

**I. THE CRIMINAL CODE OF THE REPUBLIC OF LITHUANIA**  
(Zin., 2000, No. 89-2741)

Article 1. Purpose of the Criminal Statutes

(...)

3. The provisions of this Code are harmonized with provisions of European Union legal instruments, listed in the annex to this Code.

Article 9<sup>1</sup>. Surrender of persons under the European arrest warrant

1. On the basis of the issued European arrest warrant, any citizen of the Republic of Lithuania or a foreigner who is suspected of committing a criminal act or is sentenced with a punishment related to custody, but has not served that sentence, is surrendered to the country issuing the European arrest warrant.

2. A citizen of the Republic of Lithuania or a foreigner shall be surrendered under the European arrest warrant only if it is issued for acts punishable in accordance to the law of the issuing Member state by a custodial sentence for a maximum period of at least one year or, where the European arrest warrant has been issued for execution of the already passed custodial sentence, the person shall be surrendered only if the duration of the sentence is at least four months.

3. Any citizen of the Republic of Lithuania or a foreigner shall not be surrendered to the country issuing the European arrest warrant if:

1) the surrender of the person would be in breach of fundamental human rights and (or) liberties;

2) the person is released from the sentence for the criminal act for which European arrest warrant was issued in accordance with the act of amnesty or pardon in the Republic of Lithuania;

3) the person has already been sentenced for the committed crime in the Republic of Lithuania or any other country and the imposed sentence has been served, is currently being served or may no longer be executed under the laws of the state that has passed the conviction;

4) at the time of committing the criminal act a person has not attained the age from which he might be liable under the criminal laws of the Republic of Lithuania;

5) the committed acts are not regarded as crimes or misdemeanours under this Code except for the cases when the European arrest warrant is issued for the criminal act provided for in paragraph 2 of Article 2 of the Council Framework Decision of 13 June 2002 “On the European arrest warrant and the surrender procedures between Member States” whereas criminal laws of the country issuing the European arrest warrant determine a custodial sentence of no less than three years for this criminal act;

6) the person was acquitted or released from criminal liability or punishment for the commitment of criminal acts for which the European arrest warrant was issued for in the Republic of Lithuania or any other Member State of the European Union;

7) the European arrest warrant is issued for the criminal act, for which the criminal laws of the Republic of Lithuania may be applied and statute of the limitations provided for in Articles 95 and 96 of this Code as regards the adoption of judgment or its execution have lapsed;

8) the criminal act is committed outside the territory of the country issuing the European arrest warrant and criminal laws of the Republic of Lithuania could not be applied for analogous act, if it had been committed outside the territory of the Republic of Lithuania or sea and river vessels or aircraft flying Lithuanian flag or distinctive symbols.

4. Considering the circumstances of the case and the interests of justice, any citizen of the Republic of Lithuania or a foreigner may not be surrendered to the country issuing European arrest warrant if:

1) the criminal prosecution for the act committed by the requested person has been started in the Republic of Lithuania;

2) the decision not to prosecute for the act committed by the requested person has been taken or the criminal procedure has been terminated in the Republic of Lithuania;

3) the European arrest warrant is issued for the execution of a custodial sentence of a citizen of the Republic of Lithuania or permanent resident of the Republic of Lithuania and the Republic of Lithuania undertakes to execute the sentence;

4) the criminal act is committed in the territory of the Republic of Lithuania or in the sea and river vessels or aircraft flying Lithuanian flag or distinctive symbols;

5) the information provided for in the European arrest warrant is in not enough to decide on surrender and the issuing judicial authority has not submitted it within the fixed time limit.

5. When the European arrest warrant has been issued for the execution of the custodial sentence for a citizen of the Republic of Lithuania or a foreigner that had been passed in absentia and without informing the person of the place and time of the examination of the case, the citizen of the Republic of Lithuania or a foreigner shall be surrendered to a country issuing European arrest warrant only if that country guarantees the re-examination of the case and the taking of the judgement in the presence of the convicted person if the person requests so.

