

## **CODE OF CRIMINAL PROCEDURE**

(Loi relative à la coopération avec la Cour pénale internationale N. 2002-268 du 26 février 2002)

### **BOOK IV SOME SPECIFIC PROCEEDINGS**

#### **ARTICLE I**

Title I, as drafted below, is inserted in Book IV of the Code of Criminal Procedure before Title I, the latter then becoming Title I bis and its article 627 becoming article 627-1.

#### **TITLE I CO-OPERATION WITH THE INTERNATIONAL CRIMINAL COURT CHAPTER I JUDICIAL CO-OPERATION SECTION 1: MUTUAL JUDICIAL ASSISTANCE**

##### **Article 627**

For the application of the International Criminal court statute of 18<sup>th</sup> July 1998, France takes part in the punishment of offences and co-operates with this court under the conditions determined by the present title.

The provisions which follow apply to any person prosecuted by the International Criminal Court or convicted by this court of acts which constitute genocide, crimes against humanity or war crimes, in the sense of articles 6 to 8 and 25 of the statute.

##### **Article 627-1**

Requests for mutual assistance issued by the International Criminal Court are sent to the competent authorities in accordance with article 87 of the statute. The original document or a certified copy may be sent, accompanied by supporting evidence.

These documents are sent to the district prosecutor of Paris, who takes appropriate action. In urgent cases, these documents may be sent directly to him, by any available means. They are then sent on in the forms provided for in the previous paragraphs.

##### **Article 627-2**

Requests for mutual assistance are carried out, according to the case, by the district prosecutor or the investigating judge of Paris, who act on behalf of the whole French territory, if necessary in the presence of the prosecutor of the International Criminal Court or his representative, or any other person mentioned in the International Criminal Court's request.

The official records made during the carrying out of these requests are sent to the International Criminal Court by the competent authorities, in accordance with article 87 of the statute.

In urgent cases, certified copies of the official records may be sent directly to the International Criminal Court. The official records are sent on afterwards in the forms provided for in the previous paragraphs.

### **Article 627-3**

The implementation of the protective measures, described in section k of paragraph 1 of article 93 of the statute, over the whole of the French territory at the Treasury's expense and in accordance with the methods set out in the new Code of Civil Procedure, is ordered by the district prosecutor of Paris. These measures may only remain in place for a maximum of two years. However, they may be renewed under the same conditions before the expiry of this period at the International Criminal Court's request.

The district prosecutor of Paris transmits to the competent authorities, under article 87 of the statute, any difficulty relating to the execution of these measures, in order that the consultations provided for in articles 93, paragraph 3, and 97 of the statute may take place.

## **SECTION 2: ARRESTS AND TRANSFERS**

### **Article 627-4**

Arrest applications for the purpose of transfer are delivered to the competent authorities, either in original form or as certified copies accompanied by the appropriate proofs, in accordance with article 87 of the Statute. After ensuring that they are in proper form, these authorities then send them to the prosecutor general of the Appeal Court of Paris, whilst implementing them at the same time over the whole French territory.

In cases of urgency, these requests may also be sent directly, by any available means, to the district prosecutor who is territorially competent. They are then sent on in the forms provided for by the previous paragraph.

### **Article 627-5**

Any person who is apprehended in accordance with an application for arrest for the purpose of transfer must be handed over within twenty-four hours to the district prosecutor who is territorially competent. During this period, the provisions of [articles 63-1 to 63-5](#) apply to him.

After checking the person's identity, prosecutor informs him, in a language that he understands, that he is named in an arrest application for the purpose of transfer, and that he must appear before the public prosecutor of the Appeal Court of Paris within five days at the latest. The district prosecutor also informs him that he may be assisted by an advocate of his choice, or failing this, by an advocate officially appointed by the bâtonnier of the order of advocates, who is immediately informed by any available means. The arrested person is also informed by the district prosecutor that he may speak to the appointed advocate immediately.

This information is noted in the official record, which is sent to the public prosecutor of the Appeal Court of Paris as soon as possible.

The district prosecutor orders that the apprehended person be sent to prison.

