



*A certified translation from Bulgarian into English
The translation consists of 4 (four) pages*

**PROSECUTION OF THE REPUBLIC OF BULGARIA
GENERAL PROSECUTOR**

Outg. Nr. 12687/2000
(Please refer to when replying)

Reg. Nr.

TO
THE MINISTER OF JUSTICE
OF CANADA

VIA
THE MINISTRY OF JUSTICE OF
THE REPUBLIC OF BULGARIA

REGARDING: Request for transfer of the Canadian citizen Michael Kapustin in compliance with the Convention for transfer of sentenced persons, adopted in Strasbourg in 1983.

HONOURABLE MR. MINISTER

I have the honour to inform you that acting upon a request of the imprisoned Canadian Citizen Michel Kapustin, the Service for Administering Punishments at the Ministry of the Public Security of Canada addressed a written request for transfer of the sentenced person to Canada.

According to the Bulgarian Penal Procedure Code, the authority competent to decide on the transfer of sentenced persons is the General Prosecutor of the Republic of Bulgaria.

In this regard, given my sincere desire to continue the good cooperation, existing between the Canadian and the Bulgarian judicial authorities, I assigned to the prosecutors in the "International Legal Cooperation" Department at the Supreme Prosecutors Office of Cassation to carry out the inquiries needed on this case.

In result of the inquiries, considering the preparation of my response, the following has been established:

In the Republic of Bulgaria, Mr. Michael Kapustin has been sentenced to 17 (seventeen) years of imprisonment with sentence Nr. 46 from March 13, 2001 on Criminal Case of General Nature Nr. 1403/98 of the Sofia City Court, Penal

College, 11th jury, amended with Decision Nr. 161 from 12th July 2002 on Appellation Criminal Case of General Nature Nr. 338/2002 of the Sofia Court of Appellation, Penal College, 3rd jury, for a crime under Article 203, par. 1, in connection with Article 201, in connection with Article 26, par. 1, in connection with Article 2 from the Penal Code of the Republic of Bulgaria, for the fact that in the period between June 7, 1994 and May 26, 1995 in Sofia and throughout the country under the terms of continued crime in his quality of an official – executive member of the Board of Directors and operating with financial effects of the "Lifechoice International" Plc., he has embezzled other people's money, owned by the "Lifechoice International" Plc. of total leva equivalent in the amount of 259 963 817.20 (non-denominated) leva, handed to him in said quality of his to keep them and manage them, as the amount is of particularly large scale and the act represents a particularly grave case.

For establishing the circumstance if in regard to Mr. Kapustin any coercive administrative measures have been imposed "ban for leaving the territory of the Republic of Bulgaria", since this circumstance has a direct influence on the procedure for transfer, we requested and received information from the Ministry of Interior of the Republic of Bulgaria. From the "Migration" Directorate of said Ministry we were informed that in regard to Mr. Kapustin there are two bans for leaving the borders of the Republic of Bulgaria due to unpaid monetary obligations in the amount of over 5000 BGN on the following executive cases:

1. Executive case Nr. 5188/04 by the Register of 2nd Dep. 2. St. ES, now 12th Station, Judicial-Executive Service at the Sofia Regional Court with a compulsory measure "ban for leaving the Republic of Bulgaria under Article 39a, s. 5 from the Law for the Foreigners in the Republic of Bulgaria. The basis for the imposition of the coercive administrative measure is Article 43, par. 1, s. 2 from the same Law, which states, that a ban for leaving the borders of the Republic of Bulgaria shall be imposed on any foreigner, having debts exceeding 5000 BGN towards Bulgarian legal entities or natural persons, which have been established in a judicial procedure and have not been duly provided for;

2. Executive case Nr. 32371/2004 by the Register of the Agency for State Revenue – Sofia, with a coercive administrative measure "ban for leaving the borders of the Republic of Bulgaria" with Order Nr. 2006000234/19.10.2006 of the Director of the "Migration" Directorate on grounds Article 43, par. 1, s. 3 from the Law for the Foreigners in the Republic of Bulgaria.

In regard to the administrative measures under the Law for the Foreigners in the Republic of Bulgaria I would like to inform you, that their imposition, as well as their rescinding, is totally within the realm of competence of the Ministry of Interior of the Republic of Bulgaria and it is outside the authority of the General Prosecutor to revise this activity. The order by the "Migration" Directorate is decreed on the strength of the law and on request of the interested persons – creditors.

P. H. H.
2006

concernant me aussi

In this regard I would like to have in mind that in the courts of the Republic of Bulgaria a number of civil suits are in proceeding against Mr. Michael Kapustin from citizens, who think they have been harmed by his actions, and guilty verdicts have been pronounced on their complaints, which may lead to the imposition of new administrative bans for Mr. Kapustin to leave the borders of the Republic of Bulgaria.

The General Prosecutor of the Republic of Bulgaria should comply with the legally sound coercive administrative measure imposed until its revoking, since under Article 86, par. 2 from the Constitution of the Republic of Bulgaria, the laws and decisions of the National Assembly are obligatory for all state authorities, organizations and citizens.

Acceding to transfer in the presence of an administrative ban would be in contradiction with the internal legislation of the Republic of Bulgaria.

Considering the possibility the procedure of the transfer of Mr. Kapustin to continue after the rescinding of the legal obstacles described above, I would like to receive from the competent authorities of Canada sufficient convincing assurances that Mr. Kapustin shall continue to serve the remainder of his punishment in a Canadian prison in the amount of seventeen years, imposed by the Bulgarian court. I set forth this question in connection with the intention you have expressed for continuation of the service of the punishment imposed under the procedure of Article 9, s. 1, letter "a" from the Convention for Transfer of Sentenced Persons.

I am convinced that the service of the punishment in full is in compliance with the basic principles of the Convention. In this fashion its objective shall be served, to provide the sentenced person to serve his punishment in a suitable social environment. At the same time the transfer shall not serve as a means for his immediate release from prison.

Considering the authority vested in me, taking into consideration all circumstances surrounding the case, I find that at this stage there are obstacles for allowing the transfer of Mr. Michael Kapustin, therefore I do not accede to its implementation.

In case of change of circumstances, there is no obstacle this question to be brought up again to be decided.

I avail of the opportunity to express my excellent consideration to you, personally, and to the Ministry of Justice of Canada.

Respectfully, (signature illegible)

Boris Velchev
General Prosecutor
of the Republic of Bulgaria
(Round Seal: General Prosecutor of the Republic of Bulgaria)

date Transfer of Sentence Act

(17)

*Continued from page 2
Administer the same terms*

*- serve the remainder of his punishment in a Canadian prison (if it is possible)
- to equality of sentence*

*I, the undersigned Petar Dimitrov Konev, do hereby certify with my signature the truth of the translation I have made from Bulgarian into English of the attached document, namely a Letter.
The translation consists of 4 (four) pages.*

Translator: _____

*Petar Dimitrov Konev
Personal No 7204218520*