

No. 53383*

**Lithuania
and
United States of America**

Protocol on the application of the Agreement on extradition between the United States of America and the European Union to the Extradition Treaty between the Government of the Republic of Lithuania and the Government of the United States of America (with annex). Brussels, 15 June 2005

Entry into force: *1 February 2010, in accordance with its provisions*

Authentic texts: *English and Lithuanian*

Registration with the Secretariat of the United Nations: *Lithuania, 6 January 2016*

**No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.*

**Lituanie
et
États-Unis d'Amérique**

Protocole d'application de l'Accord entre les États-Unis d'Amérique et l'Union européenne en matière d'extradition au Traité d'extradition entre le Gouvernement de la République de Lituanie et le Gouvernement des États-Unis d'Amérique (avec annexe). Bruxelles, 15 juin 2005

Entrée en vigueur : *1^{er} février 2010, conformément à ses dispositions*

Textes authentiques : *anglais et lituanien*

Enregistrement auprès du Secrétariat des Nations Unies : *Lituanie, 6 janvier 2016*

**Le numéro de volume RTNU n'a pas encore été établi pour ce dossier. Les textes reproduits ci-dessous, s'ils sont disponibles, sont les textes authentiques de l'accord/pièce jointe d'action tel que soumises pour l'enregistrement et publication au Secrétariat. Pour référence, ils ont été présentés sous forme de la pagination consécutive. Les traductions, s'ils sont inclus, ne sont pas en forme finale et sont fournies uniquement à titre d'information.*

[ENGLISH TEXT – TEXTE ANGLAIS]

**Protocol on the application of the Agreement on Extradition between the
United States of America and the European Union to the Extradition Treaty
between the Government of the Republic of Lithuania and the Government of
the United States of America**

1. As contemplated by Article 3(2) of the Agreement on Extradition between the United States of America and the European Union signed 25 June 2003 (hereafter “the U.S.-EU Extradition Agreement”), the Governments of the Republic of Lithuania and the United States of America acknowledge that, in accordance with the provisions of this Protocol, the U.S.-EU Extradition Agreement is applied in relation to the bilateral Extradition Treaty between the Government of the Republic of Lithuania and the Government of the United States of America signed 23 October 2001 (hereafter “the 2001 Extradition Treaty”) under the following terms:

- (a) Article 5(1) of the U.S.-EU Extradition Agreement as set forth in Article 8(1) of the Annex to this Protocol shall govern the mode of transmission of the extradition request and supporting documents;
 - (b) Article 5(2) of the U.S.-EU Extradition Agreement as set forth in Article 9 of the Annex to this Protocol shall govern the requirements concerning certification, authentication or legalization of the extradition request and supporting documents;
 - (c) Article 7(1) of the U.S.-EU Extradition Agreement as set forth in Article 11(4) of the Annex to this Protocol shall provide an alternative method for transmission of the request for extradition and supporting documents following provisional arrest;
 - (d) Article 8 of the U.S.-EU Extradition Agreement as set forth in Article 8 *bis* of the Annex to this Protocol shall govern the channel to be used for submitting supplementary information;
 - (e) Article 10 of the U.S.-EU Extradition Agreement as set forth in Article 14 of the Annex to this Protocol shall govern the decision on requests made by several States for the extradition or surrender of the same person;
 - (f) Article 13 of the U.S.-EU Extradition Agreement as set forth in Article 7 of the Annex to this Protocol shall govern extradition with respect to conduct punishable by death in the Requesting State; and
 - (g) Article 14 of the U.S.-EU Extradition Agreement as set forth in Article 8 *ter* of the Annex to this Protocol shall govern consultations where the Requesting State contemplates the submission of particularly sensitive information in support of a request for extradition.
2. The Annex reflects the integrated text of the provisions of the 2001 Extradition Treaty and the U.S.-EU Extradition Agreement that shall apply upon entry into force of this Protocol.
3. In accordance with Article 16 of the U.S.-EU Extradition Agreement, this Protocol shall apply to offenses committed before as well as after it enters into force.

4. This Protocol shall not apply to requests for extradition made prior to its entry into force.

5. (a) This Protocol shall be subject to the completion by the Republic of Lithuania and the United States of America of their respective applicable internal procedures for entry into force. The Governments of the Republic of Lithuania and the United States of America shall thereupon exchange instruments indicating that such measures have been completed. This Protocol shall enter into force on the date of entry into force of the U.S.-EU Extradition Agreement.

