

Instrument on Extradition between the United States of America and the Slovak Republic, 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

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 United States of America and the Slovak Republic acknowledge that, in accordance with the provisions of this Instrument, the U. S.-EU Extradition Agreement is applied in relation to the bilateral Treaty between the United States and Czechoslovakia Concerning the Mutual Extradition of Fugitive Criminals signed 2 July 1925 and the Supplementary Extradition Treaty between the United States of America and Czechoslovakia signed 29 April 1935 (hereafter collectively referred to as "the bilateral extradition treaty") under the following terms:

- (a) Article 4 of the U. S.-EU Extradition Agreement as set forth in Articles I and II of the Annex to this Instrument shall govern the scope of extraditable offenses;
- (b) Articles 5(1) and 7(1) of the U. S.-EU Extradition Agreement as set forth in Article XII(2) of the Annex to this Instrument shall govern the mode of transmission of the extradition request and supporting documents and shall provide an alternative method for transmission of the request for extradition and supporting documents following provisional arrest;
- (c) Article 5(2) of the U. S.-EU Extradition Agreement as set forth in Article XII(6) of the Annex to this Instrument shall govern the requirements concerning certification, authentication or legalization of the extradition request and supporting documents;
- (d) Article 6 of the U. S.-EU Extradition Agreement as set forth in Article XII(3) of the Annex to this Instrument shall authorize an alternative channel of transmission of requests for provisional arrest;
- (e) Article 8 of the U. S.-EU Extradition Agreement as set forth in Article XIII of the Annex to this Instrument shall govern the submission of supplementary information;
- (f) Article 9 of the U. S.-EU Extradition Agreement as set forth in Article VII of the Annex to this Instrument shall govern the temporary surrender of a person being proceeded against or serving a sentence in the requested State;
- (g) Article 10 of the U. S.-EU Extradition Agreement as set forth in Article VIII of the Annex to this Instrument shall govern the decision on requests made by several States for the extradition or surrender of the same person;
- (h) Article 11 of the U. S.-EU Extradition Agreement as set forth in Article XV of the Annex to this Instrument shall govern the use of simplified extradition procedures;

- (i) Article 12 of the U. S.-EU Extradition Agreement as set forth in Article XVII of the Annex to this Instrument shall govern requests for transit of persons in custody;
 - (j) Article 13 of the U. S.-EU Extradition Agreement as set forth in Article XVIII of the Annex to this Instrument shall govern extradition with respect to conduct punishable by death in the requesting State; and
 - (k) Article 14 of the U. S.-EU Extradition Agreement as set forth in Article XIV of the Annex to this Instrument shall govern consultations where the requesting State contemplates the submission of particularly sensitive information in support of a request for extradition.
2. The Annex, which is an integral part of this Instrument, reflects the integrated text of the provisions of the bilateral extradition treaty and the U. S.-EU Extradition Agreement that shall apply upon entry into force of this Instrument.
 3. In accordance with Article 16 of the U. S.-EU Extradition Agreement, this Instrument shall apply to offenses committed before as well as after it enters into force.
 4. This Instrument shall not apply to requests for extradition made prior to its entry into force; except that, in accordance with Article 16 of the U. S.-EU Extradition Agreement, Articles II, VI and VII of the Annex shall be applicable to requests made prior to such entry into force.
 - 5.(a) This Instrument shall be subject to the completion by the United States of America and the Slovak Republic of their respective applicable internal procedures for entry into force. The United States of America and the Slovak Republic shall thereupon exchange instruments indicating that such measures have been completed. This Instrument 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 Instrument shall be terminated and the bilateral extradition treaty shall be applied. The United States of America and the Slovak Republic nevertheless may agree to continue to apply some or all of the provisions of this Instrument.
 - (c) The United States of America or the Slovak Republic may also terminate this Instrument if the bilateral extradition treaty is terminated at the same time in accordance with the terms thereof.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Instrument.

Done at Bratislava, in duplicate, this 6th day of February, 2006, each in the English and Slovakian languages, both texts being equally authentic.

FOR THE UNITED STATES OF AMERICA:

FOR THE SLOVAK REPUBLIC:



Annex

Treaty between the United States of America and the Slovak Republic Concerning the Mutual Extradition of Criminal Offenders

Article I

It is agreed that the United States of America and the Slovak Republic shall, upon requisition duly made as herein provided, deliver up to justice any person, who may be charged with, or may have been convicted of any of the criminal offenses specified in Article II of this Treaty, and who shall seek an asylum or shall be found within their respective territories; provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the criminal offense had been there committed.

Article II

1. A criminal offense shall be an extraditable criminal offense if it is punishable under the laws of the requesting and requested States by deprivation of liberty for a maximum period of more than one year or by a more severe penalty. A criminal offense shall also be an extraditable criminal offense if it consists of an attempt or conspiracy to commit, or participation in the commission of, an extraditable criminal offense. Where the request is for enforcement of the sentence of a person convicted of an extraditable criminal offense, the deprivation of liberty remaining to be served must be at least four months.

