motivated.

⁴⁶ Gliwice Regional Court decision of 31 August 2022 (IV Kop 16/22).

⁴⁷ Słupsk Regional Court decision of 3 November 2023 (II Kop 15/23).

⁴⁸ Bydgoszcz Regional Court decision of 4 February 2022 (III Kop 2/21).

The nature of a political offence depends on the shape of the political system in which a given prohibited act of political provenance was committed. It will be interpreted completely differently in a democratic system than in a totalitarian system, and differently yet again under authoritarianism. Most appropriate in assessing a political offence is to assess this act based on the objective theory, i.e. the good protected by law is at the centre of the analysis. Thus if the legally protected good is of a political nature, then a criminal act, an attack on this good, will be defined as a political offence. The offences charged against the accused relate to violation of the bodily integrity of an officer, active participation in a conspiracy, exerting influence over official acts, and disrupting the conduct of elections. The political nature of the offence may be understood broadly, but its interpretation cannot be detached from the findings concerning the political system prevailing in the place where it was allegedly committed. Insulting a public official in a totalitarian system during a demonstration aimed at restoring the principles of a democratic state will be considered differently than such behaviour in a democratic system due to a desire to manifest one's own political views. The case file shows that the acts alleged against G.O. could have been committed for political reasons of dissatisfaction, but this does not necessarily mean that these offences should be regarded as political.

Warsaw Court of Appeal decision of 13 October 2023 (II AKz 868/23)

Finally, in one case the sole basis for finding that extradition was legally inadmissible was that the person had acquired Polish citizenship.

The court does not find any other obligatory obstacles to the declaration of legal inadmissibility of surrendering the person sought to the authorities of the United States of America, and does not share any of the arguments raised by the prosecutor or defence counsel. All of the issues mentioned by the parties, that G.N. is a credit to Poland, and conducts activity that is undoubtedly positive and beneficial from the perspective of the interests of the Polish state, are not issues that can be of interest to the court. Therefore the court does not accept this argumentation. ... For these reasons, the court is of the opinion that the possibility of extraditing G.N., as a citizen, to the United States of America, could be considered if the court found legal admissibility. The court does not find this, so it is not the Minister of Justice who should be the final arbiter on this issue.

Warsaw Regional Court decision of 13 June 2023 (VIII Kop 107/23)

In the rest of the cases, the courts found that extradition was legally inadmissible, acknowledging that there were no concerns about infringement of the rights and freedoms of the person sought.

Nor is there a concern that in the requesting state the rights and freedoms of the extradited person would be violated. The United States of America is a democracy with a separate, independent and impartial judiciary, strongly rooted in the Constitution and in well-established constitutional procedural guarantees.

Warsaw-Praga Regional Court decision of 26 October 2022 (V Kop 80/22)

In the context of these cases, concern about infringement of the person's rights and freedoms in terms of the possible imposition of a death sentence or life in prison should also be noted. In two cases in this area, the courts found that there were no such concerns from the perspective of Art. 3 of the European Convention on Human Rights.

To find that extradition is legally inadmissible due to failure by the requesting state to comply with the guarantees of respect for the standard of the convention provided for in Art. 3 ECHR, it is necessary to show the existence of a real risk of non-compliance with this standard in the specific instance and with respect to the specific person, i.e. the subject of the extradition request. Nor are there concerns that the accused might be sentenced to the death penalty. Accordingly to publicly available information, in W., where the accused may be tried, the death penalty was completely abolished in 1981. In the court's opinion, none of these grounds were even remotely substantiated in this case, and thus it should be found that they do not exist.

Warsaw Regional Court decision of 19 September 2024 (VIII Kop 174/24)

This court fully shares the legal view expressed in the order of the Supreme Court [of Poland] of 1 October 2020 (case no. II KK 154/19) that even the possibility of imposing a life sentence on the accused must be completely real and certain. Even when a sentence of life imprisonment is included in the catalogue of sanctions for committing a crime against property does not mean per se that it must be found that extradition is not possible. Otherwise, it would be impossible to extradite anyone at all (as it were, automatically) to a country where commission of a given type of offence would be threatened with this type of sanction. Under the realities of this case, American law not only does not provide for a threat of life imprisonment, or even a severity corresponding to this punishment, because there is a possibility of reducing and modifying penalties.

