

**TREATY ON EXTRADITION
BETWEEN
THE REPUBLIC OF LITHUANIA
AND
THE REPUBLIC OF INDIA**

The Republic of Lithuania and the Republic of India (hereinafter referred to as the “Contracting States”)

Recognizing that concrete steps are necessary to combat terrorism;

Desiring to make more effective bilateral cooperation in the suppression of crime by the extradition of offenders;

Have agreed as follows:

**Article 1
Obligation to Extradite**

The Contracting State shall extradite a person found in its respective territory who is suspect, accused or convicted of an extraditable offence in the territory of the other Contracting State, in accordance with the stipulations contained in subsequent Articles of this Treaty, whether such offence was committed before or after the entry into force of this Treaty.

Article 2
Extraditable Offence

1. An offence shall be an extraditable offence if it is punishable under the laws of both Contracting States by deprivation of liberty, including imprisonment, for at least a period of one year, or by a more severe penalty. Where the request for extradition relates to execution of a custodial sentence, extradition shall be granted only if a period of at least one year in the sentence remains to be served at the time of making the request.

2. An offence shall also be an extraditable offence if it involves an attempt to commit or a conspiracy to commit, including aiding or abetting the commission of or being an accessory before or after the fact to, an offence described in paragraph 1.

3. For the purpose of this Article, an offence shall be an extraditable offence:

a. whether or not the laws in the Requesting State place the offence within the same category of offences or describe the offence by the same terminology;

b. where extradition of a person is sought for an offence against a law relating to taxation, customs duties, foreign exchange control or other revenue matters, extradition shall not be refused on the ground that the law of the Requested State does not impose the same kind of tax or duty or does not contain a tax, duty, custom or exchange regulation of the same kind as the law of the Requesting State, or it relates to taxation or revenues or is of a purely fiscal character;

c. regardless of where the act or acts constituting the extraditable offence were committed.

4. If extradition has been granted for an extraditable offence, it shall also be granted for any other offence specified in the request, even if the latter offence does not meet the requirements under Paragraph 1 of this Article, provided that all other requirements for extradition are met.

Article 3
Refusal of Extradition

Extradition shall be refused if the Requested State considers that, having regard to all the circumstances, including the trivial nature of the offence, or in the interest of justice, it would be unjust or inexpedient to extradite the person, or if there are reasonable grounds to believe that, on the basis of objective elements, the request for extradition has been made for the purpose of prosecuting or punishing a person purely on the grounds of his or her race, religion, nationality, ethnic origin, political opinion, sex or sexual orientation.

Article 4
Extradition of Nationals

1. Contracting States shall not extradite their own nationals to other Contracting State.

2. Where the extradition is refused on the ground of nationality of the person sought, the Requested State shall submit the case to its competent authorities for considering prosecution of that person.

Article 5
The Political Offence Exception

1. Extradition shall not be granted if the offence in respect of which it is requested is regarded by the Requested State as a political offence.

2. For the purpose of this Treaty the following offences shall not be regarded as offences of a political character:

a. an offence in respect of which both Contracting States have the obligation to extradite the person sought or submit the case to their competent authorities, for decision as to prosecution pursuant to a multilateral international treaty/convention to which both are parties;

b. murder or culpable homicide/manslaughter;

c. an offence, involving firearms, explosives, incendiaries, destructive devices or substances, causing death, grievous bodily harm or serious damage to property;

d. offences related to terrorism which at the time of the request is, under the law of the Requested State, not to be regarded as political offence;

e. kidnapping, abduction, false imprisonment or unlawful detention including the taking of a hostage;

f. a conspiracy or attempt to commit, or participation in the commission of any of the foregoing offences.

Article 6
Non bis in idem

Extradition shall not be granted if final decision has been passed by the competent authorities of the Requested State upon the person sought in respect of the same offence or offences for which extradition is requested.

Article 7
Lapse of Time

Extradition shall not be granted when the person sought has, according to the law of the Requesting State, become immune by reason of lapse of time from prosecution or punishment.

Article 8
Capital Punishment

If under the law of the Requesting State the person sought is liable to the death penalty for the offence for which his/her extradition is requested, but the law of the Requested State does not provide for the death penalty in a similar case, extradition may be refused unless the Requesting State gives such assurance as the Requested State considers sufficient that the death penalty will not be carried out.

Article 9
Extradition and Prosecution

1. The request for extradition may be refused by the Requested State if the person whose extradition is sought may be tried for the extradition offence in the Courts of that State.

2. Where the Requested State refuses a request for extradition for the reason mentioned in paragraph 1 of this Article, the Requested State shall submit the case to its competent authorities so that prosecution may be considered. Those authorities shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State.