(b) In the event of termination of the U.S.-EU Extradition Agreement, this Protocol shall be terminated and the 2001 Extradition Treaty shall be applied. The Governments of the Republic of Lithuania and the United States of America nevertheless may agree to continue to apply some or all of the provisions of this Protocol.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at Brussels, in duplicate, this 15 day of June, 2005, in Lithuanian and the English languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
REPUBLIC OF LITHUANIA:

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

ANNEX

EXTRADITION TREATY
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA
AND
THE GOVERNMENT OF THE UNITED STATES OF AMERICA

TABLE OF CONTENTS

Article 1	Obligation to Extradite
Article 2	Extraditable Offenses
Article 3	Nationality
Article 4	Political and Military Offenses
Article 5	Prior Prosecution
Article 6	Lapse of Time
Article 7	Capital Punishment
Article 8	Extradition Procedures and Required Documents
Article 8 <i>bis</i>	Supplemental Information
Article 8 <i>ter</i>	Sensitive Information in a Request
Article 9	Admissibility of Documents
Article 10	Translation
Article 11	Provisional Arrest
Article 12	Decision and Surrender
Article 13	Temporary and Deferred Surrender
Article 14	Requests for Extradition or Surrender Made by Several States
Article 15	Seizure and Surrender of Property
Article 16	Rule of Speciality
Article 17	Consent to Waiver of Extradition Proceedings
Article 18	Transit
Article 19	Representation and Expenses
Article 20	Consultation
Article 21	Termination

Article 1
Obligation to Extradite

The Parties agree to extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with or convicted of an extraditable offense.

Article 2
Extraditable Offenses

1. An offense shall be an extraditable offense if it is punishable under the laws in both States by deprivation of liberty for a period of more than one year or by a more severe penalty.
2. An offense shall also be an extraditable offense if it consists of an attempt or a conspiracy to commit, or participation in the commission of any offense described in paragraph 1.
3. For the purposes of this Article, an offense shall be an extraditable offense:
 - (a) whether or not the laws in the Requesting and Requested States place the offense within the same category of offenses or describe the offense by the same terminology; or
 - (b) whether or not the offense is one for which United States federal law requires the showing of such matters as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court.
4. Extradition shall be granted for an extraditable offense regardless of where the act or acts constituting the offense were committed.
5. If extradition has been granted for an extraditable offense it shall also be granted for any other offense specified in the request even if the latter offense is punishable by one year's deprivation of liberty or less, provided that all other requirements for extradition are met.

Article 3
Nationality

Extradition shall not be refused based on the nationality of the person sought.

Article 4
Political and Military Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense.

2. For the purposes of this Treaty, the following offenses shall not be considered political offenses:

- (a) a murder or other violent crime against a Head of State of the Requesting or Requested State, or of a member of the Head of State's family;
- (b) an offense for which both the Requesting and Requested States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution;
- (c) murder, manslaughter, malicious wounding, or inflicting grievous bodily harm;
- (d) an offense involving kidnaping, abduction, or any form of unlawful detention, including the taking of a hostage;
- (e) placing or using an explosive, incendiary or destructive device capable of endangering life, of causing substantial bodily harm, or of causing substantial property damage; and
- (f) a conspiracy or attempt to commit any of the foregoing offenses, or aiding or abetting a person who commits or attempts to commit such offenses.

3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated.

4. The executive authority of the Requested State may refuse extradition for offenses under military law that are not offenses under ordinary criminal law.

Article 5 Prior Prosecution

1. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offense for which extradition is requested. Conviction or acquittal also means, under Lithuanian law, an agreed resolution approved by a court with final and binding effect.

2. Extradition shall not be precluded by the fact that the competent authorities of the Requested State have decided either:

- (a) not to prosecute the person sought for the acts for which extradition is requested;
- (b) to discontinue any criminal proceedings which have been instituted against the person sought for those acts; or
- (c) to investigate the person sought for the same acts.

Article 6
Lapse of Time

The decision by the Requested State whether to grant the request for extradition shall be made without regard to the law of either the Requesting State or the Requested State concerning lapse of time.