Warsaw-Praga Regional Court decision of 27 February 2023 (V Kop 97/22)

It should be recalled that a ground for the inadmissibility of extradition is a well-founded fear that the death penalty could be imposed or executed against the extradited person in the state requesting extradition, which is not the case here in light of the statutory sanctions for the acts alleged against the person sought. T.P.'s advocate points to the maximum sentence (over 200 years of imprisonment), but even where a dozen or more counts are alleged against the accused, and considering that the sentences could be stacked, this is still not grounds for concluding that if convicted the accused would be subjected to consecutive maximum terms of imprisonment, as defence counsel claims, and thus there are no grounds for finding that the accused may face a penalty contrary to Art. 3 of the European Convention on Human Rights.

Warsaw Court of Appeal decision of 5 April 2023 (II AKz 267/23)

The fear raised by the defence counsel in the appeal that the rights and freedoms of the accused could be violated in the requesting state, because in the United States of America the accused faces a potential sentence of 67 and a half years in prison and moreover that the offence for which the extradition is requested is a political offence which could be punishable by death, is, in the court's opinion, a tactic adopted by the accused and his defence counsel aimed at defeating his extradition to the requesting state and cannot constitute a sufficient basis for establishing the ground of inadmissibility of extradition of the accused referred to in Criminal Procedure Code Art. 604 §1(7). It may be mentioned by the way that in the last 50 years, the death penalty for espionage (the accused admitted when interrogated as a suspect that he worked for South Korean intelligence) has been carried out in the United States of America extremely rarely, and executions [merely] related to espionage are even rarer. One of the most famous cases in history is that of U.S. citizens [Julius and Ethel Rosenberg], who were convicted and executed for espionage in 1953 (passing information to the USSR about the Manhattan Project). It should be noted here that in recent history in the United States, there have been no executions specifically related to espionage charges.

Warsaw Court of Appeal decision of 21 November 2024 (II AKz 880/24)

Moldova

Moldova is another country that transmits a significant number of extradition requests to the Polish authorities. This cooperation is based on the European Convention on Extradition.

Each year the Moldovan authorities submit about 20 extradition requests to Polish prosecutors' offices. The regional courts, in turn, issued at least 27 decisions in such cases in 2022–2024, 25 of which found that extradition was

admissible and two that it was not. In one of those cases extradition was not allowed because the condition of double criminality was not met, while in the other the court refused to allow extradition due to the personal situation of the person sought.

The person sought crossed the Polish border escaping from Russia's invasion of Ukraine. It is also relevant in this case that there is a realistic danger of escalation of the conflict and extending it into the territory of the Republic of Moldova. Thus returning the person sought, as well as potentially their minor children, to their country of origin could pose a danger to their life and health.

Przemyśl Regional Court decision of 9 June 2022 (II Kop 39/22)

In four of the cases, extradition was found to be admissible due to consent to extradition, submission by the Moldovan authorities of diplomatic assurances on the guarantee of a fair trial,⁴⁹ and a finding that the fear of infringement of the subject's rights and freedoms was only abstract.⁵⁰ In one case a decision had been issued in absentia, but the Polish courts nonetheless found that the procedure in Moldova was fairly conducted and the subject could have exercised the right to a defence there.⁵¹

The courts of appeal issued four decisions in Moldovan cases upholding a decision by the regional court finding that extradition was admissible. In one notable case, the court of appeal evaluated the ground of infringement of the subject's rights and freedoms due to Moldova's exposure to the threat of Russian aggression.

The argument raised by defence counsel concerning the military operations conducted by the Russian army in the territory of Ukraine could not undermine the correct decision by the court of first instance. It should be pointed out that the reach of these operations and their impacts, which clearly are unpredictable, do not pose a bar to returning M.R. to the territory of the Republic of Moldova. In this context, it must be noted that the Republic of Poland also borders on Ukraine, and thus it cannot be stated with complete certainty that Poland is a safer country than Moldova.

