



Questions and answers

Where are those who have been arrested being held? What conditions are they being held in?

The wanted persons are being detained pending extradition at a number of different facilities in Canton Zurich. As is usual, the actual locations will not be disclosed for reasons of security and the individuals' privacy. They are being detained in accordance with the requirements of Canton Zurich. Those being held pending extradition are treated in the same way as all other inmates. Owing to the risk of collusion, no contact is permitted between the detained soccer officials.

In Canton Zurich, detention pending extradition is conducted in accordance with the principles which apply to detention pending trial (Canton Zurich Execution of Penal Sentences and Justice Ordinance, Art. 128 para. 2¹). Provision is made for a one-hour walk during the day. Inmates may not use their own computers, but some institutions offer laptops for rent. Internet access is not permitted. The authority which ordered detention will issue visit permits.

What rules apply to visiting rights?

Visiting rights essentially cover lawyers, wives and consular representatives. Visit permits are issued only at the request of the detainee.

How long does detention pending extradition last?

Providing the formal extradition request is received by the FOJ within the set deadline (within 40 days), the person who is being detained will, as a general rule, remain in custody until extradition proceedings have been concluded. The length of these proceedings, and thus the period of detention, depends not only on the complexity of the case, but also on the detainee. If they exhaust all of the available legal remedies, experience indicates that the extradition

¹ Art. 128, para. 2: "In the absence of regulations to the contrary issued by the authority ordering detention, detention pending extradition shall be conducted in accordance with the provisions governing detention pending trial and detention for security reasons."

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proceedings will take around six months.

Can the persons concerned lodge a legal appeal against the extradition warrant?

The individuals who have been arrested have ten days in which to lodge an appeal against the FOJ extradition warrant before the Federal Criminal Court. Both the detainee and the FOJ may appeal against the Federal Criminal Court decision before the Federal Supreme Court. The detainee also has the right at any time during the extradition proceedings to submit a petition to the FOJ for release from custody.

Can the individuals be released on bail?

In extradition proceedings, individuals are detained as a rule in accordance with [Art. 51 of the Federal Act on International Mutual Assistance in Criminal Matters, IMAC](#) the rulings of the Federal Supreme Court, to enable Switzerland to fulfil its treaty obligations. Like the European Convention on Extradition, and other bilateral extradition treaties, the bilateral extradition treaty with the USA obliges the contracting states to extradite to each other individuals who are wanted for committing an extraditable offence. Although release from custody on bail and subject to other conditions is not ruled out, it is only rarely granted by the FOJ. Experience has shown that even very high bail, even when combined with other security measures (e.g. the requirement to report to the authorities, surrender of documents), is scarcely sufficient to prevent the wanted person absconding.

What constitutes an extraditable offence?

Under the terms of the bilateral extradition treaty (Art 2 ([unofficial translation](#))), an offence is extraditable specifically if it is punishable by a custodial sentence of at least one year under both Swiss and US law. Furthermore, no grounds may exist on which extradition may be denied (Art. 3).

What happens if there are any medical problems?

The detainee will be examined by a doctor at the request of prison officials, or at their own request. If they cannot be treated on an outpatient basis, the doctor will instruct that they be admitted to a prison hospital. This will be arranged by the FOJ. The decision on whether or not the prisoner is moved to a regular hospital will be made on the basis of medical criteria.

Which authorities decide on extradition and the granting of legal assistance?

The FOJ is responsible for handling extradition requests ([Art. 17 IMAC](#)), as well as for requests for legal assistance from the USA (see Art. 28 of the bilateral Mutual Legal Assistance Treaty with the USA (MLAT, [unofficial translation](#))) and Art. 10 of the Act implementing the

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MLAT²). Specifically, the FOJ will clarify whether the offence described in the request would also be punishable under Swiss law. Questions of guilt and facts are not examined as part of extradition and legal assistance proceedings, i.e. the FOJ does not examine whether or not the wanted person actually committed the offence. The decisions of the FOJ can be challenged before the Federal Criminal Court, and in particularly significant cases an appeal may be lodged with the Federal Supreme Court (Art. 84 Federal Supreme Court Act³).

Is the condition of dual criminality fulfilled?

Based on the presentation of facts in the US arrest request, the FOJ concluded that, a priori, the conditions for extradition (specifically, dual criminality) are fulfilled. This is sufficient for the issue of an extradition warrant. According to the US arrest request, the award of media, marketing and sponsorship rights in connection with football tournaments in the USA and Latin America resulted in a distortion of competition, and would therefore also be punishable in Switzerland under applicable law (specifically, as a violation of the Federal Act On Unfair Competition). The FOJ will examine the conditions for extradition in greater detail on the basis of the formal extradition request from the USA. In the event of challenges to the FOJ's rulings, the Federal Criminal Court – and under certain circumstances the Federal Supreme Court (see Art. 84 of the Federal Supreme Court Act³) – will decide the matter conclusively.

² Art. 10. Admissibility of a request

1 The central office shall review:

- a. that the request complies with the formal requirements set out under the Treaty, and is not obviously inadmissible;
- b. that the facts presented in the request or in the accompanying documentation constitute a punishable offence under Swiss law.

2 Without hearing the parties concerned, it shall make the arrangements for executing the request under Article 5 and, where necessary, preliminary measures under Article 8.

3 It shall appoint the cantonal or federal authority charged with executing the request and shall forward the records to the same.

³ Art. 84 International mutual assistance in criminal matters

1 An appeal against a decision in the field of international mutual assistance in criminal matters is permissible only if it concerns an extradition, a seizure of assets, a handover of property or assets, or the transmission of confidential information, and the case in question is a particularly significant one.

2 A particularly significant case is, specifically, one in which there are reasons to believe that elementary procedural principles have been violated, or there are serious shortcomings in criminal procedure in the foreign country.