6. When the European arrest warrant has been issued for a criminal act, for which the laws of the issuing state provide life imprisonment, a citizen of the Republic of Lithuania or a foreigner shall be surrendered to a country issuing European arrest warrant only if the laws of the issuing state provide a possibility to apply for release from the punishment or its remittal after no less than 20 years of the sentence have been served.

7. If the European arrest warrant is issued for criminal prosecution, a citizen or a permanent resident of the Republic of Lithuania may be surrendered on condition that after the court delivers a judgement in the country issuing the European arrest warrant, the person will be transferred to the Republic of Lithuania to serve the custodial sentence, if the person or the Office of the Prosecutor General of the Republic of Lithuania requests so.

## II. THE CODE OF CRIMINAL PROCEDURE OF THE REPUBLIC OF LITHUANIA (Zin., 2002, No. 37-1341)

### Article 1. Aim of Criminal Procedure

1. The criminal procedure aims in defence of human and citizen rights and freedoms at a speedy and detailed detection of criminal acts and a proper application of the law in order to ensure that any person who has committed a criminal act is given a fair punishment and that no one who is innocent is convicted.

2. The rules of the criminal procedure are harmonized with the provisions of the legal instruments of the European Union, indicated in the annex to the Code of the Criminal Procedure of the Republic of Lithuania.

### Article 17<sup>1</sup>. European arrest warrant

1. The European arrest warrant is a decision of the judicial authority of the Member State of the European Union, with a view to arrest and surrender of a requested person by another Member State for the purposes of conducting a criminal prosecution or executing a custodial sentence, and which fulfils the requirements of form and content provided for in the paragraph 1 of Article 8 of the Council Framework Decision of 13<sup>th</sup> June 2002 “On the European arrest warrant and the surrender procedures between Member States”.

2. If the text is secured and it is possible to identify the signature, the decision mentioned in the paragraph 1, which was transmitted via facsimile or other electronic signal terminal devices, and the integrity and authenticity of the transferable information is ensured, shall be equivalent to the European arrest warrant.

### Article 51. Obligatory presence of the counsel for the defence

1. The presence of the counsel for the defence is obligatory when:

(...)

8) a person's extradition or surrender to the International Criminal Court or under the European arrest warrant is being examined.

2. In the cases not provided for in paragraph 1 of this Article a counsel for the defence shall be present in the examination of the case if the accused requests so.

3. An officer of the pre-trial investigation, a prosecutor or a court shall have the right to determine whether the participation of counsel for the defence is necessary also in other cases where they consider that the rights and legal interests of the suspect or the accused would not be properly protected without legal assistance.

4. In the cases listed above, where the suspect, the accused or the convicted person himself or, if other persons, under his instruction or by his consent, have not engaged a counsel for the defence, the pre-trial investigation officer, the prosecutor or the court must appoint a counsel for the defence..

Article 69<sup>1</sup>. Issuance of the European arrest warrant for surrender of a person to the Republic of Lithuania

1. If criminal prosecution has already been initiated of a citizen of the Republic of Lithuania or other person in the Republic of Lithuania, Office of the Prosecutor General with a purpose to intercept that person and having received the court's judgement, prepares the European arrest warrant and sends a request to a competent authority of a Member State of the European Union for the surrender of a person indicated in the European arrest warrant.

2. If a citizen of the Republic of Lithuania or other person is sentenced to imprisonment by court's judgement which has come into force but the person has absconded from the serving of the sentence in a Member State of the European Union, the Ministry of Justice issues the European arrest warrant and addresses a competent authority of that Member State.

3. The order of the issuance of the European arrest warrant and the order of surrender of a person under the European arrest warrant shall be regulated by the General Prosecutor and the Minister of Justice of the Republic of Lithuania.