Katowice Court of Appeal decision of 13 December 2022 (II AKz 1384/22)

49 Legnica Regional Court decision of 18 July 2023 (III Kop 97/22); Przemyśl Regional Court decision of 5 September 2023 (II Kop 20/23).

50 Łódź Regional Court decision of 26 January 2024 (XVIII Kop 46/23); Włocławek Regional Court decision of 20 October 2023 (II Kop 22/23).

51 Warsaw-Praga Regional Court decision of 1 June 2022 (V Kop 30/22).

Ultimately, in 2022–2024 the Minister of Justice decided to surrender 30 people sought by the Moldovan authorities, and refused to turn over three people.

Middle East, Maghreb and India

There is also significant extradition cooperation between Poland and countries in the Middle East, the Maghreb, and India. This is conducted on the basis of bilateral treaties (in the case of Egypt, India, Iraq, Libya, Morocco, Turkey, and the UAE) as well as reciprocity (Bahrain, Iran, Jordan, Kuwait, Lebanon, and Saudi Arabia). An analysis of these cases shows that the Polish courts take a cautious but balanced approach to extradition to countries in the Middle East, the Maghreb and India, particularly considering issues of human rights and procedural standards.

In 2022–2024 there were 64 such cases in the prosecutors’ offices, while the regional courts issued at least 34 decisions in extradition cases originating from this region.

Table 9. Extradition cases by country, Middle East, Maghreb and India, 2022–2024

Country	No. of cases at prosecutors offices	No. of cases in regional courts	Extradition admissible	Extradition inadmissible or only partially admissible	Case discontinued
Bahrain	1	0			
Egypt	2	3	2		
India	2	1		1	
Iraq	1	0			
Iran	7	0			
Jordan	2	3			3
Kuwait	1	1			
Lebanon	2	1			1
Libya	2	0			
Morocco	4	4	2		
Saudi Arabia	3	2			
Turkey	32	17	5	5	
UAE	5	2	1		1
TOTAL	64	34	10	6	4

In turn, the courts of appeal issued eight decisions in such cases during the period. In five cases, a decision allowing extradition was affirmed, in two cases decisions finding extradition inadmissible were affirmed, and in one case the decision below was set aside and the case remanded for reconsideration.

The reasons for finding extradition inadmissible were previous conviction and execution of the judgment in another country,⁵² failure to meet the condition of double criminality due to the different manner of penalising sexual offences in Poland and India,⁵³ and the political grounds for prosecution and thus a concrete threat of infringement of human rights if the person sought were turned over to Turkey, due to the person's Kurdish origin.⁵⁴ The cases where the regional courts found extradition to be partially inadmissible arose from extradition requests from the Turkish authorities. The inadmissibility arose from the fact that the applications partly involved alleged acts that under Polish law constituted petty offences.⁵⁵

In three cases originating from Turkey, Egypt and Morocco where the courts found extradition admissible, it was found that the subject's alleged fear of infringement of their rights and freedoms in the event of extradition was abstract.⁵⁶ Moreover, in the cases where the subject had been convicted in absentia, the courts accepted assurances that if extradited, the person sought would be afforded a new, fair trial.⁵⁷ Finally, in the applications from the United Arab Emirates, the regional courts accepted assertions of reciprocity.⁵⁸

In this group, there were also two cases where the regional courts had previously found extradition admissible, and the subject was extradited, but the courts were now asked to rule on requests to expand the scope of the extradition. Such proceedings are conducted without the participation of the accused or their defence counsel.⁵⁹ In both of these cases the courts consented to expansion of the scope of extradition.

52 Gliwice Regional Court decision of 21 March 2023 (IV Kop 8/23).

53 Kraków Regional Court decision of 15 December 2023 (III Kop 181/23).

54 Przemyśl Regional Court decision of 2 September 2022 (II Kop 16/22).

55 Krosno Regional Court decision of 13 June 2022 (II Kop 23/22); Przemyśl Regional Court decisions of 2 June 2022 (II Kop 10/22) and 26 August 2022 (II Kop 13/22).

56 Piotrków Trybunalski Regional Court decision of 26 November 2024 (III Kop 65/24); Zamość Regional Court decision of 19 April 2022 (II Kop 23/22 and II Kop 25/22).

