

Protocol to the Treaty on Extradition between the United States of America and the Hellenic Republic, signed 6 May 1931, and the Protocol thereto signed 2 September 1937, 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

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 United States of America and the Hellenic Republic acknowledge that, in accordance with the provisions of this Protocol, the U.S.-EU Extradition Agreement is applied in relation to the bilateral Treaty of Extradition between the United States of America and the Hellenic Republic signed 6 May 1931 and the Protocol thereto signed 2 September 1937 (hereafter collectively "the Extradition Treaty") under the following terms:

Article 1

A. Pursuant to Article 4 of the U.S.-EU Extradition Agreement, the following shall be applied in place of Article II of the Extradition Treaty:

"Extraditable offenses

1. A crime or offense shall be an extraditable crime or offense if it is punishable under the laws of the requesting and requested countries by deprivation of liberty for a maximum period of more than one year or by a more severe penalty. A crime or offense shall also be an extraditable crime or offense if it consists of an attempt or conspiracy to commit, or participation in the commission of, an extraditable crime or offense. Where the request is for enforcement of the sentence of a person convicted of an extraditable crime or offense, the deprivation of liberty remaining to be served must be at least four months.
2. If extradition is granted for an extraditable crime or offense, it shall also be granted for any other crime or offense specified in the request if the latter crime or offense is punishable by one year's deprivation of liberty or less, provided that all other requirements for extradition are met.
3. For purposes of this Article, a crime or offense shall be considered an extraditable crime or offense:
 - (a) regardless of whether the laws in the requesting and requested countries place the crime or offense within the same category of crimes or offenses or describe the crime or offense by the same terminology;
 - (b) regardless of whether the crime or 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; and
 - (c) in criminal cases relating to taxes, customs duties, currency control and the import or export of commodities, regardless of whether the laws of the requesting and requested countries provide for the same kind of taxes, customs duties, or controls on currency or on the import or export of the same kind of commodities.

4. If the crime or offense has been committed outside the territory of the requesting country, extradition shall be granted, subject to the other applicable requirements for extradition, if the laws of the requested country provide for the punishment of a crime or offense committed outside its territory in similar circumstances. If the laws of the requested country do not provide for the punishment of a crime or offense committed outside its territory in similar circumstances, the executive authority of the requested country, at its discretion, may grant extradition provided that all other applicable requirements for extradition are met.”

B. In view of Article 4 of the U.S.-EU Extradition Agreement, the phrase “committed within the jurisdiction of one of the High Contracting Parties” in Article I of the Extradition Treaty is hereby deleted.

Article 2

Pursuant to Article 5 of the U.S.-EU Extradition Agreement, the following shall be applied in place of Article XI, paragraph 2 of the Extradition Treaty:

“Transmission and authentication of documents

Requests for extradition and supporting documents shall be transmitted through the diplomatic channel, which shall include transmission as provided for in Article 4 of this Protocol.

Documents that bear the certificate or seal of the Ministry of Justice, or Ministry or Department responsible for foreign affairs, of the requesting country shall be admissible in extradition proceedings in the requested country without further certification, authentication, or other legalization. “Ministry of Justice” shall, for the United States, mean the United States Department of Justice, and for the Hellenic Republic, the Ministry of Justice of the Hellenic Republic.”

Article 3

Pursuant to Article 6 of the U.S.-EU Extradition Agreement, the following shall be applied to supplement Article XI of the Extradition Treaty:

“Transmission of requests for provisional arrest

Requests for provisional arrest may be made directly between the Ministry of Justice of the Hellenic Republic and the United States Department of Justice, as an alternative to the diplomatic channel. The facilities of the International Criminal Police Organization (Interpol) may also be used to transmit such a request.”

Article 4

Pursuant to Article 7(1) of the U.S.-EU Extradition Agreement, the following shall be applied to supplement Article XI of the Extradition Treaty:

“Transmission of documents following provisional arrest

1. If the person whose extradition is sought is held under provisional arrest by the requested country, the requesting country may satisfy its obligation to transmit its request for extradition and supporting documents through the diplomatic channel pursuant to Article 2 of this Protocol, by submitting the request and documents to the Embassy of the requested country located in the requesting country. In that case, the date of receipt of

such request by the Embassy shall be considered to be the date of receipt by the requested country for purposes of applying the time limit that must be met under the Extradition Treaty to enable the person's continued detention."

Article 5

Pursuant to Article 8 of the U.S.-EU Extradition Agreement, the following shall be applied to supplement the terms of the Extradition Treaty:

"Supplemental information

1. The requested country may require the requesting country 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 fulfil the requirements of the Extradition Treaty.
2. Such supplementary information may be requested and furnished directly between the Ministry of Justice of the Hellenic Republic and the United States Department of Justice."