Article 7
Capital Punishment

Where the offense for which extradition is sought is punishable by death under the laws in the Requesting State and not punishable by death under the laws in the Requested State, the Requested State may grant extradition on the condition that the death penalty shall not be imposed on the person sought, or if for procedural reasons such condition cannot be complied with by the Requesting State, on condition that the death penalty if imposed shall not be carried out. If the Requesting State accepts extradition subject to conditions pursuant to this Article, it shall comply with the conditions. If the Requesting State does not accept the conditions, the request for extradition may be denied.

Article 8
Extradition Procedures and Required Documents

1. Requests for extradition and supporting documents shall be transmitted through the diplomatic channel, which shall include transmission as provided for in Article 11(4).
2. All requests shall include:
 - (a) documents, statements, or other types of information which describe the identity and probable location of the person sought;
 - (b) information describing the facts of the offense and the procedural history of the case;
 - (c) a statement of the relevant text of the provisions of the laws describing the essential elements of the offense for which extradition is requested;
 - (d) a statement of the relevant text of the provisions of law prescribing punishment for the offense;
 - (e) a statement of the provisions of law describing any time limit on the prosecution; and
 - (f) the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.

3. A request for extradition of a person who is sought for prosecution also shall include:

- (a) a copy of the warrant or order of arrest issued by a judge, court, or other authority competent for this purpose;
- (b) a copy of the charging document; and
- (c) such information as would provide a reasonable basis to believe that the person sought committed the offense for which extradition is sought.

4. A request for extradition relating to a person who has been convicted of the offense for which extradition is sought also shall include:

- (a) a copy of the judgment of conviction, or, if a copy is not available, a statement by a judicial authority that the person has been convicted;
- (b) information establishing that the person sought is the person to whom the finding of guilt refers;
- (c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and
- (d) in the case of a person who has been convicted in absentia, the documents required by paragraph 3.

Art. 8 bis
Supplemental Information

1. The Requested State may require the Requesting State to furnish additional information within such reasonable length of time as it specifies, if it considers that the information furnished in support of the request for extradition is not sufficient to fulfill the requirements of this Treaty.

2. Such supplementary information may be requested and furnished directly between the United States Department of Justice and the Ministry of Justice of the Republic of Lithuania.

Article 8 ter
Sensitive Information in a Request

Where the Requesting State contemplates the submission of particularly sensitive information in support of its request for extradition, it may consult the Requested State to determine the extent to which the information can be protected by the Requested State. If the Requested State cannot protect the information in the manner sought by the Requesting State, the Requesting State shall determine whether the information shall nonetheless be submitted.

Article 9
Admissibility of Documents

Documents that bear the certificate or seal of the Ministry of Justice, or Ministry or Department responsible for foreign affairs, of the Requesting State shall be admissible in extradition proceedings in the Requested State without further certification, authentication, or other legalization. "Ministry of Justice" shall, for the United States of America, mean the United States Department of Justice; and, for the Republic of Lithuania, the Ministry of Justice of the Republic of Lithuania.

Article 10
Translation

All documents submitted by the Requesting State shall be translated into the language of the Requested State.

Article 11
Provisional Arrest

1. In case of urgency, the Requesting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the United States Department of Justice and the Office of the Public Prosecutor of the Republic of Lithuania. The facilities of the International Criminal Police Organization (Interpol) also may be used to transmit such a request.
2. The application for provisional arrest shall contain:
 - (a) a description of the person sought;
 - (b) the location of the person sought, if known;
 - (c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;
 - (d) a description of the law(s) violated;
 - (e) a statement of the existence of a warrant of arrest or a finding of guilt or judgment of conviction against the person sought; and
 - (f) a statement that the documents supporting the extradition request for the person sought will follow within the time specified in this treaty.
3. The Requesting State shall be notified without delay of the disposition of its request for provisional arrest and the reasons for any inability to proceed with the request.
4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the request for

extradition required in Article 8. For this purpose, receipt of the request for extradition by the Embassy of the Requested State in the Requesting State shall constitute receipt by the executive authority of the Requested State.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 12 Decision and Surrender

1. The Requested State shall promptly notify the Requesting State of its decision on the request for extradition.

2. If the request is denied in whole or in part, the Requested State shall provide an explanation of the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Requesting and Requested States shall agree on the time and place for the surrender of the person sought.