57 Przemyśl Regional Court decision of 17 October 2022 (II Kop 49/22).

58 Zamość Regional Court decision of 3 December 2024 (II Kop 93/23); Warsaw-Praga Regional Court decision of 8 June 2022 (V Kop 49/22).

59 Zamość Regional Court decision of 31 August 2024 (II Kop 3/24).

Among the discontinued cases, one reason was the failure to transmit complete extradition requests (two cases from Jordan),⁶⁰ and in one case, withdrawal by the UAE of its Red Notice because the underlying act had been decriminalised.⁶¹ The other three cases were dropped because the person sought was no longer in Poland.

Ultimately, in 2022–2024 the Minister of Justice decided to extradite 14 people and refused extradition of 14 others to countries in the Middle East, the Maghreb and India.

Caucasus and Central Asia

The Polish authorities also conduct extensive extradition cooperation with countries in the Caucasus and Central Asia, whether under the European Convention on Extradition (Armenia, Azerbaijan, Georgia, Uzbekistan) or based on reciprocity (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan). In this cooperation, the Polish authorities place great weight on evaluating concerns about violation of the subject's rights and freedoms in the event of extradition, in light of the political and social realities in those countries.

In 2022–2024 at least 83 extradition requests were submitted to Polish prosecutors' offices from these countries. In turn, the regional courts issued at least 59 decisions in such cases in 2022–2024, in which extradition was held to be inadmissible in at least 26 cases and inadmissible in 14 cases, while the proceedings were discontinued in six cases. Discontinuance in five cases was due to the subject's absence from Poland, and in one case because the application was not supplemented to include essential documents.

60 Przemyśl Regional Court decision of 19 May 2022 (II Kop 31/22) and 28 June 2024 (II Kop 22/24).

61 Warsaw-Praga Regional Court decision of 6 March 2024 (V Kop 3/24).

Table 10. Cases seeking extradition to countries in the Caucasus and Central Asia in 2022–2024

Country	No. of cases at prosecutors' offices	No. of cases in regional courts	Extradition admissible	Extradition inadmissible	Discontinuation
Armenia	2	2	1	1	
Azerbaijan	13	11	5	2	1
Georgia	17	5	4		
Kazakhstan	7	5	3		
Kyrgyzstan	7	8	4	3	
Tajikistan	13	8	2	2	2
Turkmenistan	1	1	1		
Uzbekistan	23	19	6	6	3
TOTAL	83	59	26	14	6

The courts of appeal issued 19 decisions during the period concerning extradition to the Caucasus or Central Asia.

Table 11. Cases seeking extradition to countries in the Caucasus and Central Asia in the courts of appeal in 2022–2024

Country	Affirming admissibility	Affirming inadmissibility	Reversing admissibility	Reversing inadmissibility
Armenia				
Azerbaijan	1			1
Georgia				
Kazakhstan			2	
Kyrgyzstan	1	1	1	1
Tajikistan	1	2		
Turkmenistan				
Uzbekistan	2	3	2	1
TOTAL	5	6	5	3

Armenia

In 2022–2024 the Minister of Justice agreed to surrender two persons sought by the Armenian authorities, and refused extradition of one person. In the only analysed case, the courts found barriers to extradition because the condition of double criminality was not met, as the case involved illegal crossing of the Armenian border.⁶²

Azerbaijan

In 2022–2024 the Minister of Justice surrendered seven people to Azerbaijan and refused extradition of four people.

In two cases the Polish regional courts held that extradition requested by Azerbaijani officials was inadmissible. In one case the justification was the lack of double criminality of the alleged offence, while in the other there were concerns that the subject's rights and freedoms would be violated.

The assertion by the person sought that he was openly involved in nationalist movements, expressing open opposition to actions by the Russian authorities in the territory of Ukraine and Azerbaijan, may give rise to valid concerns over whether his trial rights established by international law will be respected.

Przemyśl Regional Court decision of 20 December 2022 (II Kop 62/22)

Georgia

In 2022–2024 the Minister of Justice decided to turn over four persons sought by the Georgian authorities, and did not refuse any extradition request.