Article 6

Pursuant to Article 9 of the U.S.-EU Extradition Agreement, the following shall be applied to supplement the terms of the Extradition Treaty:

"Temporary surrender

1. If a request for extradition is granted in the case of a person who is being proceeded against or is serving a sentence in the requested country, the requested country may temporarily surrender the person sought to the requesting country for the purpose of prosecution.
2. The person so surrendered shall be kept in custody in the requesting country and shall be returned to the requested country at the conclusion of the proceedings against that person, in accordance with the conditions to be determined by mutual agreement of the requesting and requested countries. The time spent in custody in the territory of the requesting country pending prosecution in that country may be deducted from the time remaining to be served in the requested country."

Article 7

Pursuant to Article 10 of the U.S.-EU Extradition Agreement, the following shall be applied in place of Article VII of the Extradition Treaty:

"Requests for extradition or surrender made by several countries

1. If the requested country receives requests from the requesting country and from any other country or countries for the extradition of the same person, either for the same crime or offense or for different crimes or offenses, the executive authority of the requested country shall determine to which country, if any, it will surrender the person.
2. If the Hellenic Republic 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 crime or offense or for different crimes or offenses, the Minister of Justice of the Hellenic Republic shall determine to which country, if any, it will surrender the person.

3. In making its decision under paragraphs 1 and 2, the requested country 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 crimes or offenses was committed;
- (c) the respective interests of the requesting countries;
- (d) the seriousness of the crimes or offenses;
- (e) the nationality of the victim;
- (f) the possibility of any subsequent extradition between the requesting countries; and
- (g) the chronological order in which the requests were received from the requesting countries."

Article 8

Pursuant to Article 11 of the U.S.-EU Extradition Agreement, the following shall be applied to supplement the terms of the Extradition Treaty:

"Simplified extradition procedures

If the person sought consents to be surrendered to the requesting country, the requested country may, in accordance with the principles and procedures provided for under its legal system, surrender the person as expeditiously as possible without further proceedings. The consent of the person sought may include agreement to waiver of protection of the rule of specialty."

Article 9

Pursuant to Article 12 of the U.S.-EU Extradition Agreement, the following shall be applied to supplement the terms of the Extradition Treaty:

"Transit

1. The United States of America may authorize transportation through its territory of a person surrendered to the Hellenic Republic by a third country, or by the Hellenic Republic to a third country. The Hellenic Republic may authorize transportation through its territory of a person surrendered to the United States of America by a third country, or by the United States of America to a third country.

2. A request for transit shall be made through the diplomatic channel or directly between the United States Department of Justice and the Ministry of Justice of the Hellenic Republic. The facilities of Interpol may also be used to transmit such a request. The request shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit shall be detained in custody during the period of transit.

3. Authorization is not required when air transportation is used and no landing is scheduled on the territory of the transit country. If an unscheduled landing does occur, the country in which the unscheduled landing occurs may require a request for transit pursuant to paragraph 2. All measures necessary to prevent the person from absconding shall be taken until transit is effected, as long as the request for transit is received within 96 hours of the unscheduled landing."

Article 10

Pursuant to Article 13 of the U.S.-EU Extradition Agreement, the following shall be applied to supplement the terms of the Extradition Treaty:

“Capital Punishment

Where the crime or offense for which extradition is sought is punishable by death under the laws in the requesting country and not punishable by death under the laws in the requested country, the requested country 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 country, on condition that the death penalty if imposed shall not be carried out. If the requesting country accepts extradition subject to conditions pursuant to this Article, it shall comply with the conditions. If the requesting country does not accept the conditions, the request for extradition may be denied.”

Article 11

Pursuant to Article 14 of the U.S.-EU Extradition Agreement, the following shall be applied to supplement the terms of the Extradition Treaty:

“Sensitive information in a request

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

Article 12

1. The provisions of the Extradition Treaty not addressed in this Protocol, including the grounds for refusal of extradition, are unaffected by this Protocol and shall remain in force.
2. This Protocol shall be interpreted consistent with the U.S.-EU Extradition Agreement.

Article 13

This Protocol shall be subject to the completion by the Parties of their respective applicable internal procedures for entry into force. The Governments of the United States of America and the Hellenic Republic shall thereupon exchange instruments indicating that such procedures have been completed.

Article 14

1. This Protocol shall enter into force on the date of entry into force of the U.S.-EU Extradition Agreement. Article 16 of the U.S.-EU Extradition Agreement concerning temporal application shall apply.
2. In the event of termination of the U.S.-EU Extradition Agreement, this Protocol shall be terminated, and the Extradition Treaty shall be applied. The Governments of the

United States of America and the Hellenic Republic nevertheless may agree to continue to apply some or all of the provisions of this Protocol.

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

Done at Washington, in duplicate, this 18th day of January 2006 in the English and Greek languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF THE
HELLENIC REPUBLIC:

