

BOOK FIVE

JUDICIAL RELATIONS  
WITH FOREIGN AUTHORITIES

FINAL PROVISIONS

PART I

**JUDICIAL RELATIONS WITH FOREIGN AUTHORITIES**

CHAPTER I

**General Provisions**

Article 275

**General Rules**

1. Extradition may only be granted subject to prior international convention, in accordance with the provisions of such convention; and, when no provision is made therein, in accordance with the provisions of this Part.
2. International letters rogatory on criminal matters, recognition of foreign criminal judgments and other relations with foreign judicial authorities regarding criminal matters shall be governed by international conventions and customs and, where no provision is made therein, in accordance with the rules of this Part.

CHAPTER II

**International Letters Rogatory**

Article 276

**Letters Rogatory to foreign Judicial Authorities**

1. Letters rogatory to foreign judicial authorities regarding evidence to be taken in a foreign country shall be transmitted through diplomatic channels.
2. In urgent cases, the Court may transmit such request directly to Diplomatic and Consular Agents of the Republic in a foreign country, informing the Ministry of Grace and Justice.
3. Summons to a witness resident in a foreign country shall be transmitted in the same way.

Article 277

**Letters Rogatory from foreign Judicial Authorities**

1. Letters rogatory from foreign judicial authorities regarding evidence to be taken within the territory of the Somali Republic shall become<sup>+</sup>executory by order of the President of the Court of Appeal, after having heard the Attorney General, provided that the taking of such evidence is not contrary to the general principles of law of the State.

The President of the Court of Appeal shall either take the evidence himself or direct that it be taken by the Regional or District Court within whose jurisdiction the necessary action has to be taken.

2. A summons to witnesses resident within the territory of the Somali Republic, requested by foreign judicial authorities shall be served directly by the Attorney General.

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3. Extradition shall be suspended if the person to be extradited has to be tried in, or has to serve a sentence in the Somali Republic, unless otherwise decided by the President of the Court of Appeal.

Article 281

**Extradition from a foreign Country**

1. When it is necessary to make a request for the extradition from a foreign country of an accused or convicted person, the President of the Court of Appeal, within whose jurisdiction the criminal proceedings took place or such person was convicted, shall make such request to the Minister of Grace and Justice, transmitting to him the necessary documentation. Notice of such request shall be given to the Attorney General.

2. Request for extradition may be made by the Minister of Grace and Justice on his own initiative, informing the competent Court of Appeal and the Attorney General.

CHAPTER IV

**Recognition of foreign Criminal Judgments**

Article 282

**Request for Recognition of foreign Criminal Judgments**  
by the Attorney General

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The President of the Court of Appeal shall either take the evidence himself or direct that it be taken by the Regional or District Court within whose jurisdiction the necessary action has to be taken.

2. A summons to witnesses resident within the territory of the Somali Republic, requested by foreign judicial authorities, shall be served directly by the Attorney General.

3. Evidence shall be taken and summonses shall be served in conformity with the general provisions of this Code.

CHAPTER III

**Extradition**

Article 278

**Powers of the Minister of Grace and Justice  
in relation to Extradition**

1. The Minister of Grace and Justice shall be empowered to offer or grant the extradition of a person accused or convicted in a foreign country in cases where extradition is not prohibited under Article 11 of the Penal Code, and he shall establish the precedence when extradition is requested by more than one foreign country.

2. An offer or grant of extradition shall always be made subject to the condition that the person to be extradited shall not be tried for a different offence, nor be subject to different punishment, other than those for which extradition was offered or granted. The Minister of Grace and Justice may also make the offer or grant of extradition subject to any conditions which he shall deem fit and proper.

## Article 279

### **Judicial Guarantees**

1. The extradition of an accused or convicted person to a foreign country may be granted only subject to a favourable decision of the President of the Court of Appeal within whose jurisdiction such person is found, having heard the Attorney General and the person to be extradited. The request for extradition shall be made to the President of the Court of Appeal by the Minister of Grace and Justice.

An order of extradition may be appealed against to the Supreme Court both by the accused or convicted person and by the Attorney General.

2. In the cases where the person to be extradited has to be arrested, the President of the Court of Appeal shall issue a warrant of arrest in accordance with normal procedure.

3. Such warrant of arrest shall be revoked automatically and the arrested person shall be released if:

- a) within 60 days from the date of the arrest, where the request for extradition was made by an African State; or
- b) within 90 days from the date of the arrest, where the request for extradition was made by a State outside Africa,

the Minister of Grace and Justice has not received the documentation in support of the request for extradition.

Such time-limit may be extended, at the request of the State which asks for the extradition, only once and for a period not exceeding one month. Such extension may be granted by the Supreme Court, upon request by the Minister of Grace and Justice.

## Article 280

### **Procedures relating to Extradition**

1. If the President of the Court of Appeal decides that extradition shall not be granted, he shall order that the accused or convicted person, if he is under arrest, be released immediately.