Article 70. Limits of criminal liability of a person extradited or surrendered by a foreign state

1. A person extradited or surrendered by a foreign state shall not be detained, prosecuted or convicted in the Republic of Lithuania for a criminal act, which was committed prior to his extradition or surrender, except for the cases:

1) when the foreign state which surrendered the person gives a consent;

2) when the person having had an opportunity to leave the territory of the Republic of Lithuania has not done so within 45 days or other period specified in the international agreement to which the Republic of Lithuania is a party, or has returned to the territory of the Republic of Lithuania after leaving it;

3) when the person prior to his surrender under the European arrest warrant has consented to be prosecuted for other criminal acts, committed before his surrender;

4) when the person surrendered under the European arrest warrant consents in written form to be prosecuted for the other criminal acts, committed before his surrender;

5) when the person was surrendered under the European arrest warrant and the criminal act, which was committed prior to his surrender, is not punishable by the penalty involving deprivation of liberty or criminal proceedings cannot give rise to application of detention (provisional arrest) according to the law of the Republic of Lithuania;

6) when there are other exceptions under international agreement to which Republic of Lithuania is a party.

2. A person extradited or surrendered by a foreign state may be re-extradited or surrendered to a third state for a criminal act, for which he was surrendered or extradited, or other criminal act, which was committed prior to his extradition or surrender, only in the cases provided for in points 1-4 and 6 of the paragraph 1.

3. If necessary, the Office of the Prosecutor General shall address the state which has extradited or surrender the person in order to get a consent mentioned in paragraph 1 (1).

4. If the person surrendered under the European arrest warrant consents in writing to his criminal prosecution for the other criminal acts, committed prior to his surrender, the prosecutor who leads the pre-trial investigation shall address the judge of the pre-trial investigation with an application. The judge of the pre-trial investigation must hold a hearing within 10 days and the person surrendered under the European arrest warrant, his counsel for the defence and the prosecutor must be present at the hearing. During the hearing the judge shall ascertain whether the person agrees to be prosecuted for the criminal acts for which he was not surrendered under the European arrest warrant and whether the person is aware of the legal consequences of such a consent. Having ascertained that the person agrees to be prosecuted for the criminal acts by his own choice and that he is aware of the legal consequences of such a consent, the judge of the pre-trial investigation adopts an order regarding the person's criminal prosecution for the criminal acts, for which he was not surrendered under the European arrest warrant.

5. If the person surrendered according to the European arrest warrant consents to his re-extradition or surrender to a third state for criminal acts committed prior to his surrender, he shall be extradited (surrendered) to a third state according to the procedure laid down in Article 75 of this Code.

Article 71<sup>1</sup>. Surrender of persons under the European arrest warrant

1. A citizen of the Republic of Lithuania or a foreigner, who is suspected of committing a criminal act or has not served penalty that provides deprivation of liberty in the country issuing the European arrest warrant, shall be surrendered to that country on the grounds provided for in Article 9<sup>1</sup> of the Criminal Code of the Republic of Lithuania.

2. A person shall be surrendered to the country issuing European arrest warrant according to the procedure laid down in Articles 72-77 of this Code. If the person has given his consent to be surrendered to the country issuing European arrest warrant, the decision on his surrender must be taken no later than in 10 days after the receipt of his written consent. In other cases the decision on his surrender must be taken no later than within a period of 60 days from the day of the person's detention.

3. In exceptional cases, the terms provided for in paragraph 2 of this Article might be prolonged to 30 days, however the requesting institution of the country issuing European arrest warrant must be immediately notified about the reasons thereof. If in special cases it is still not possible to stick to the term, Eurojust must be informed about the reasons for the delay.

4. If the European arrest warrant was issued in respect of a person that enjoys the immunity regarding criminal jurisdiction or where there is no permission of the competent authority for his criminal prosecution, when such permission is required, the time limits mentioned in the paragraphs 2 and 3 shall begin only after the immunity of that person has been waived or the permission for his criminal prosecution is given by a competent institution. The Office of the Prosecutor General must address a competent authority of the Republic of Lithuania to receive such a permission or to waive his immunity.

5. The person shall be surrendered to the country issuing the European arrest warrant only for the criminal prosecution of criminal acts or the execution of a sentence that were mentioned in the European arrest warrant. If the issuing state renders a request for the criminal prosecution or execution of a sentence for criminal acts, for which the European arrest warrant can not be issued, the request shall be dealt together with the European arrest warrant. The court examining a case regarding a person's surrender under the European arrest warrant may agree that the person shall be surrendered also for this criminal act if it is prohibited under the criminal laws of the Republic of Lithuania.