3. If the competent authorities of the Requested State decide either not to prosecute the person sought for acts for which extradition is requested or to discontinue any criminal proceedings which have been instituted against the person sought for those acts, the request for extradition shall be reconsidered in accordance with this Treaty.

Article 10

Military Offences

Extradition shall not be granted if the offence in respect of which extradition is requested is a military offence, which is not an offence under ordinary criminal law.

Article 11

Postponement of Extradition

When the person sought is being proceeded against or is serving a sentence in the Requested State for an offence other than for which extradition is requested, the Requested State may, in accordance with its law, surrender the person sought or postpone surrender until the conclusion of the proceeding or the service of the whole or any part of the sentence imposed. The Requested State shall inform the Requesting State of any postponement.

Article 12
Extradition Procedures and Required Documents

1. The request for extradition under this Treaty shall be made through the diplomatic channel.

2. The request shall be accompanied by:

a. as accurate description as possible of the person sought, together with any other information which would help to establish that person's identity, nationality and residence;

b. a statement of the facts of the offence for which extradition is requested, and

c. the text, if any, of the law:

i. defining that offence; and

ii. prescribing the maximum punishment for that offence.

3. If the request relates to a suspect or an accused person, it must also be accompanied by a warrant of arrest issued by a judge, magistrate, court or other competent authority in the territory of the Requesting State and by such evidence as, according to the law of the Requested State, would justify his committal for trial if the offence had been committed in the territory of the Requested State, including evidence that the person requested is the person to whom the warrant of arrest refers.

4. If the request relates to a person already convicted and sentenced, it shall also be accompanied by:

a. an authenticated copy of the judgment of conviction;

b. information establishing that the person sought is the person to whom the conviction refers;

c. a statement that the person is not entitled to question the conviction or sentence and showing how much of the sentence has been carried out;

d. in the case of a person convicted in absentia, the documents referred to in paragraph 3 of this Article shall be required;

e. in the case of a person tried in absentia, extradition may be considered on the assurance of the Requesting State that such person shall have an opportunity for a retrial of the case in the Requesting State and to be present at the trial.

5. Documents, in support of an extradition request, shall be received and admitted as evidence in extradition proceedings, provided the documents are certified to be the original documents or true copies of such documents and are authenticated by the official seal of the court or by the competent authority.

Article 13

Translation

The request and documents to be produced shall be translated into English language.

Article 14

Provisional Arrest

1. In cases of urgency, Requesting State may request for the provisional arrest of the person sought pending presentation of the request for extradition. A request for the provisional arrest may be made through the diplomatic channel or the Central Authorities. The facilities of the International Criminal Police Organization (Interpol) may be used to transmit such a request.

2. The application for provisional arrest shall be in writing and contain:

a. a description of the person sought, including information concerning the person's nationality;

b. location of the person sought;

c. a brief statement of the facts of the case, including the time and place of the commission of the offence;

d. a description of the laws violated; a statement of the existence of a warrant of arrest, or judgment of conviction against the person sought;

e. a statement that a request for extradition of the person sought will follow.

3. The Requesting State shall be notified as soon as possible of the disposition of its request for provisional arrest and the reasons for any inability to proceed with the request.

4. The person arrested may be set at liberty if the Requesting State fails to present the request for extradition to the Requested State, accompanied by the documents specified in Article 12, within 60 (sixty) days from the date of arrest.

Article 15

Rule of Specialty

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

a. the offence for which extradition has been granted or a differently denominated offence based on the same facts on which extradition has been granted, provided such offence is extraditable or is a lesser included offence;

b. an offence committed after the extradition of the person took place;

c. an offence in respect of which he/she was extradited, or another offence in respect of which he/she could be convicted based on the proven facts used to support the request for his/her extradition; or

d. an offence for which the executive authority of the Requested State consents to the person's detention, trial, or punishment for an offence. For the purpose of this subparagraph:

i. the Requested State may require submission of the documents mentioned in Article 12;

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 for an offence committed prior to his/her surrender unless the surrendering 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 voluntary returns to it; or

b. that person does not leave the territory of the Requesting State within 60 days of the day on which that person is free to leave.

Article 16

Supplementary Evidence/Information

1. If the Requested State considers at any stage that the information furnished in support of a request for extradition is not sufficient in accordance with the Treaty to enable extradition to be granted, that State may request that supplementary information be furnished within reasonable time as it may specify.

2. If the person whose extradition is sought is under arrest and the supplementary information furnished is not sufficient in accordance with this Treaty or is not received within the time specified, the person may be released from the custody. Such release shall not preclude the Requesting State from making a new request for the extradition of that person.

3. Where the person is released from the custody in accordance with paragraph 2 of this Article, the Requested State shall notify to the Requesting State as soon as practicable.