#### **Article 627-6**

The apprehended person is transferred, if necessary, and imprisoned in the prison for the area of the Appeal Court of Paris. The transfer must be made within five days at the latest from the time of his appearance before the district prosecutor, failing which the apprehended person is immediately set free on the order of the presiding judge of the investigating chamber of the Appeal Court of Paris, unless the transfer was delayed by insuperable circumstances.

The public prosecutor of the same court informs the apprehended person, in a language that he understands, of the application for arrest for the purpose of transfer, and also of the charges brought against him

If the person apprehended has already requested the presence of an advocate, who has been duly sent for, the public prosecutor hears his statement.

In all other cases, the prosecutor reminds him of his right to choose an advocate or to ask for one to be officially nominated for him. The chosen advocate, or in case of a request for one to be officially nominated the bâtonnier of the order of advocates, is informed at once by any means available. The advocate may look at the case file straight away, and may freely communicate with the apprehended person. The public prosecutor hears the latter's statement after informing him that he is free to not make one. This notification is recorded in the official record.

#### **Article 627-7**

The proceedings are immediately transferred to the investigating chamber. The wanted person appears before the investigating chamber within a week of his presentation to the public prosecutor. At the request of the latter or of the wanted person, an additional period of a week may be granted before the proceedings. An interrogation is then carried out, of which an official record is made.

The hearing takes place and the judgment is given in open court, unless a public presence would be harmful to the course of the proceedings, the interests of a third party or to human dignity. In these cases the investigating chamber rules by an order made in chambers, on its own motion or at the request of the public prosecutor or the wanted person. This judgment is only open to appeal at the same time as the decree concerning the transfer provided for in article 627-8.

The public prosecutor and the wanted person are heard, the latter assisted by his advocate if there is one and, if necessary, an interpreter.

#### **Article 627-8**

Where the investigating chamber finds that there is no obvious error, it orders that the wanted person be handed over and, if the latter is free, his imprisonment for this purpose.

All other questions submitted to the investigating chamber are sent to the International Criminal Court, which takes the appropriate action.

The investigating chamber rules within fifteen days of the wanted person's appearance before it. Where an appeal is lodged, the criminal chamber of the Court of Cassation rules within two months of the Court of Cassation's receipt of the case file.

#### **Article 627-9**

The investigating chamber of the Appeal Court of Paris can be requested to grant the detainee's release at any time, and proceeds in accordance with article 59 of the Statute and the procedure provided for in [articles 148-1](#) onwards of the present Code.

The investigating chamber rules in a decree given in open court, justified by reference to the provisions of paragraph 4 of the aforementioned article 59.

#### **Article 627-10**

The International Criminal Court is notified, by any available means, of the decree made by the investigating chamber and, if appropriate, the place and date of the transfer of the wanted person, as well as the length of time the person has been detained in order to effect this transfer, by the competent authorities in accordance with article 87 of the statute.

The wanted person is handed over within a month from the day this decision becomes final, failing which he is immediately released on the ruling of the presiding judge of the investigating chamber, unless the transfer was delayed by insuperable circumstances.

#### **Article 627-11**

The provisions of articles 627-4 to 627-10 are also applicable if the wanted person has been prosecuted or convicted in France on charges other than the ones specified in the International Criminal Court's application. However, in these circumstances the detainee cannot benefit from being released in accordance with articles 627-6, 627-9 and the second paragraph of article 627-10.

The transfer of proceedings before the International Criminal Court suspends the prescription of the prosecution and the sentence in relation to the person concerned.

#### **Article 627-12**

Transit through French territory is sanctioned by the competent authorities in accordance with article 87 of the statute.

#### **Article 627-13**

Where the court seeks an extension to the conditions of the transfer granted by the French authorities, the request is sent to the competent authorities, in accordance with article 87

of the Statute, who communicate it to the investigating chamber of the Appeal Court of Paris together with all the evidence and any statement of the party concerned.

If, after examining the submitted documents and, where appropriate, the explanations of the advocate for the party concerned, the investigating chamber finds that there is no obvious error, it grants the requested extension.