6. If after the Republic of Lithuania has surrendered a person on the basis of the European Arrest warrant a foreign state renders a request regarding a person's criminal prosecution or execution of the imposed sentence for a criminal act for which the person has not been surrendered under the European arrest warrant or regarding the person's surrender or extradition to a third state, the request shall be examined and the consent given by the Office of the Prosecutor General of the Republic of Lithuania. The Office of the Prosecutor General of the Republic of Lithuania may disagree indicating the reasons with criminal prosecution of a person or the execution of the imposed sentence for a criminal act for which the European arrest warrant has not been issued or with surrender of person to another Member State if there are basis and (or) conditions for non-execution of the European arrest warrant as provided for in Article 9<sup>1</sup> of the Criminal Code of the Republic of Lithuania. A consent regarding the surrender to a third state (not a Member State) of a person, surrendered to a foreign state under the European arrest warrant, can be issued in accordance to international agreement to which the Republic of Lithuania is a party or other legal acts. The Office of the Prosecutor General must give its consent or object to the person's criminal prosecution, execution of the imposed sentence, the surrender or extradition of a person to a third state within 20 days after the receipt of the request. The consent of the Office of the Prosecutor General to the criminal prosecution of a person, surrendered to the state issuing the European arrest warrant, or execution of the imposed sentence for a criminal act for which he has not been surrendered under the European arrest warrant, or regarding the surrender or extradition of a person to a third state shall be approved by a judge of Vilnius Regional Court within 10 days.

7. By the request of the state that has issued the European arrest warrant, the Office of the Prosecutor General shall ensure the seizure and handing over to the requesting state the property that is necessary as evidence or has been acquired by the requested person as a result of the offence. If this property has to be confiscated or returned to its lawful owners according to the law of the

Republic of Lithuania, the Office of the Prosecutor General may only temporally hand this property over to the requesting state, as long as it is needed for criminal proceedings in the state issuing the European arrest warrant.

Article 72. Provisional measures for persons whose extradition from the Republic of Lithuania or surrender to the International Criminal Court or under the European arrest warrant is requested

1. Persons whose extradition from the Republic of Lithuania or surrender to the International Criminal Court or under the European arrest warrant is requested shall be detained on the grounds provided for in international agreements to which the Republic of Lithuania is a party and in this Code.

2. The procedure of the imposition of the detention of persons whose extradition or surrender to the International Criminal Court or under the European arrest warrant is requested and appeal against it shall be set forth in this Code.

3. The duration of detention of persons whose extradition or surrender to the International Criminal Court or under the European arrest warrant is requested, shall be laid down by international agreements to which the Republic of Lithuania is a party and in this Code.

4. The other provisional measures set forth in this Code may be applied in respect of persons whose extradition from the Republic of Lithuania or surrender to the International Criminal Court or under the European arrest warrant is requested, if these measures are sufficient to prevent the person from absconding.

Article 73. Procedure of extradition (surrender) of persons from the Republic of Lithuania

1. In cases provided for and in accordance with international agreement of the Republic of Lithuania or in the issued European arrest warrant, the prosecutor of the Office of the Prosecutor General of the Republic of Lithuania shall apply to the Regional Court of Vilnius with the application regarding a person's extradition from the Republic of Lithuania or his surrender to the International Criminal Court or under the European arrest warrant.

2. Within seven days a judge of the Regional Court of Vilnius must hold a hearing where participation of the extraditable (surrenderable) person, his counsel for the defence and the prosecutor is obligatory. A record of the hearing shall be taken.

