

## **Translation of the interpretation of Paragraph 1 of Article 52, Supervision Law:**

Original: [https://www.ccdi.gov.cn/djfg/fgsy/201807/t20180704\\_175037.html](https://www.ccdi.gov.cn/djfg/fgsy/201807/t20180704_175037.html)

This article is about the regulations of anti-corruption international fugitive repatriation and asset recovery, and escape prevention.

The main purpose of this article is to further clarify the National Supervisory Commission's responsibilities in coordinating and supervising the work of anti-corruption international fugitive repatriation and asset recovery, and escape prevention, and to urge relevant agencies to proactively perform their duties associated with anti-corruption international cooperation.

This Article (Article 52) consists of three paragraphs. The first paragraph stipulates "fugitive repatriation". "Anti-corruption international fugitive repatriation" means arresting, under the condition of enough evidence and by carrying out overseas operations, those who are suspected of corruption, bribery, dereliction of duty, and other duty-related crimes and have fled outside the country. In terms of conducting anti-corruption international fugitive repatriation, extradition is a formal channel and ideal way to acquire international criminal judicial assistance to carry out overseas fugitive repatriation. Repatriation, persuading to return, and remote prosecution are alternatives to extradition.

Firstly, extradition means, based on bilateral or multilateral treaties or reciprocity, requesting the country where the fleeing overseas suspects are located, and transferring the suspected criminals back for prosecution and punishment. Extradition has strict criteria. The current main principles include the principle of non-extradition of political prisoners, the principle of non-extradition of death row prisoners, the principle of non-extradition of national citizens, and the principle of double criminality.

The second category is repatriation, also known as repatriation under immigration laws, which means that our country provides clues about fugitives' illegal and criminal activities and forging passports or other false identities to the countries where they are located so that these countries would deprive them of their residency status and compulsorily repatriate them to our country or the third country in accordance with immigration laws.

The third category is remote prosecution, which means, under the condition that our country cannot exercise its jurisdiction, and through transferring jurisdiction to the countries where our country's fugitives are located, to support these countries to convict and sentence them based on local laws and evidence provided by us. After being convicted and sentenced, fugitives would usually be compulsorily repatriated and then deported back to our country and brought to book.

The fourth category is persuading to return, which means persuading and educating fugitives so that they would return voluntarily to face prosecution, trials, or penalties. Persuading to return is ideological and political work. Its primary method is to persuade and educate criminal suspects, including convincing them with reasons, touching them with emotion, making them know the law, and giving them the prerequisites for lighter punishments to change their minds.

The fifth category is irregular measures. There are two common ways: (1) kidnapping, which means using methods of kidnapping to arrest fugitives back to the country; (2) trapping and capturing, which means luring criminal suspects to the territories of the destination country, the high seas, international airspace, or a third country which has an extradition treaty with the destination country, and then to arrest or extradite them. The above mentioned ways could break the law in host countries and lead to the crime of illegal detention or kidnapping because the investigation activities are not approved by a sovereign state. They could also cause diplomatic disputes. Therefore, in practice, kidnapping or trapping and capturing are rarely used.

#### Original:

本条是关于反腐败国际追逃追赃和防逃工作的规定。

规定本条的主要目的是进一步明确国家监察委员会在反腐败国际追逃追赃和防逃工作中的组织协调、督促落实职责，推动国内有关单位积极履行反腐败国际合作相关职责。

**本条分为三项。第一项规定了“追逃”。**“反腐败国际追逃”，是指对于逃匿到国（境）外的涉嫌重大贪污贿赂、失职渎职等职务犯罪的被调查人，在掌握证据比较确凿的情况下，通过开展境外追逃工作将其追捕归案。开展反腐败国际追逃，引渡是利用国际刑事司法协助开展境外追逃的正式渠道和理想方式，遣返、劝返、异地起诉等是引渡之外的替代措施。

一是引渡，是指根据双边条约、多边条约或以互惠为基础，向外逃涉案人所在地国提出请求，将涉嫌犯罪人员移交给国内进行追诉和处罚。引渡有严格的限定条件，当前的主要原则有：政治犯不引渡原则；死刑不引渡原则；本国公民不引渡原则；双重犯罪原则；条约前置主义。

二是遣返，又称移民法遣返，是指由我国向外逃所在地国提供外逃人员违法犯罪线索和伪造护照等虚假身份情况，让所在地国根据移民法规，剥夺其居留地位并强制遣返至我国或第三国。

三是异地起诉，是指在我国无法行使管辖权时，通过让渡管辖权给外逃所在地国，支持外逃所在地国依据本地法律和我们提供的证据，对我国外逃人员进行定罪判刑。外逃人员被定罪判刑后，往往会被强制遣返，届时可将其递解回国接受法律制裁。

四是劝返，是指对外逃人员进行说服教育，使其主动回国，接受追诉、审判或执行刑罚。劝返是一项思想政治工作，主要手段是对犯罪嫌疑人说服教育，晓之以理，动之以情，明之以法，承诺从轻处理条件，促使其心理上发生根本转变。

五是非常规措施。比较常见的有两种，( 1 )绑架，采用绑架的手段将在逃人员缉捕回国；( 2 )诱捕，将犯罪嫌疑人引诱到诱骗国境内、国际公海、国际空域或有引渡条约的第三国，然后进行逮捕或引渡。由于未经主权国家的批准擅自开展调查活动，会触犯所在地国家刑事法律，构成非法拘禁罪或绑架罪，引发外交纠纷，因此，实践中，绑架或诱捕手段很少使用。