#### **Article 627-14**

A person who has been taken into preventative custody under the conditions provided for in article 92 of the statute may, if he consents to this, be handed over to the International Criminal Court, in accordance with article 87 of the statute, before the competent authorities have been seised of an official request for the transfer on the part of the international court.

The transfer decision is made by the investigating chamber of the Appeal Court of Paris after the latter has informed the person concerned of his right to an official transfer procedure, and has obtained his consent.

During his hearing before the investigating chamber, the person concerned may be assisted by an advocate of his choice, or failing this, an advocate officially nominated by the bâtonnier of the order of advocates and, if necessary, an interpreter.

A person who has been taken into preventative custody under the conditions provided for in article 92 of the statute, and has not consented to be handed over to the court may be freed if the competent authorities in accordance with article 87 do not receive the official transfer request within the time limit set out by the international court's regulations governing procedure and evidence.

Release is decided by the investigating chamber on an application made by the party concerned. The investigating chamber rules within eight days of the arrested person's appearance before it.

#### **Article 627-15**

Any person detained on French territory may, if they agree, be transferred to the International Criminal Court in order to be identified or heard, or for any other investigative act to be carried out. The transfer is authorised by the Minister of Justice.

### **CHAPTER II THE EXECUTION OF SENTENCES AND COMPENSATION IN FAVOUR OF VICTIMS**

#### **SECTION 1: THE EXECUTION OF FINES AND CONFISCATION ORDERS AND COMPENSATION IN FAVOUR OF VICTIMS**

#### **Article 627-16**

Where the International Criminal Court so requests, the enforcement of fines and seizures or decisions relating to compensation pronounced by that court is authorised by the correctional court of Paris, which is seised of the case by the district prosecutor. The procedure followed in the correctional court follows the rules contained in the present Code.

The court is bound by the International Criminal Court's decision, including orders affecting the rights of third parties. However, in cases where a confiscation order is carried out, it may order any measures designed to ensure recovery of the value of the product, assets or holding that the court has ordered to be confiscated, where it appears that the confiscation order cannot be carried out. The court hears the convicted person as well as any other person who has rights over these assets, if necessary by letters rogatory. These persons may be represented by an advocate.

Where the court finds that the enforcement of a confiscation or compensation order could harm a bona fide third party who cannot appeal against the order, it informs the district prosecutor for the purpose of sending the matter back to the International Criminal Court, which takes the necessary action.

#### **Article 627-17**

The authorisation for execution which the correctional court orders under the previous article involves, in accordance with the decision of the International Criminal Court, the transfer of the value of the fines and the confiscated assets or the proceeds of their sale to the court or to a fund for victims. These assets or sums may also be awarded to the victims, if the court so decides and has so designated them.

Any challenge concerning the allocation of the proceeds of the fines, assets or the proceeds of their sale is sent to the International Criminal Court, which takes the necessary action.

### **SECTION 2: THE EXECUTION OF PRISON SENTENCES**

#### **Article 627-18**

Where, in accordance with article 103 of the statute, the Government has agreed to take in a person convicted by the International Criminal Court in order for him to serve his prison sentence in French territory, the sentence imposed is immediately enforceable from the transfer of this person onto French soil, for the part of the sentence that remains to be served.

Subject to the provisions of the statute and the present section, the enforcement and the application of the sentence are governed by the provisions of the present Code, with the exception of [articles 713-1 to 713-7](#).

#### **Article 627-19**

On his arrival on French territory, the transferred person is presented to the district prosecutor of the area he arrives in, who interrogates him to establish his identity, this being noted in an official record. However, if the interrogation cannot be carried out immediately, the person is taken to prison, where he may be detained for a period not exceeding twenty-four hours. At the end of this period, he is automatically taken before the district prosecutor, as arranged by the head of the prison.

After considering the documents stating the agreement between the French government and the International Criminal Court relating to the transfer of the person concerned, a

certified copy of the conviction judgment, and a court notification of the start date for the enforcement of the sentence and the length of time that remains to be served, the district prosecutor orders the immediate imprisonment of the convicted person.

