

EXTRADITION TREATY WITH THE REPUBLIC OF
CROATIA

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF CROATIA COMPRISING THE INSTRUMENT AS CONTEMPLATED BY ARTICLE 3(2) OF THE AGREEMENT ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE EUROPEAN UNION, SIGNED JUNE 25, 2003, AS TO THE APPLICATION OF THE TREATY ON EXTRADITION SIGNED ON OCTOBER 25, 1901 (THE "U.S.-CROATIA EXTRADITION AGREEMENT"), AND THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF THE REPUBLIC OF CROATIA COMPRISING THE INSTRUMENT AS CONTEMPLATED BY ARTICLE 3(3) OF THE AGREEMENT ON MUTUAL LEGAL ASSISTANCE BETWEEN THE UNITED STATES OF AMERICA AND THE EUROPEAN UNION SIGNED AT WASHINGTON ON JUNE 25, 2003 (THE "U.S.-CROATIA MUTUAL LEGAL ASSISTANCE AGREEMENT"), BOTH SIGNED AT WASHINGTON ON DECEMBER 10, 2019



JUNE 18, 2020.—Treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PUBLISHING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *June 18, 2020.*

To the Senate of the United States:

With a view to receiving advice and consent of the Senate to ratification, I transmit herewith the Agreement between the Government of the United States of America and the Government of the Republic of Croatia comprising the instrument as contemplated by Article 3(2) of the Agreement on Extradition between the United States of America and the European Union, signed June 25, 2003, as to the Application of the Treaty on Extradition signed on October 25, 1901 (the “U.S.-Croatia Extradition Agreement”), and the Agreement between the Government of the United States and the Government of the Republic of Croatia comprising the Instrument as contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed at Washington on June 25, 2003 (the “U.S.-Croatia Mutual Legal Assistance Agreement”), both signed at Washington on December 10, 2019. I also transmit, for the information of the Senate, the report of the Department of State with respect to the U.S.-Croatia Extradition and Mutual Legal Assistance Agreements. Following Croatia’s accession to the European Union on July 1, 2013, these two agreements fulfill the requirements, in respect of Croatia, for implementing bilateral instruments between the United States and each member of the European Union contained in the Agreements on Extradition and Mutual Legal Assistance between the United States of America and the European Union, both of which entered into force on February 1, 2010.

The U.S.-Croatia Extradition Agreement modernizes in important respects the Treaty between the United States of America and the Kingdom of Serbia for the Extradition of Fugitives from Justice, signed October 25, 1901 (the “1901 Extradition Treaty”), which is currently in force between the United States of America and the Republic of Croatia. Most significantly, it replaces the outdated list of extraditable offenses with the modern “dual criminality” approach, thereby enabling coverage of newer offenses, such as cyber-related crimes, environmental offenses, and money laundering. In addition, it includes several provisions updating and streamlining procedural requirements for preparing and transmitting extradition documents.

The U.S.-Croatia Mutual Legal Assistance Agreement formalizes and strengthens the institutional framework for legal assistance between the United States of America and the Republic of Croatia in criminal matters. Because the United States of America and the Republic of Croatia do not have a bilateral mutual legal assistance treaty in force, the U.S.-Croatia Mutual Legal Assistance Agree-

ment is a partial treaty governing only those issues regulated by the U.S.-European Union Mutual Legal Assistance Agreement, specifically: identification of bank information, joint investigative teams, video-conferencing, expedited transmission of requests, assistance to administrative authorities, use limitations, confidentiality, and grounds for refusal. This approach is consistent with that taken with other European Union member states (Bulgaria, Denmark, Finland, Malta, Portugal, Slovak Republic, and Slovenia) with which the United States does not have an existing mutual legal assistance treaty.

I recommend that the Senate give early and favorable consideration to the U.S.-Croatia Extradition Agreement and the U.S.-Croatia Mutual Legal Assistance Agreement.

DONALD J. TRUMP.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, February 5, 2020.

The PRESIDENT,
The White House.

MR. PRESIDENT: I have the honor to submit to you (1) the Agreement between the Government of the United States of America and the Government of the Republic of Croatia comprising the Instrument as contemplated by Article 3(2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the Application of the Treaty on Extradition signed 25 October 1901 (“the U.S.-Croatia Extradition Agreement”), and (2) the Agreement between the Government of the United States of America and the Government of the Republic of Croatia comprising the Instrument as contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed at Washington on June 25, 2003 (“the U.S.-Croatia Mutual Legal Assistance Agreement”), both signed at Washington on December 10, 2019.

The U.S.-Croatia Extradition Agreement specifies the manner in which the United States of America and the Republic of Croatia will apply the U.S.-EU Extradition Agreement to the Treaty between the United States of America and the Kingdom of Serbia for the Extradition of Fugitives from Justice, signed October 25, 1901 (“the 1901 Extradition Treaty”), which applies to the Republic of Croatia as a successor state to the former Socialist Federal Republic of Yugoslavia. The provisions of the 1901 Extradition Treaty, as modified by application of the U.S.-EU Extradition Agreement, are reflected in the annex to the U.S.-Croatia Extradition Agreement.