3. If the judge of the Regional Court of Vilnius decides to uphold the prosecutor's application, he must render an order to extradite a person from the Republic of Lithuania or to surrender him to the International Criminal Court or under the European arrest warrant, and if the judge decides not to grant a request of the prosecutor, he adopts an order not to extradite a person from the Republic of Lithuania nor to surrender him to the International Criminal Court or under the European arrest warrant. If the person, who's extradition from the Republic of Lithuania or surrender to the International Criminal Court or under European Arrest Warrant was refused, is in custody the judge shall resolve the question of provisional measures while rendering an order of refusal to extradite a person from the Republic of Lithuania or to surrender him to the International Criminal Court or under the European arrest warrant. A decree to refuse the surrender of a person under the European arrest warrant shall be motivated.

4. In cases when the information presented is insufficient to make a decision on extradition of a person from the Republic of Lithuania or surrender to the International Criminal Court or under the European arrest warrant, the judge of the Regional Court of Vilnius shall authorize the Office of the Prosecutor General to address with request to the requesting institution immediately for additional necessary information.

5. When there are several requests to extradite one person from the Republic of Lithuania or surrender him to the International Criminal Court or under the European arrest warrant the Regional Court of Vilnius shall take a decision under the following rules:

1) the request to surrender to the International Criminal Court prevails over other requests;

2) the request for criminal prosecution prevails over the request to execute a penalty imposed by a judgement;

3) in remaining cases, the court must take into account all circumstances significant for the extradition (surrender) of the person, especially those regarding the nature and seriousness of the committed criminal act, the place of the committed criminal act and the dates of the receipt of the respective requests for extradition (surrender) of the person. In the cases provided for in legal acts, the court takes into account consultations of international criminal prosecution institutions (including Eurojust).

#### Article 74. An appeal against a decision

1. A person with regard to whom an order has been rendered, or his counsel for the defence objecting to the decision to extradite the person from the Republic of Lithuania or surrender him to the International Criminal or under the European arrest warrant, and a prosecutor objecting the order not to extradite the person from the Republic of Lithuania or surrender him to the International Criminal or under the European arrest warrant, shall be entitled to lodge an appeal with the Court of Appeals of Lithuania within seven days after the decision was passed.

2. A judge of the Court of Appeals of Lithuania shall examine the appeal within fourteen days from the day it was submitted. In order to examine an appeal a judge can hold a hearing to which the extraditable person and his counsel for the defence or only his counsel for the defence are summoned. Participation of the prosecutor during such a hearing is obligatory. A judge of the Court of Appeals of Lithuania may decide to reverse the order of the Regional Court or to uphold it.

3. The decision of the judge of the Court of Appeals of Lithuania is final and shall not be subject to appeal by cassation.

4. An appeal against an order of a judge of the Regional Court of Vilnius suspends the enforcement of the decision.

#### Article 75. Simplified procedure of extradition (surrender) from the Republic of Lithuania

1. In the cases provided for in an international agreement to which the Republic of Lithuania is a party or if the European arrest warrant has been issued, a simplified procedure of extradition (surrender) of a person from the Republic of Lithuania may be applied.

2. A simplified procedure of extradition (surrender) of a person from the Republic of Lithuania shall be applied only subject to a written consent of the extraditable person and in a case of extradition there must also be an approval of the Office of the Prosecutor General. Where a person is requested according to the issued European arrest warrant he may also give consent in writing for his surrender for other criminal acts, for which the European arrest warrant was not issued. After receiving the written consent, a prosecutor of the Office of Prosecutor General shall address Vilnius Regional Court with an application for extradition (surrender) of the person.

3. A judge shall within three days hold a hearing where the extraditable person, the counsel for the defence and the prosecutor shall be present. During the hearing the judge shall ascertain whether the extraditable person gave his consent voluntarily and whether he is aware of the legal consequences of extradition (surrender) from the Republic of Lithuania. In a case of extradition the judge shall also ascertain whether the Office of the Prosecutor General approves the simplified procedure of extradition. A record of the hearing shall be taken.

4. After the judge has determined that the extraditable person gave his consent voluntarily and is aware of the consequences of extradition (surrender) and – in cases of extradition – that the Office of the Prosecutor General has approved the simplified procedure of extradition, the judge shall render a decision to extradite (surrender) the person. If the extraditable (surrenderable)

person waives his consent the judge must render a decision to apply the extradition (surrender) procedure laid down in Article 73 of this Code.