We should note two cases involving sentences imposed in absentia. In this respect the courts found that extradition was legally admissible, as the Georgian authorities submitted diplomatic assurances that in the event of extradition, the persons sought would be able to request a new trial.⁶³

⁶² Warsaw-Praga Regional Court decision of 14 January 2022 (V Kop 128/21).

⁶³ Warsaw-Praga Regional Court decision of 3 November 2022 (V Kop 80/23); Przemyśl Regional Court decision of 21 January 2025 (II Kop 34/24).

Kyrgyzstan

In 2022–2024 the Minister of Justice agreed to surrender four people sought by Kyrgyzstan, and refused to extradite another four people.

The cases where the courts found that extradition was inadmissible should be noted. This resulted primarily from concerns about infringement of the subjects' rights and freedoms due to the absence of independent courts, the lack of fair trial guarantees, and inability to exercise the right to a defence and the presumption of innocence, as well as the conditions in the prisons of that country.

The courts took various approaches to assessing the legitimacy of these concerns. Where it was found that these concerns specifically affected the person sought, the courts held that extradition was inadmissible.

It was necessary to consider the circumstances cited by the person sought. When questioned in the course of this extradition proceeding, he stated that he is a citizen of Kyrgyzstan, of Uzbek nationality. During the civil war in Kyrgyzstan in 2010, he stood in defence of his family, whom he then brought to Uzbekistan, and then returned to fight for his home and land. After the end of the war, the Kyrgyz authorities began to summon citizens of Uzbek nationality for interrogation. At that time, A.A. was forced to pay a large sum of money under the threat of a long prison sentence. Refusing, he left the country, first to Russia and then to Turkey, where he learned that he was sought by [Interpol]. The accused was held under arrest in Ukraine for nearly 11 months in connection with an extradition case pending on the same charges. He also alleged that the indictment was based on the testimony of his nephew, who was tortured and compelled to give the testimony in question.

Przemysł Regional Court decision of 4 January 2023 (II Kop 45/22)

The regional court of course takes into account press reports, including those from [...], indicating the possibility of human rights violations in the Republic of Kyrgyzstan, including the treatment of persons of Uzbek origin, but these refer essentially to persons involved in the conflict between Uzbeks and K., which led to ethnic riots in 2010. While A.A. declares his Uzbek origin, he is a citizen of Kyrgyzstan, and his offence has no connection with the conflict and is not of a political nature. At the same time, the evidence provided by the requesting state shows that the proceedings so far concerning A.A. have been conducted in accordance with the general procedural standards applicable to a person accused of a common crime. Under the realities of this case, there is no evidence to indicate that the accused will not be afforded the standard of a fair trial or that he will be subjected to inhuman or degrading treatment or punishment.

Przemyśl Regional Court decision of 30 May 2022 (II Kop 23/22)

In one notable case, the courts upheld the inadmissibility of extradition to Kyrgyzstan over objections involving Kyrgyzstan's cooperation with Russia, and even a concern that the person sought would be further handed over to Russia.⁶⁴

This assessment is not altered by the subject's claim that he was involved in the armed conflict in Ukraine, and in the armed forces of that country he had a significant influence over the selection of generals and officers. Even if that were the case (which has not been demonstrated in any way), it should be emphasised once again that before O.S. was captured, he had travelled to Kyrgyzstan many times and did not feel threatened there in any way. His assertion that the current close cooperation between the Republic of Kyrgyzstan and the Russian Federation heightens this threat is not convincing, as the armed conflict in Ukraine has de facto been ongoing since 2014, and thus the person sought should have been in danger since then. Referring to the cooperation between the Republic of Kyrgyzstan and the Russian Federation alleged by counsel for the person sought, it should be noted that counsel did not provide any argument in support of the claim that such cooperation intensified after the start of the Russian Federation's aggression against Ukraine. Therefore, the appellant's claim is wide of the mark. The assessment in this regard is all the stronger, given that it is precisely since the beginning of this aggression (and due to the subsequent events related to it) that the Central Asian republics have generally freed themselves from Russia's influence due to its increasingly weak international position and lack of full control over the internal situation. As a result, the foreign policy of these countries (including Kyrgyzstan) towards the Russian Federation has grown increasingly assertive.

