

Extradition

I. Before you start

Jurisdictions that can be assisted

1. Guernsey can only extradite suspects to “designated territories”, of which there are two categories. These are listed in Part 1 and Part 2 of Schedule 1 of the *Extradition (Bailiwick of Guernsey) Law, 2019* (the **Extradition Law**).¹
2. Guernsey has never been a member of the European Community or the European Union. As a result, EU initiatives such as the European Arrest Warrant are not available in the Bailiwick.

When Guernsey can assist

3. Guernsey can only extradite a person for an “extradition offence”. There are different conditions depending on whether the person has been sentenced and if the conduct occurred in your jurisdiction.

A. Determining extradition offence for a person not yet sentenced

4. Conduct occurring in your jurisdiction will constitute an extradition offence if:
 - a. the same conduct would be an offence under Guernsey law if it had occurred here;
 - b. it would be punishable in Guernsey with a sentence of detention of at least 12 months; and
 - c. the offence is punishable in your territory with a sentence of detention of at least 12 months.
5. Conduct occurring outside your jurisdiction will constitute an extradition offence if the offence is punishable in your territory with a sentence of detention of at least 12 months, and either:
 - a. equivalent conduct would constitute an extra-territorial offence under Guernsey law; or
 - b. no part of the conduct occurs in Guernsey, but the conduct constitutes, or would constitute if it was committed in Guernsey, one of a number of specified offences, including genocide, crimes against humanity, war crimes and grave breaches of scheduled conventions.

B. Determining extradition offence for a sentenced person

6. Conduct occurring in your jurisdiction will constitute an extradition offence if a sentence of detention of at least four months has been imposed, and:
 - a. the same conduct would be an offence under Guernsey law if it had occurred here; and
 - b. it would be punishable in Guernsey with a sentence of detention of at least 12 months.

¹ The Extradition Law does not cover requests from the United Kingdom because of its constitutional relationship with Guernsey; instead, such requests are dealt with under a longstanding backing of warrants process under separate legislation. Further information about this process may be obtained from the MLA team.

7. Conduct occurring outside your jurisdiction will constitute an extradition offence if a sentence of detention of at least four months has been imposed, and either:
 - a. equivalent conduct would constitute an extra-territorial offence under Guernsey law punishable with a period of detention of at least 12 months; or
 - b. no part of the conduct occurs in Guernsey, but the conduct constitutes, or would constitute if it was committed in Guernsey, one of a number of specified offences, including genocide, crimes against humanity, war crimes and grave breaches of scheduled conventions.
8. If you have any questions, please do not hesitate to contact the MLA Team at law@gov.gg.

II. The Letter of Request (LOR)

The letter

9. In order for the request to be processed as quickly as possible, it should set out:
 - a. the name and designation of the person making the request, and the basis on which they are authorised to make an extradition request;
 - b. that you want to extradite the named person for the purpose of:
 - i. prosecuting that person for an extradition offence; or
 - ii. retaining that person on the ground that they are unlawfully at large after sentencing for an extradition offence by a court in your jurisdiction;
 - c. what the extradition offence is, and the relevant law that creates the offence (whether statutory or non-statutory, that is, under common law or any equivalent of common law in your jurisdiction);
 - d. that under your law the offence is punishable with 12 months' imprisonment, or another form of detention, or a greater punishment;
 - e. where the person has already been convicted and sentenced in your jurisdiction, the sentence that has been imposed;
 - f. in the case of a convicted and sentenced prisoner who is unlawfully at large, the length of prison sentence the person received, which must be no less than 4 months.
10. Extracts of relevant legislation should be appended to the request.
11. Where the person you seek to extradite could be, will be, or has been, sentenced to death for the relevant offence, you must include a written assurance that a sentence of death will not be imposed or, if already imposed, will not be carried out.

Evidential requirements

12. The LOR should contain sufficient material to enable a Guernsey court to conclude that there are reasonable grounds to justify the person's arrest. This material must provide reasonable grounds to suspect that the person you want to extradite has committed an extradition offence.
13. The standard of evidence required depends upon whether your jurisdiction is designated under Part 1 or Part 2 of Schedule 1 to the Extradition Law.

- a. If your territory is included in the list in Part 1, the material provided need not be in a sworn affidavit or witness statement.
- b. If your territory is only included in Part 2 of Schedule 1, you will need to provide the supporting material in the form of evidence. This means evidence must be provided in the form of sworn affidavits or witness statements, together with copies of any documentary exhibits.

III. Other considerations

General considerations

14. The Request should be sent to HM Procureur, but you are welcome to contact the MLA Team in advance at law@gov.gg.
15. The request should come from whichever authority in your territory has the legal power to issue such Requests. This is specified in section 6 of the Extradition Law. Please contact the MLA Team if you are unsure. Your law may additionally require the Request to be sent through a diplomatic or consular channel.
16. In cases of urgency the request can be faxed or e-mailed. In cases of extreme urgency (for example there are good grounds to believe the suspect is due to leave Guernsey imminently) the request may even be made orally by telephone, provided an LOR follows as soon as possible afterwards. In such cases HM Procureur has power to apply for a provisional extradition arrest warrant on short notice (in such cases please make immediate contact with the persons listed below and/or the States of Guernsey Police for advice and assistance).

Bars to extradition

17. There are a number of situations or circumstances that will bar your request for extradition of a person from Guernsey or otherwise prevent it from being granted. These include the following (and further detail can be found in the Extradition Law):
 - a. your jurisdiction is not designated under the Extradition Law;
 - b. the Court is not satisfied that there is sufficient information or evidence to provide reasonable grounds to suspect that the person you want to extradite has committed an “extradition offence”;
 - c. the rule against double jeopardy;
 - d. extraneous considerations such as that, if extradited, the person might be prejudiced at trial or punished because of their race, religion, nationality, gender, sexual orientation or political opinions;
 - e. an unjust or oppressive passage of time;
 - f. hostage-taking considerations;
 - g. the Court does not consider your jurisdiction to be the appropriate forum for prosecuting the person’s conduct;
 - h. considerations arising where the person was not present when convicted;
 - i. the person’s physical or mental condition means it would be unjust or oppressive to extradite them;

- j. extradition would be incompatible with the person's Human Rights;
- k. where the person could face the death penalty for the offence concerned;
- l. the arrangements in place in your jurisdiction governing the prospect of the person being dealt with for certain other offences committed before extradition (that is, the principle of speciality);
- m. where the person has previously been extradited to Guernsey from another territory, and that other territory does not give any consent that is required to permit extradition to your jurisdiction.

After you submit your request

18. After HM Procureur acknowledges the validity of your request, the person with responsibility for the request will work directly with you to ensure that the request proceeds appropriately and that you are kept informed throughout of all matters which may affect it.

Relevant legislation

The Extradition (Bailiwick of Guernsey) Law, 2019