#### **Article 627-20**

If the convicted person lodges a request to be placed abroad, or for partial liberty, reduction in his sentence, for his sentence to be suspended or to be served in parts, for placement under electronic surveillance or for release on parole, his request is sent to the public prosecutor at the appeal court for the area where the convicted person is imprisoned. The district prosecutor sends this request on to the Minister of Justice.

The latter sends the request to the International Criminal Court as soon as possible, together with all the relevant documents.

The International Criminal Court decides if the convicted person may or may not benefit from the considered measure. Where the Court's decision is negative, the government indicates to the court whether it agrees to keep the convicted person on French territory or if it intends to request his transfer to another State appointed by the court.

#### **Article 627-21**

When, after an indictment decision, the accused has neither appeared nor been arrested within ten days of the notification being made to his home, or when after appearance or arrest he then escapes, the presiding judge of the assize court or, in his absence, the presiding judge of the court where the assizes are held, or the judge who replaces him, makes a ruling that he is obliged to appear again within a new time limit of ten days, failing which he will be declared a rebel against the law, his rights as a citizen will be suspended, his assets will be impounded during the investigation of the contumacy, legal proceedings of all kinds will be barred to him during the same period, that proceedings will continue against him, and any person who knows of his whereabouts will be obliged to make them known.

This ruling also contains a reference to the felony and the arrest order.

### **ARTICLE II**

In [articles 630 and 632 of the Code of Criminal Procedure](#), the references to article 627 is replaced by references to [article 627-21](#).

### **ARTICLE III**

Chapter III, as drafted below, is inserted after [article 16 of law 95-1 of 2 January 1995](#) adapting French legislation to the provisions of resolution 827 of the United Nations Security Council establishing an international tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991:

## CHAPTER III THE EXECUTION OF SENTENCES

### Art. 16-1

Where in accordance with the agreement between the government of the French Republic and the United Nations dealing with the execution of sentences issued by the International Criminal Tribunal for the former Yugoslavia, signed in The Hague on 25 February 2000, France agreed to take in a person convicted by the International Criminal Tribunal in order for that person to serve his or her sentence, the provisions of [articles 627-18 to 627-20](#) of the Code of Criminal Procedure apply.

The references to the International Criminal Court are then replaced by references to the International Criminal Tribunal for the former-Yugoslavia. Similarly, references to the corresponding articles of the International Criminal Court Statute are replaced by references to the corresponding articles of the international instruments governing said tribunal.

## ARTICLE IV

I Article 859-1, as drafted below, is inserted in Chapter XI of Title I of Book VI of the Code of Criminal Procedure, before article 860:

### Art. 859-1

- The time limit provided for in the first paragraph of [article 627-6](#) is extended to fifteen days where the transfer is made from New Caledonia, French Polynesia or the Wallis and Futuna Islands.

II Article 897-1, as drafted below, is inserted in Chapter VIII of Title II of Book VI of the above-mentioned code, before article 898:

### Art. 897-1

- Where the transfer is made from Mayotte, the time limit provided for in the first paragraph of [article 627-6](#) is extended to fifteen days.

III Article 907-1, as drafted below, is inserted in Chapter II of Title III of Book VI of the above-mentioned code, after article 907:

### Art. 907-1

- The time limits provided for in [article 130](#) and in the first paragraph of [article 627-6](#) are extended to fifteen days where the transfer takes place from the territory.

## ARTICLE V



This law is applicable in New Caledonia, French Polynesia and the Wallis and Futuna Islands.

This law will be implemented as a law of the State.

Done in Paris on 26 February 2002.

By the President of the Republic,

Jacques Chirac

the Prime Minister,

Lionel Jospin

and the Minister of Justice

Marylise Lebranchu

(1) Preparatory Work: law No. 2002-268.

**Senate:**

Bill No. 163 (2001-2002);

Report by Mr Patrice Gélard, on behalf of the Legal Committee, No. 205 (2001-2002);

Discussed and adopted on 12 February 2002.

**National Assembly:**

Bill, adopted by the Senate, No. 3592.

Report by Mr Alain Vidalies, on behalf of the Legal Committee, No. 3598;

Discussed and adopted on 12 February 2002.