Rzeszów Court of Appeal decision of 19 July 2023 (II AKz 246/23)

64 Przemyśl Regional Court decision of 24 May 2023 (II Kop 5/23).

Uzbekistan

In 2022–2024 the Minister of Justice consented to surrender four people to the Uzbek authorities, and refused to extradite seven people.

The primary grounds for the inadmissibility of extradition in these cases was concern about infringement of the subjects' rights and freedoms, due to the lack of guarantees of judicial independence, the threat of torture, and the inability to mount a defence.

All these occurrences point to fundamental shortcomings in the organisation and procedures of activities carried out by the justice system more broadly, including possible corruption among officials and judges to change the course of the proceedings. The requirements of the [Uzbek] Constitution and law are not respected, defence counsel have difficulty contacting their clients, and despite the introduction of a law prohibiting torture, there are still many such cases, not long ago leading to the death of detained (or arrested) persons. The Human Rights Committee therefore continues to receive reports of torture and mistreatment, and even rape, by prison officers and law enforcement officials against people deprived of their liberty. People are held in poor conditions, without access to drinking water or sanitation, with limited contact with NGOs. Finally, the procedures related to appointment of judges and prosecutors are such that they give rise to a presumption of a lack of independence of the judiciary or even the independence of the bar. In this situation, the procedural and substantive right to a defence of the person whose extradition has been requested must raise great concern.

Rzeszów Regional Court decision of 16 February 2022 (II Kop 22/21)

The courts based their finding of a fear of infringement of the subjects' rights and freedoms primarily on evidence of realistic, specific concerns affecting the persons sought if they were turned over to Uzbekistan.

It should be borne in mind that E.S. is being prosecuted by the Uzbek authorities for the offence of participating in the structures of a terrorist criminal group. Undoubtedly, this allegation, in public perception and by type, qualifies as a serious crime, threatening public safety and order. But this does not necessarily mean that the application by the requesting state must be approved. The accused indicated that he belongs to the [...] party, which was declared illegal in Russia and Uzbekistan. It is not banned in Europe, however, except for Germany. This movement does not carry out terrorist acts. Instead, it works for freedom of speech in Uzbekistan, which is essentially under the dictatorship of Russia. Analysing the case file, the transmitted documentation, and the materials submitted by defence counsel, and on the basis of its knowledge of the operation of the judicial system of the requesting state and the current geopolitical situation caused by Russia's armed aggression against Ukraine, the regional court concluded that in the present case there are circumstances warranting a well-founded fear that the rights and freedoms of E.S. may be violated in the country requesting extradition.

Przemyśl Regional Court decision of 11 August 2022 (II Kop 35/22)

In addition, he indicated that in Ukraine he is known as a person who carried out activities against Russia on the internet. According to O.S., the reason for his prosecution is that he organised a "cyber army" in close cooperation with the Ukrainian national police, with the personal consent of the Minister of Internal Affairs of Ukraine, intelligence, and the Security Service of Ukraine. The aim of this project is to actively fight propaganda by Russia and its allies. The aim of this activity is also to prevent cyberattacks, including providing volunteer support to the Ukrainian armed forces in the war with Russia. Continuing, the accused stated that he personally recruited a total of about 400,000 people. During their work, they blocked thousands of propagandists, such as S., who is very famous from the television in Russia, and filed about 12 million complaints to various TV channels (YouTube, I.). In addition, he created a channel on the Telegram app called "There is a conscience," thanks to which any person in Ukraine who saw Russian soldiers could take a photo and provide their locations to administrators, who passed on the information. The person sought knows many public activists, officials, and officers of the security services, intelligence and police. According to him, his actions were widespread and publicly known not only in Ukraine, but also in Russia and its allies Uzbekistan, Belarus, Kyrgyzstan and Chechnya. The court also noted the letter from the First Deputy Chief of the National Police of Ukraine addressed to the Chief Police Commander in Poland, stating that O.S. is a person widely known for his voluntary and selfless activities for Ukraine. Since the Russian invasion of Ukraine, the accused and his team have provided invaluable support to the defenders of Ukraine. Together with the National Police of Ukraine, O.S. actively combats the aggression of the Russian Federation, both in cyberspace and offline. In view of the above, there is a reasonable suspicion that the ongoing proceedings may have a purely political basis.

