Observatoire ARGA

ARGA Atlas

EXTRADITION IN CONDITIONS OF GEOPOLITICAL RUPTURE: THE TRANSFORMATION OF EUROPEAN COURTS ’APPROACHES TO REQUESTS FROM RUSSIA AND THE CIS

Author:

Sergei Khrabrykh — President of ARGA, PhD

Organization: Observatoire ARGA, ARGA Atlas

Mailing address: 21 route de l’Aviation, 12 C, 64600 Anglet, FRANCE

Contacts: info@argaobservatory.org, +33 7 58 49 62 27

Website: www.argaobservatory.org, https://www.arga-atlas.com/

Anglet, 3 March 2026

Purpose of the document:

To describe how the European legal logic of examining extradition requests has changed in conditions of geopolitical rupture, deterioration of mutual trust between states, and increased attention to the risk of human rights violations, and to show why modern extradition practice in Europe is increasingly moving away from formal trust in the requesting state and increasingly relying on an in-depth individualized assessment of risk.

TABLE OF CONTENTS

1. Executive Summary
2. The basic legal framework of extradition in Europe
3. Why geopolitical rupture has changed extradition analysis
4. The new logic of European courts: from formal trust to the examination of real risk
5. Key legal criteria for refusing or suspending extradition
6. The significance of Red Notices, diffusions, and international search measures in extradition cases
7. Practical conclusions for the defense
8. Conclusion

Appendix A. Terminology
Appendix B. Risk factor matrix
Official sources

1. EXECUTIVE SUMMARY

The European extradition system was historically built on the presumption that states participating in international cooperation generally act in good faith and that their extradition requests deserve legal respect provided that treaty conditions are met. The formal basis of this approach is the 1957 European Convention on Extradition, which establishes the general framework for cooperation, including extraditable offenses, dual criminality, grounds for refusal, and procedural parameters.

However, modern practice shows that in cases involving requests from politically sensitive or systemically problematic jurisdictions, European courts are increasingly unwilling to limit themselves to checking the formal existence of a warrant, the description of the offense, and compliance with treaty procedure. The European Court of Human Rights consistently proceeds from the principle that a state may not surrender a person where there are substantial grounds for believing that, in the requesting state, that person would face a real risk of treatment contrary to Article 3 of the Convention.

It is precisely for this reason that the geopolitical rupture of recent years has changed not so much the text of the law as the practice of its application. For courts and administrative authorities, what now becomes decisive is no longer abstract international cooperation as such, but whether the particular state in the particular case is capable of ensuring minimally acceptable guarantees: freedom from torture, freedom from inhuman or degrading treatment, access to a fair process, a genuine opportunity

to defend oneself, foreseeable detention conditions, and the absence of criminal proceedings being used as a tool of political, repressive, or arbitrary pressure.

This report proceeds from the assumption that, with regard to requests from Russia and a number of CIS states, the modern European approach is increasingly based on individualized risk assessment. In other words, the old logic of "there is a treaty, there is a warrant, therefore the matter is almost settled" no longer works. On the contrary, the greater the background level of political confrontation, rule-of-law concerns, in absentia proceedings, pressure on the defense, and doubts about detention conditions, the deeper the judicial review must be. That is the essence of the key transformation.

2. THE BASIC LEGAL FRAMEWORK OF EXTRADITION IN EUROPE

Extradition in European law does not exist in a vacuum. Its foundation remains the 1957 European Convention on Extradition. That Convention establishes the basic principle that extradition applies to offenses punishable under the laws of both the requesting and the requested state by deprivation of liberty of at least one year or a more severe penalty. The Convention also contains specific provisions on political offenses, military offenses, fiscal offenses, the principle of specialty, and grounds for refusal.

But the treaty framework has never been absolute. Even where the formal conditions for extradition are satisfied, the state remains bound by the European Convention on Human Rights. This means that extradition cannot proceed automatically if it leads to a real risk of violating fundamental rights. In the case-law of the European Court of Human Rights, Articles 3, 5, 6, and 13 are especially important here: Article 3 insofar as it prohibits torture and inhuman or degrading treatment, Article 5 insofar as it governs the lawfulness of detention and the right to be informed, Article 6 in exceptional cases involving a flagrant denial of justice, and Article 13 insofar as it requires an effective remedy against surrender.

Modern European extradition analysis is therefore two-layered. At the first level, the classical extradition criteria are examined: the offense, punishability, the existence of a warrant, and procedural regularity. At the second level, the compatibility of extradition with human rights is examined. And today it is increasingly the second level that becomes decisive.

3. WHY GEOPOLITICAL RUPTURE HAS CHANGED EXTRADITION ANALYSIS

Geopolitical rupture has not abolished extradition law, but it has radically changed the level of trust with which European authorities assess certain requests. Where ordinary international legal cooperation was once presumed, there is now often a question as to the reliability of guarantees, the good faith of the request, and the real purpose of the criminal prosecution.