2. Where, instead, the President of the Court of Appeal decides that extradition be granted, the accused or convicted person, after the issue of a warrant of arrest, if necessary, shall be placed at the disposal of the Authority which made the request for extradition.

3. Extradition shall be suspended if the person to be extradited has to be tried in, or has to serve a sentence in the Somali Republic, unless otherwise decided by the President of the Court of Appeal.

#### Article 281

##### **Extradition from a foreign Country**

1. When it is necessary to make a request for the extradition from a foreign country of an accused or convicted person, the President of the Court of Appeal, within whose jurisdiction the criminal proceedings took place or such person was convicted, shall make such request to the Minister of Grace and Justice, transmitting to him the necessary documentation. Notice of such request shall be given to the Attorney General.

2. Request for extradition may be made by the Minister of Grace and Justice on his own initiative, informing the competent Court of Appeal and the Attorney General.

#### CHAPTER IV

##### **Recognition of foreign Criminal Judgments**

#### Article 282

##### **Request for Recognition of foreign Criminal Judgments made by the Attorney General**

1. When a foreign judgment convicting a Somali citizen in a foreign country or a foreigner or stateless person residing in the Somali Republic is received by the Minister of Grace and Justice, he shall, without delay, transmit to the Attorney General such judgment together with all related documentation.

2. The Attorney General, if he deems it necessary to request the recognition of such foreign judgment in the cases provided in Article 10 of the Penal Code, shall make application to the President of the Court of Appeal within whose jurisdiction the Criminal Records Office is located.

The Attorney General may, through the Minister of Grace and Justice, request any details concerning the conviction which he may deem proper from the competent foreign authority.

Article 283

**Request for Recognition of foreign Criminal Judgment  
made by private Persons**

A person who wishes to bring before a Court of the Somali Republic a foreign criminal judgment for the purpose of supporting a claim for restitution of, or compensation for, damages or for other civil purposes as laid down in sub-paragraph (b) of paragraph 1 of Article 10 of the Penal Code, may request recognition of such criminal judgment by filing an application before the President of the Court of Appeal within whose jurisdiction the Criminal Records Office is located.

Article 284

**Form of Application**

The application referred to in Articles 282 and 283 shall contain:

- a) the name of the Court which pronounced the judgment for which a request for recognition is made;
- b) the date and the place where the judgment was pronounced;
- c) the reasons for which the request for recognition is made.

A certified copy of the judgment shall be attached to the application.

Article 285

**Procedure for Recognition**

1. The President of a Court of Appeal shall not grant recognition to a foreign criminal judgment if:
  - a) the convicted person was not summoned to appear at the trial or was not provided with a defence Counsel in the cases in which, according to Somali law, a defence Counsel is mandatory;
  - b) the judgment has not become final in accordance with the law of the State in which it was pronounced;
  - c) the judgment contains any provisions which are contrary to, or incompatible with, any provisions of the Constitution of the Somali Republic or any of the general principles of the law of the State.



2. The President of the Court of Appeal shall make his decision whether the judgment shall or shall not be allowed following the procedure for matters arising in execution.

A party concerned or the Attorney General may appeal against such decision to the Supreme Court.

3. After recognition of such judgment has been allowed, the Registrar of the Court of Appeal shall send brief details of the Court's decision to the Criminal Records Office.

4. If no mention is made in the decision allowing recognition of the judgment with regard to anything that may be done as a result of such decision and if no mention is made regarding any security measures which may be applied, the President of the Court may order such provisions later, upon the request of the Attorney General, following the procedure for matters arising in execution.

#### Article 286

#### **Recognition of Civil Provisions contained in Criminal Judgment in foreign Countries**

1. Civil provisions contained in a criminal judgment in a foreign country which provide for restitution, or compensation for civil damages may be recognized and enforced in the territory of the Somali Republic.

2. Recognition and enforcement may be granted at the instance of the interested party at the same time as the decision referred to in the preceding Article is passed by the Court.

3. In other cases, the application may be made by whoever has an interest in it to the President of the Court of Appeal within whose territorial jurisdiction the civil provisions contained in the foreign criminal judgment should be enforced.

4. Insofar as applicable, the provisions of paragraphs 1, 2 and 3 of the preceding Article shall apply.

PART II

**FINAL PROVISIONS**

Article 287

**Power to issue Regulations**

The Minister of Grace and Justice may issue the necessary regulations for the implementation of this Code.

Article 288.

**Abrogation**

The following are hereby abrogated:

- a) the Italian Criminal Procedure Code;
- b) the Criminal Procedure Ordinance;
- c) the provisions regarding criminal proceedings contained in the «Ordinamento Giudiziario» approved by Ordinance No. 5 of 1956, and in the Indian Evidence Act, 1872;
- d) Regulations regarding the Criminal Records Office approved by Decree No. 32 of 1956;
- e) any other provision contrary to, or inconsistent with, this Code.