Przemyśl Regional Court decision of 3 April 2023 (II Kop 4/23)

The court also took into account the report submitted by defence counsel dated 6 September 2022, prepared by the non-governmental organisation “F. for E.,” as well as the report of the US State Department report on religious freedom in Uzbekistan, from which it is indisputable that the Uzbek authorities are pursuing a repressive campaign to suppress religious activity, primarily among Muslims, which is manifested, among other things, by the initiation of criminal proceedings for terrorist and extremist offences, as well as the testimony given by witness A.D. at the hearing on 1 December 2022 at the Przemyśl Regional Court. Further in the report by the NGO “F. for E.” it was shown that A.P. was undoubtedly a victim of the aforementioned campaign, conducted by the Uzbek authorities, due to his active affiliation with Muslims, and in particular that he followed sermons by leading representatives of “reformist Islam,” concerning not only religion but also social and economic problems and human rights violations in Uzbekistan, as well as receiving and sharing recordings thereof.

Przemyśl Regional Court decision of 1 December 2022 (II Kop 61/22)

In the other cases, the courts found that these concerns were purely abstract,⁶⁵ also often relying on the Uzbeks’ respect for the principle of reciprocity.⁶⁶

Where the proceedings were discontinued, in one case the court found that the Uzbek authorities had not provided information within the expected time confirming that the sentence which was to be served pursuant to the extradition request had actually been handed down.⁶⁷ In the other case, the Red Notice had been taken down from the Interpol database.

65 Przemyśl Regional Court decision of 20 July 2022 (II Kop 42/22); Warsaw Court of Appeal decision of 3 July 2024 (II AKz 352/24).

66 Przemyśl Regional Court decision of 29 April 2022 (II Kop 21/22). Notably, this decision was set aside on appeal, and upon reconsideration the regional court found that extradition was inadmissible.

67 Przemyśl Regional Court decision of 2 November 2023 (II Kop 32/23).

Tajikistan

In 2022–2024 the Minister of Justice refused to extradite two persons sought by the Tajiki authorities.

The finding that extradition was inadmissible was based on a fear that the subjects' rights and freedoms would be violated, among other reasons due to activity conducted by the person in Ukraine and his departure from that country following the Russian invasion.

In the court's opinion, the documents submitted by the Tajik party raise serious doubts, since on the basis of the extradition request, as well as the documents attached to it, it is first of all impossible to determine whether the person sought is wanted for criminal proceedings or for execution of a sentence imposed in the Republic of Tajikistan. In addition, the extradition request provides information about the charge against the person sought in a very general manner, which creates an inconsistency between the wording of the charge and the literal wording of Art. 307(3)(1) of the Tajik Criminal Code. In view of the above, the court found it necessary to supplement the information in the extradition request. It cannot be overlooked that in the period immediately preceding the subject's detention he had been in Ukraine, where no steps were taken to expel him. Instead, his arrival in the territory of the Republic of Poland was directly related to the military actions triggered by Russia's armed aggression against Ukraine.

Przemyśl Regional Court decision of 16 March 2023 (II Kop 64/22)

Mutual recognition of extradition rulings from other countries

The issue of mutual recognition of prior decisions issued in other countries finding that extradition is inadmissible requires a separate discussion.

Neither Polish law, EU law, bilateral treaties nor multilateral conventions provide for such a barrier to extradition. Nonetheless, the Court of Justice of the European Union examined this issue in its judgment of 19 June 2025 in C-219/25 PPU, *Kamekris*. There the court held that “where a Member State has adopted a decision refusing to extradite the requested person to a third country due to a serious risk to that person of infringement of the fundamental right not to be subjected to torture or inhuman or degrading treatment, enshrined in Article 19(2) of the Charter [of Fundamental Rights of the European Union], and the fundamental right to a fair trial, referred to in the second paragraph of Article 47 of the Charter, the principle of mutual trust requires the competent authority of another Member State, to which a new extradition request from the same third country concerning the same person has been made, to give due consideration to the reasons underlying that refusal decision, within the framework of its own examination of the existence of a risk of infringement of the fundamental rights guaranteed by the Charter” (par. 51).