For courts, this has direct significance. An extradition request is no longer perceived as a neutral bureaucratic document merely because it has been properly drafted. In conditions of political confrontation, sanctions pressure, deteriorating relations between jurisdictions, and a broader decline in trust in legal institutions, the importance of such factors as the origin of the case, the timing of the charges, the existence of in absentia proceedings, the public context, the person's status, a possible link with political activity or a corporate conflict, and the actual value of diplomatic assurances all

increases. This logic fits squarely within the ECtHR's approach, according to which risk assessment must be concrete, current, and based on all the material placed before the Court or the domestic authorities.

Of separate importance is the fact that the European Court of Human Rights treats the prohibition contained in Article 3 as absolute. This means that even the seriousness of the charge, the public interest in prosecution, or obligations arising from international cooperation cannot justify surrender where there is a real risk of torture, inhuman treatment, or detention conditions incompatible with the Convention. Geopolitical rupture intensifies precisely this part of the analysis: courts are becoming less inclined to rely on generic assurances and more inclined to examine the individual situation of the person concerned.

4. THE NEW LOGIC OF EUROPEAN COURTS: FROM FORMAL TRUST TO THE EXAMINATION OF REAL RISK

The most visible transformation lies in the move from formal treaty logic to risk-based analysis. European courts increasingly ask not "is extradition possible in principle?" but rather "what will actually happen to this person after surrender?"

This concerns three main areas.

The first area is detention conditions and the risk of treatment contrary to Article 3. The ECtHR expressly states that extradition or other forms of removal may engage the responsibility of the surrendering state under the Convention where there are substantial grounds for believing that the person would face a real risk of treatment incompatible with Article 3. In this context, courts assess not only general reports about the situation in the country, but also individual factors: the type of case, the person's vulnerability, health condition, prosecutorial status, the place where detention is likely to occur, and the quality of diplomatic assurances.

The second area is the risk of a flagrant denial of justice. While Article 6 does not usually apply to the extradition procedure itself as the determination of a criminal charge, the ECtHR recognizes that extradition may raise an issue under Article 6 where there is a risk of a flagrant denial of a fair trial in the requesting state. This is a high threshold, but it is important in cases involving in absentia convictions, a total inability to defend oneself, lack of access to counsel, or an obviously instrumental use of criminal proceedings.

The third area is the requirement of an effective remedy. In extradition disputes, it is critical that any appeal have genuine suspensive effect and allow the Article 3 risk to be assessed before surrender takes place. The ECtHR emphasizes the importance of Article 13 in conjunction with Article 3 precisely because post facto protection after extradition is often meaningless. Once the person has already been surrendered, correcting the mistake is usually too late, which is, depressingly enough, how many solemn bureaucratic decisions work in real life.

5. KEY LEGAL CRITERIA FOR REFUSING OR SUSPENDING EXTRADITION

5.1. Risk of treatment contrary to Article 3 of the ECHR

This is the central criterion. If the defense demonstrates serious and verifiable grounds for believing that the person would face torture, inhuman or degrading treatment, or detention conditions incompatible with Article 3 in the requesting state, extradition is impermissible. This may concern not only direct violence, but also systematically unacceptable detention conditions, absence of medical care, or a prison regime that is inherently degrading.

5.2. In absentia proceedings and the deficit of the right to defense

In absentia charges and in absentia convictions do not automatically make extradition impossible. However, if the person was not properly notified, did not have a genuine opportunity to participate in the proceedings, cannot realistically expect an effective retrial, and is effectively confronted with a finalized accusatory outcome, this significantly strengthens the argument under Articles 2, 3, and 6 of the Convention.

5.3. Insufficiency of diplomatic assurances

European practice does not reject diplomatic assurances as such, but it examines them critically. What matters is not merely the existence of a letter containing promises, but its specificity, verifiability, institutional reliability, and the actual ability of the requesting state to comply with the guarantees provided. General and vague assurances, especially against a negative background, are increasingly seen as insufficient.

5.4. The political or quasi-political context of the case

Even where the request formally concerns an ordinary criminal offense, the court may take into account the wider context: links between the prosecution and political activity, public position, corporate conflict, struggle over assets, or other forms of pressure that go beyond good-faith criminal prosecution. Such a context does not always lead directly to a finding that the offense is political, but it affects the assessment of the request's good faith and the likelihood of rights violations after surrender.

5.5. The effectiveness of the national remedy

If the appeal against extradition in a given jurisdiction does not automatically suspend the surrender or does not allow a full examination of the Article 3 risk, this itself becomes problematic. That is precisely why interim measures under Rule 39 of the European Court of Human Rights are so important in extradition cases: they are used in urgent situations where there is a risk of irreparable harm before the case can be fully examined.