Article 17

Waiver of Extradition

If the person sought consents to surrender to the Requesting State, the Requested State

may, subject to its laws, surrender the person as expeditiously as possible without further proceedings.

Article 18

Surrender

1. The Requested State shall, as soon as a decision on the request for extradition has been made, communicate that decision to the Central Authority of the Requesting State through the diplomatic channel. Reasons shall be given for any complete or partial refusal of a request for extradition.

2. The Requested State shall surrender the person sought to the competent authority of the Requesting State at a location in the territory of the Requested State as acceptable to both Contracting States.

3. The Requesting State shall remove the person sought from the territory of the Requested State within such reasonable period as specified by the Requested State and, if the person sought is not removed within that period, the Requested State may set that person at liberty and may refuse extradition for the same offence.

Article 19

Requests for Extradition or Surrender Made by Several States

If the Requested State receives requests from the Requesting State and from any other State or States for the extradition or surrender of the same person, either for the same offence or for different offences, the executive authority of the Requested State shall determine to which State it will surrender the person. In making its decision, the Requested State shall consider all the circumstances and especially the relative seriousness and place of commission of the offences, the respective dates of the requests, possibility to re-

extradite the person and whether the request relates to prosecution or execution of a custodial sentence.

Article 20

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 articles, documents, and evidence connected with the offence in respect of which extradition is granted.

2. The items mentioned in paragraph 1 of this Article shall be handed over even if extradition, having been agreed to, cannot be carried out owing to the death, disappearance or escape of the person sought. The Requested State may also defer the surrender of such items if it is needed as evidence in the Requested State.

3. Where the law of the Requested State relating to the protection of rights of third parties so requires, any item so surrendered shall be returned to the Requested State as soon as practicable and free of charge.

Article 21

Transit

1. Each Contracting State may in accordance with its law authorize transportation through its territory of a person surrendered to the other Contracting State by a third State. A request for transit shall be made through the diplomatic channel or Central Authorities. The facilities of Interpol may be used to transmit such a request. It shall contain a description of the person being transported and a brief statement of the facts of the case. A person being transported may be detained in custody during the period of transit.

2. No authorization is required where air transportation is used and no landing is

scheduled on the territory of the Contracting State. If an unscheduled landing occurs on the territory of the other Contracting State, the other Contracting State may require the request for transit in accordance with paragraph 1 of this Article. That Contracting State shall detain the person to be transported until the request for transit is received and the transit is effected, so long as the request is received within four working days of the unscheduled landing.

Article 22

Mutual Legal Assistance in Extradition

Each Contracting State shall, to the extent permitted by its law, afford the other the widest measure of mutual assistance in criminal matters in connection with the offence for which extradition has been requested.

Article 23

Representation and Expenses

1. Expenses incurred in the territory of the Requested State by reason of the request for extradition shall be borne by that State.

2. The Requested State shall make all arrangements required with respect to the representation of the Requesting State in any proceedings arising out of the request.

Article 24

Central Authorities

1. For the purpose of this Treaty, the Contracting States shall communicate through their Central Authorities. The Central Authorities for the Republic of Lithuania shall be the Ministry of Justice and the Prosecutor General's Office and for the Republic of

India the Central Authority shall be the Ministry of External Affairs.

2. The Contracting States shall through the diplomatic channels communicate to each other contact details of their Central Authorities, and changes therein, if any, as soon as possible.

Article 25

Obligations under International Conventions/Treaties

The present Treaty shall not affect the rights and obligations of the Contracting States arising from International Conventions/Treaties to which they are a party.

Article 26

Dispute Resolution

Any dispute regarding the application or interpretation of this Treaty shall be resolved between the Contracting States by means of consultations and/or negotiations.

Article 27

Entry into Force and Termination

1. This Treaty shall be subject to ratification. The instruments of ratification shall be exchanged as soon as possible. It shall enter into force on the date of the exchange of the instrument of ratification and shall remain in force for an indefinite period of time.

2. This Treaty may be amended by mutual agreement of the Contracting States. The amendments shall be in the form of a Protocol. The Protocol shall enter into force as provided in paragraph 1 of this Article.

3. Either of the Contracting States may terminate this Treaty at any time by giving written notice to the other Contracting State through diplomatic channels. Termination shall take effect six (6) months after the date of such notice.

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

Done at New Delhi on this 9th (day) of October (month) 2017 (year), in two originals, each in Lithuanian, Hindi and English languages. All texts being equally authentic, in case of any divergence in interpretation, the English text shall prevail.

On behalf of the Republic of Lithuania

On behalf of the Republic of India

H. E. Mr. Linas Linkevičius
The Minister of Foreign Affairs

H. E. Ms. Sushma Swaraj
The Minister of External Affairs