But the Court of Justice went on to interpret Art. 67(3) and 82(1) of the Treaty on the Functioning of the European Union “as not requiring a Member State to refuse to extradite a national of another Member State to a third country where the authorities of a third Member State have previously refused to execute an extradition request from that third country concerning the enforcement of the same sentence imposed on that national of another Member State, due to the existence of a serious risk of infringement of the fundamental rights guaranteed by Article 19(2) and the second paragraph of Article 47 of the Charter” (par. 53).

This judgment constitutes a major step in the direction of mutual recognition of extradition rulings. Although the ruling in *Kamekris* involved extradition to serve a sentence, not to conduct a criminal trial, and refusal of extradition for fear of infringement of the subject’s rights and freedoms, it should be anticipated that the direction indicated in the ruling will influence future extradition rulings in other member states.

It can be observed in Polish cases that the courts deciding on the admissibility of extradition are already beginning to take into account earlier rulings in other countries. In 2022–2024 at least three cases of this type were conducted before the Polish courts.

The first case involved an application by Turkey to extradite its own citizen in order to conduct proceedings on allegations concerning, among other things, participation in a Kurdish group regarded as an illegal terrorist organisation. The reason for the finding that extradition was admissible in this case was that the charges were time-barred, but also concern about infringement of the rights and freedoms of the person sought due to persecution in Turkey. The regional court stressed that a ruling had already been issued before the Ukrainian courts refusing extradition due to the statute of limitations. The Polish court held that the prior Ukrainian decision was not binding, but affirmed the soundness of the earlier ruling.⁶⁸

In the second case, Argentina requested the extradition of a Portuguese citizen to face charges involving an organised crime group engaged in drug trafficking. The regional court discontinued the proceeding because the person sought had left Polish territory. Nonetheless, the court pointed out that extradition of the subject had previously been refused by Portugal due to the subject's Portuguese citizenship and because Portugal had taken up the prosecution. In the meantime, Spain refused to extradite the person on the ground of *ne bis in idem*, as proceedings were underway at that time in Portugal. Ultimately the criminal case in Portugal was dismissed. After that, extradition proceedings were conducted in Germany, but those were dismissed when the Argentinian authorities submitted a statement that due to the Covid-19 epidemic they were unable to accept the person. In light of these rulings, the regional court in Poland, by way of a European Investigation Order, took measures to verify the circumstances of the case. But due to the passivity of the Argentinian side, as well as significant doubts as to the subject of the extradition proceeding and the statute of limitations, the Polish court decided to discontinue the proceeding.⁶⁹

In the third case, the Polish court of appeal set aside a decision by the regional court allowing extradition to Uzbekistan of a citizen of that country, and ordered the lower court to determine the basis for an earlier ruling by the Ukrainian courts refusing to turn the same person over to Uzbekistan. In the view of the court of appeal, the prior refusal of extradition was helpful

68 Przemyśl Regional Court decision of 2 September 2022 (II Kop 16/22).

69 Kraków Regional Court decision of 20 May 2024 (III Kop 40/22).

for ruling on the soundness of the current extradition request.⁷⁰ On remand, however, the regional court did not take any procedural measures for determining the grounds for the prior refusal of extradition, but instead found that extradition was inadmissible because there was a realistic threat of infringement of the subject's rights and freedoms.⁷¹

These cases show that when hearing extradition cases, the courts are beginning to take into consideration prior refusals of extradition from other countries, for example out of concern for infringement of the rights and freedoms of the person sought. While the courts do not regard such earlier refusals as conclusive on the existence of bars to extradition, their decisions are aiming in the direction of taking prior findings barring extradition into account when deciding extradition cases before the Polish courts.

⁷⁰ Rzeszów Court of Appeal decision of 3 October 2022 (II AKz 174/22).

⁷¹ Przemyśl Regional Court decision of 1 December 2022 (II Kop 61/22).

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