

*Government Orders*

One source of the excessive delays is the dual tracks available for the appeals of extradition decisions. The extradition process has two stages: the judicial stage where a judge decides whether there is sufficient evidence against the person requested by the foreign state to subject him or her to surrender, and the executive stage where the Minister of Justice has to decide whether to surrender the requested person.

Currently in an extradition case, an appeal of the decision of the extradition judge and a review of the decision of the Minister of Justice are held consecutively. A decision of the extradition judge is subject to basic court proceedings.

An appeal of the decision can then be heard by the provincial or territorial courts of appeal and eventually by the Supreme Court of Canada. It is only after appeals, if any, have been exhausted that the Minister of Justice is requested to surrender the fugitive. A decision of the Minister of Justice can be reviewed by the Federal Court and then by the Supreme Court of Canada.

The provisions of the bill detail the means available to challenge the judicial and ministerial decisions which are made after Canada receives an extradition request from a foreign state.

Bill C-31 also presents a means to avoid the use of these two lengthy tracks which are now available to challenge decisions in extradition cases and delay surrender. In particular, the bill provides a right of appeal of decisions rendered by the extradition judge to the provincial or territorial courts of appeal on specific grounds.

It also provides the same courts with the power to review decisions of the Minister of Justice. In other words, the same courts will hear appeals and review decisions of the minister. It thereby creates a general ability to deal with these issues in place at one time.

Therefore, in most cases appeal and review procedures will be combined into the provincial or territorial courts of appeal. That level of court will have a comprehensive power to control the appeal and review processes, as well as examine both judicial and ministerial decisions and ensure that appeals and reviews are conducted efficiently and early.

• (1020)

To further reduce delay, time limits within various steps in the extradition process are stipulated in the bill.

First the fugitive generally has 30 days after a judge finds there is sufficient evidence to order surrender within which to make submissions to the Minister of Justice. Only where it is appropriate may the minister receive submissions after the 30-day time period.

The requesting person or requesting state has 30 days after the judge's decision to file a notice of appeal regarding the court's decision. Subject to limited exceptions, the Minister of Justice is required to decide on surrender within 90 days of the decision by a judge that there is sufficient evidence to extradite the fugitive.

The bill provides recourse if the decision on surrender is not made within the stipulated time period. The fugitive can apply to be released if the Minister of Justice does not show cause why a decision about surrender was not made within the 90-day time period.

As well, if the fugitive has not been removed from Canada within a period of 45 days from the time the surrender order has been made by the Minister of Justice or after the appeals from such an order has been taken, he or she may make an application for release. These clear-cut and time specific procedures will expedite extradition cases.

Additionally, proceedings will be streamlined by the ability of the judge in an extradition case to hear arguments based on the Canadian Charter of Rights and Freedoms instead of the current situation whereby the judge hears such arguments. This particular amendment permits all legal matters related to the extradition hearing to be dealt with by the judge at one time.

While the effects of the amendment are basically to speed up the extradition process, it does not remove appropriate protections for the person sought. Alleged charter violations will be dealt with and appeals and review are provided of the decisions made by the judge and the minister.

Therefore, in addition to expediting the extradition process, the bill ensures that the person sought is afforded appropriate protections. Injecting greater efficiency into our extradition process will not occur at the expense of the rights of the person sought. I believe the bill strikes the proper balance between the clear need for efficiency in extradition cases and the importance of safeguarding the rights of individuals.