6. THE SIGNIFICANCE OF RED NOTICES, DIFFUSIONS, AND INTERNATIONAL SEARCH MEASURES IN EXTRADITION CASES

In extradition practice, the role of a Red Notice should not be overstated, but it would be equally wrong to underestimate it. INTERPOL expressly states that a Red Notice is not an international arrest warrant. It is a request to law enforcement authorities of member states to locate a person and, where appropriate, provisionally arrest that person with a view to extradition, surrender, or similar lawful action. Each state decides under its own domestic law what legal effect to give such a notice.

For European courts, this means something important: the existence of a Red Notice does not automatically resolve the question of whether extradition is lawful. It may serve as the basis for arrest or for the opening of extradition proceedings, but it does not replace examination under the ECHR, national law, and treaty obligations. Moreover, if the notice or diffusion itself raises doubts in terms of neutrality, data quality, or human rights, that may further strengthen the overall defense in the extradition case.

7. PRACTICAL CONCLUSIONS FOR THE DEFENSE

Modern defense in extradition cases can no longer be built on the logic of "we will challenge only the formal documents." That is no longer enough. A multi-layered strategy is required.

First, one must analyze not only the extradition request itself, but also the overall context of the case: the origin of the conflict, the procedural history, the existence of in absentia decisions, the status of the person, health condition, political or corporate background, international protection, and migration status.

Second, the evidentiary record must be built specifically for European standards. In other words, it is not enough simply to speak of "injustice." The defense must demonstrate an Article 3 risk, elements of a flagrant denial of justice, the lack of an effective remedy, the insufficiency of assurances, and the disproportionality of extradition.

Third, one must remember that extradition, international search measures, migration, and banking compliance now in practice form a single risk framework. The same person may simultaneously be the subject of a Red Notice, extradition proceedings, immigration review, and financial de-risking. If the defense works in only one segment, the others continue to damage the person's position.

Fourth, speed is especially important. In extradition cases, delay is often more dangerous than a weak argument. If a timely motion is not filed, interim measures are not requested, medical documents are not submitted, or evidence of legal status is not produced, the matter may move into an irreversible stage.

8. CONCLUSION

Extradition in Europe is no longer perceived as a neutral technical procedure, especially where requests come from states in respect of which serious concerns exist regarding human rights, fair trial guarantees, and the good faith of criminal prosecution. The formal treaty framework remains in place, but its practical meaning has changed: today, individualized risk stands at the center of attention.

That is precisely what constitutes the main transformation in the approach of European courts. They are less and less inclined to proceed on the basis of automatic trust in the requesting state and increasingly require a concrete answer to the question of what exactly will happen to this particular person after extradition. If the answer points to a real risk of torture, inhuman treatment, a flagrant denial of justice, or deprivation of effective protection, extradition must be stopped.

For legal practice, this means one simple, if deeply inconvenient, thought for bureaucracy: in conditions of geopolitical rupture, extradition has ceased to be merely a matter of international cooperation. It has become a question of the limits of permissible trust.

APPENDIX A. TERMINOLOGY

Extradition
The surrender of a person by one state to another for criminal prosecution or execution of sentence within the framework of international cooperation.

Rule 39 interim measures
Urgent interim measures indicated by the European Court of Human Rights in exceptional cases where there is a risk of irreparable harm before the complaint is examined on the merits.

Flagrant denial of justice
An exceptionally high threshold of violation of the right to a fair trial that may render extradition incompatible with Article 6 of the Convention.

Red Notice
An INTERPOL international notice concerning the location of a person and possible provisional arrest; it is not an international arrest warrant.

APPENDIX B. RISK FACTOR MATRIX

Factor	How it appears	Significance for the defense
Article 3 risk	Torture, poor detention conditions, lack of treatment	Central ground for refusal
In absentia proceedings	No reliable notice, no retrial	Strengthens the unfair trial argument
Political or corporate context	Pressure, conflict, struggle over assets	Reduces trust in the request's good faith
Weak assurances	General promises without a monitoring mechanism	Do not neutralize the risk
Lack of effective appeal	The complaint does not suspend surrender	Ground for urgent measures
Red Notice / diffusion	Used as the starting point of the process	Does not replace judicial review

OFFICIAL SOURCES

1. European Convention on Extradition, Council of Europe. (Portal)
2. Chart of signatures and ratifications of Treaty No. 024. (Portal)
3. Guide on Article 3 of the European Convention on Human Rights. (ECHR-KS)
4. Guide on Article 13 of the European Convention on Human Rights. (ECHR-KS)
5. Guide on Article 5 of the European Convention on Human Rights. (ECHR-KS)
6. European Convention on Human Rights, official text. (ECHR)
7. Interim measures, ECHR factsheet. (ECHR-KS)

8. Extradition and life imprisonment, ECHR factsheet. (ECHR)

9. INTERPOL, About Red Notices / About Notices. (interpol.int)

10. INTERPOL, International Notices system and safeguards materials. (interpol.int)