4. If the person sought is not removed from the territory of the Requested State within the time period prescribed by the law of that State, that person may be discharged from custody, and the Requested State, in its discretion, may subsequently refuse extradition for the same offense.

Article 13 Temporary and Deferred Surrender

1. If the extradition request is granted in the case of a person who is being proceeded against or is serving a sentence in the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by mutual agreement of the Requesting and Requested States.

2. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

Article 14 Requests for Extradition or Surrender Made by Several States

1. If the Requested State receives requests from the Requesting State and from any other State or States for the extradition of the same person, either for the same

offense or for different offenses, the executive authority of the Requested State shall determine to which State, if any, it will surrender the person.

2. If the Republic of Lithuania receives an extradition request from the United States of America and a request for surrender pursuant to the European arrest warrant for the same person, either for the same offense or for different offenses, its executive authority shall determine to which State, if any, it will surrender the person.

3. In making its decision under paragraphs 1 and 2 of this Article, the Requested State shall consider all of the relevant factors, including, but not limited to, the following:

- (a) whether the requests were made pursuant to a treaty;
- (b) the places where each of the offenses was committed;
- (c) the respective interests of the Requesting States;
- (d) the seriousness of the offenses;
- (e) the nationality of the victim;
- (f) the possibility of any subsequent extradition between the Requesting States; and
- (g) the chronological order in which the requests were received from the Requesting States.

Article 15 Seizure and Surrender of Property

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all items, including articles, documents, and evidence, that are connected with the offense in respect of which extradition is granted. The items mentioned in this Article may be surrendered even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.

2. The Requested State may condition the surrender of the items upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such items if they are needed as evidence in the Requested State.

3. The rights of third parties in such items shall be duly respected in accordance with the laws of the Requested State.

Article 16 Rule of Speciality

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:

- (a) any offense for which extradition was granted, or a differently denominated offense based on the same facts as the offense for which extradition was granted, provided such offense is extraditable, or is a lesser included offense;
- (b) any offense committed after the extradition of the person; or

(c) any offense for which the executive authority of the Requested State consents to the person's detention, trial, or punishment. For the purpose of this subparagraph:

(i) the Requested State may require the submission of the documentation called for in Article 8; and

(ii) the person extradited may be detained by the Requesting State for 90 days, or for such longer period of time as the Requested State may authorize, while the request is being processed.

2. A person extradited under this Treaty may not be extradited to a third State or extradited or surrendered to an international tribunal for any offense committed prior to extradition unless the Requested State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to a third State, if:

(a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or

(b) that person does not leave the territory of the Requesting State within 10 days of the day on which that person is free to leave.

Article 17 Consent to Waiver of Extradition Proceedings

If the person sought consents in writing to be surrendered to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings.

Article 18 Transit

1. Either State may authorize transportation through its territory of a person surrendered to the other State by a third State. A request for transit shall be transmitted through the diplomatic channel or directly between the United States Department of Justice and the Ministry of Justice of the Republic of Lithuania. The facilities of the International Criminal Police Organization (Interpol) may also be used to transmit such a request to the above-mentioned authorities. The request for transit shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.

2. Authorization is not required when air transportation is used by one State and no landing is scheduled on the territory of the other State. If an unscheduled landing does occur, the State in which the unscheduled landing occurs may require a request for

transit pursuant to paragraph 1, and it may detain the person until the request for transit is received and the transit is effected, as long as the request is received within 48 hours of the unscheduled landing.

Article 19
Representation and Expenses

1. The Requested State shall advise, assist, appear in court on behalf of, and represent the interests of the Requesting State in any proceedings arising out of a request for extradition.
2. The Requesting State shall pay all the expenses related to the translation of extradition documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State in connection with the extradition proceedings.
3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons under this Treaty.

Article 20
Consultation

The United States Department of Justice and the Office of the Public Prosecutor and the Ministry of Justice of the Republic of Lithuania may consult with each other in connection with the processing of individual cases and in furtherance of efficient implementation of this Treaty.

Article 21
Termination

Either State may terminate this Treaty at any time by giving written notice to the other State, and the termination shall be effective six months after the date of such notice.