2. If extradition is granted for an extraditable criminal offense, it shall also be granted for any other criminal offense specified in the request if the latter criminal 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 criminal offense shall be considered an extraditable criminal offense:

(a) regardless of whether the laws in the requesting and requested States place the criminal offense within the same category of criminal offenses or describe the criminal offense by the same terminology;

(b) regardless of whether the criminal 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 States provide for the same kinds of taxes, customs duties, or controls on currency or on the import or export of the same kinds of commodities.

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

Article III

1. The provisions of this Treaty shall not import a claim of extradition for any criminal offense of a political character, nor for acts connected with such criminal offenses; and no persons surrendered by or to either of the Contracting Parties in virtue of this Treaty shall be tried or punished for a political offense committed before his extradition.

2. The State applied to or Courts of that State shall decide whether the criminal offense is of a political character or not.

3. When the criminal offense charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the criminal offense was committed or attempted against the life of the Sovereign or Head of any State or against the life of any member of his family, shall not be deemed sufficient to sustain that such criminal offense was of a political character; or was an act connected with criminal offenses of a political character.

Article IV

No person shall be tried for any criminal offense committed before his extradition other than that for which he was surrendered or extradited to another State, unless the executive authority of the surrendering State consents thereto, or unless he shall have been allowed one month to leave the State after having been set at liberty as a result of the disposition of the charges upon which he was extradited.

Article V

A criminal offender shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of either of the States within the jurisdiction of which the criminal offense was committed, the criminal offender is exempt from prosecution or punishment for the offense for which the surrender is asked.

Article VI

1. If the person claimed should be under examination or under punishment in the State applied to for other criminal offenses, his extradition may be deferred until the conclusion of the trial or, in case of his conviction, until the full execution of any punishment imposed upon him.
2. Yet this circumstance shall not be a hindrance to deciding the request for the extradition in the shortest time possible.

Article VII

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 State, the requested State may temporarily surrender the person sought to the requesting State for the purpose of prosecution.
2. The person so surrendered shall be kept in custody in the requesting State and shall be returned to the requested State 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 States. The time spent in custody in the territory of the requesting State pending prosecution in that State may be deducted from the time remaining to be served in the requested State.

Article VIII

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 criminal offense or for different criminal offenses, the executive authority of the requested State shall determine to which State, if any, it will surrender the person.
2. If the Slovak 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 criminal offense or for different criminal offenses, the Minister of Justice of the Slovak Republic 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 criminal offenses was committed;
 - (c) the respective interests of the requesting States;

- (d) the seriousness of the criminal 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 IX

Under the stipulations of this Treaty, neither of the Contracting Parties shall be bound to deliver up its own citizens.

Article X

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.

Article XI

Everything found in the possession of the criminal offender at the time of his arrest, whether being the proceeds of the criminal offense, or which may be material as evidence in making proof of the crime, shall so far as practicable according to the laws of either of the Contracting Parties, be delivered up with his person at the time of surrender. Nevertheless, the rights of a third party with regard to the articles referred to, shall be duly respected.

Article XII

1. The stipulations of this treaty shall be applicable to all territory wherever situated, belonging to either of the Contracting Parties or in the occupancy and under the control of either of them, during such occupancy or control.
2. Requests for extradition and supporting documents shall be transmitted through the diplomatic channel. If the person whose extradition is sought is held under provisional arrest by the requested State, the requesting State may satisfy its obligation to transmit its request for extradition and supporting documents through the diplomatic channel by submitting the request and documents to the Embassy of the requested State located in the requesting State. 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 State for purposes of applying the time limit that must be met under paragraph 4 of this Article to enable the person's continued detention.

3. Requests for provisional arrest may be made directly between the United States Department of Justice and the Ministry of Justice of the Slovak Republic, 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.

4. The person provisionally arrested shall be released, unless within two months from the date of commitment in the United States, or from the date of arrest in the Slovak Republic, the formal requisition for surrender, with the documentary proofs hereinafter described, be made as aforesaid through the diplomatic channel.

5. If the criminal offender shall have been convicted of the criminal offense for which his extradition is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall be produced. If, however, the criminal offender is merely charged with crime, a duly authenticated copy of the warrant of arrest in the State where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case.

6. 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 Slovak Republic, the Ministry of Justice of the Slovak Republic.

Article XIII

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 Slovak Republic.

Article XIV

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 XV

If the person sought consents to be surrendered to the requesting State, the requested State 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 XVI

In every case of a request made by either of the Contracting Parties, for the arrest, detention or extradition of criminal offenders, the appropriate legal officers of the State where the proceedings of extradition are had, shall assist the State demanding the extradition before the respective judges and magistrates, by every legal means within their power.

Article XVII

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

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 Slovak 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 State. If an unscheduled landing does occur, the State 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 XVIII

Where the criminal 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 XIX

This Treaty shall continue in force until the expiration of one year from the date on which notice of termination shall be given by either of the Contracting Parties.