Article 76. The procedure of the surrender of the person claimed with regard to whom there is an effective decision for his extradition or surrender to the International Criminal Court or under the European arrest warrant.

1. The procedure and conditions of the surrender of a person, against whom there is an effective decision for his extradition from the Republic of Lithuania or surrender to the International Criminal Court or under the European arrest warrant, to a foreign state's institution or to the International Criminal Court shall be established by the international agreements to which the Republic of Lithuania is a party and by other legal acts.

2. A person, against whom there is an effective decision for his surrender under the European arrest warrant, shall be surrendered to the country issuing the European arrest warrant within 10 days. In case of any unforeseen circumstances, under which the surrender during the term becomes impossible, an appropriate institution of a foreign country and the Office of the Prosecutor General of the Republic of Lithuania shall set another date of the surrender. In such case a person must be surrendered within 10 days from that day when the date was agreed.

3. In exceptional cases when there is substantial ground to believe that the surrender of a person would endanger his life or health or when there are any other important humanitarian reasons, a person's surrender to other country in accordance with the European arrest warrant can be postponed. After the conditions causing the delay have ceased to exist, an appropriate institution of a foreign country and the Office of the Prosecutor General of the Republic of Lithuania shall set another date of the surrender. In such case a person must be surrendered within 10 days from that day when the date was agreed.

4. The surrender of a person under the European arrest warrant can be postponed until a criminal procedure initiated in respect of the person in the Republic of Lithuania is completed or until the sentence imposed in the Republic of Lithuania is served. However, that person can be temporarily surrendered to other state for the performance of procedural acts under the procedure laid down in Article 77 of this Code.

5. If a person was not surrendered during the period provided for in paragraph 2-3 of this Article the provisional measures imposed on him shall be withdrawn.

Article 77. Temporary transfer of an arrested or convicted person to another state or the International Criminal Court for the performance of procedural acts

1. In cases provided for and following the procedure established by an international agreement to which the Republic of Lithuania is a party, an arrested or convicted person may be transferred temporarily to another state or the International Criminal Court for the performance of procedural acts.

2. A decision on temporary transfer of an arrested or convicted person and the conditions of such a transfer shall be taken by the Office of the Prosecutor General.

Article 77<sup>1</sup>. Transit of the detained person through the territory of the Republic of Lithuania

1. The transit of the detained persons through the territory of the Republic of Lithuania may be allowed only and with the consent of the Ministry of Justice or the Office of the Prosecutor General of the Republic of Lithuania.

2. The transit of the detained person through the territory of the Republic of Lithuania is forbidden in the following cases:

1) if the detainee is a citizen of the Republic of Lithuania and international agreements to which the Republic of Lithuania is a party or other legal acts do not allow extradition (surrender) of the citizens of the Republic of Lithuania to that state;

2) if the detainee is a citizen of the Republic of Lithuania and is to be transited to a third state with the purpose of the execution of the custodial sentence, and the request of the Republic of



Lithuania or this person for the execution of this penalty in the Republic of Lithuania was dismissed;

3) in other cases provided for in the international agreements to which the Republic of Lithuania is a party.

3. The transit of the citizen of the Republic of Lithuania with a purpose to prosecute in the third state may be subject to a condition that the person, after being convicted, is returned to Lithuania for serving the custodial sentence, if he wishes so.

Article 122. Grounds and conditions for applying detention

(...)

5. A ground for the detention shall also be the request to extradite a person or surrender him to the International Criminal Court or under the European arrest warrant, as well as the request of a foreign state for a provisional arrest of the wanted person until a request for the person's extradition or the European arrest warrant is presented.

Article 437. Service and execution of the judgement delivered in the case heard in the absence of the accused

1. A judgement passed after examining the case in the absence of the accused shall be presented to the counsel for the defence of the accused person. After the judgement was presented to the counsel for the defence the time limit of coming into effect of the judgement shall start to run.

2. The judgement which has been delivered and has come into effect before the arrest of the convicted person or his extradition or surrender under the European arrest warrant shall be executed only to the extent it may be executed in the absence of the convicted person.