The U.S.-Croatia Extradition Agreement and the U.S.-Croatia Mutual Legal Assistance Agreement fulfill the requirements of the Agreements on Extradition and Mutual Legal Assistance between the United States of America and the European Union for implementing bilateral instruments between the United States and each member state of the European Union. Both entered into force on February 1, 2010. The article-by-article analyses of the two instruments are enclosed with this report. I recommend the U.S.-Croatia Extradition Agreement and the U.S.-Croatia Mutual Legal Assistance Agreement be transmitted to the Senate for its advice and consent to ratification. Both instruments are self-executing and will not require implementing legislation.

Sincerely,

MICHAEL R. POMPEO.

Enclosures: As stated.

U.S. – Croatia Extradition Agreement

Overview

The Agreement between the Government of the United States of America and the Government of the Republic of Croatia comprising the Instrument 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 to the Application of the Treaty on Extradition signed 25 October 1901 (“the U.S.-Croatia Extradition Agreement”), sets forth the manner in which the provisions of the Agreement on Extradition between the United States of America and the European Union, (“the U.S.-EU Extradition Agreement”), apply to the Treaty between the United States of America and the Kingdom of Serbia for the Extradition of Fugitives from Justice, signed October 25, 1901 (“the 1901 Extradition Treaty”), which is currently in force between the United States and Croatia.

In view of the Republic of Croatia’s accession to the European Union (EU) on July 1, 2013, the Extradition Agreement serves to implement, as between the two Parties, the U.S.-EU Extradition Agreement, which entered into force on February 1, 2010. Application of the U.S.-EU Extradition Agreement to the 1901 Extradition Treaty, as reflected in the Extradition Agreement, meaningfully updates the substantive and procedural aspects of the extradition relationship between the United States and the Republic of Croatia.

The implementing bilateral instrument required by the U.S.-EU Extradition Agreement takes the form of the U.S.-Croatia Extradition Agreement, accompanied by an Annex setting forth the integrated text of the 1901 Extradition Treaty as modified by the provisions of the U.S.-E.U. Extradition Agreement applicable between the two countries. The instrument is substantially similar to the implementing bilateral instrument concluded with Slovenia, to which the 1901 Extradition Treaty also applies. The Senate provided its advice and consent to ratification of the agreement comprising the Slovenian bilateral instrument in 2008.

The following is an Article-by-Article description of the provisions of the U.S.-Croatia Extradition Agreement, including the Annex.

Article 1 of the U.S.-Croatia Extradition Agreement acknowledges that the U.S.-EU Extradition Agreement is applied in relation to the 1901 Extradition Treaty and specifies the articles of the U.S.-EU Extradition Agreement applicable between the United States and Croatia. The specified articles of the U.S.-EU Extradition Agreement are:

- a) Article 4, governing the scope of the extraditable offenses;
- b) Articles 5(1) and 7(1), governing the mode of transmission of the extradition request and supporting documents, and providing for an alternative method for transmission of the request for extradition and supporting documents following provisional arrest;
- c) Article 5(2), governing the requirements concerning certification, authentication or legalization of the extradition request and supporting documents;
- d) Article 6, authorizing an alternative channel of transmission of requests for provisional arrest;

- e) Article 8, governing the channel to be used for submitting supplementary information;
- f) Article 9, governing the temporary surrender of a person being proceeded against or serving a sentence in the requested state;
- g) Article 10, governing the decision on requests made by several states for the extradition or surrender of the same person;
- h) Article 11, governing the use of simplified extradition procedures;
- i) Article 12, governing requests for transit of persons in custody;
- j) Article 13, governing extradition with respect to conduct punishable by death in the requesting State; and,
- k) Article 14, governing consultations where the requesting state contemplates the submission of particularly sensitive information in support of a request for extradition.

Article 2 establishes that the Annex reflects the integrated text of the 1901 Extradition Treaty and the provisions of the U.S.-EU Extradition Agreement that apply between the two countries, and confirms that the Annex is an integral part of the U.S.-Croatia Extradition Agreement that applies upon the Agreement's entry into force. Article 2 further provides for minor numbering and terminological modifications in the Annex outside the scope of the provisions identified in Article 1, none of which reflect substantive changes to the 1901 Extradition Treaty, and defines "high contracting parties," as used in the 1901 Extradition Treaty, to mean the Governments of the United States of America and the Republic of Croatia.

Article 3 specifies that the U.S.-Croatia Extradition Agreement applies to offenses committed prior to and following entry into force.

Article 4 provides that the U.S.-Croatia Extradition Agreement does not apply to requests for extradition made prior to its entry into force, except for certain enumerated provisions. In accordance with Article 16 of the U.S.-EU Extradition Agreement, certain articles of the Annex, including the object and purpose (Article I), extraditable offenses (Article II), and temporary surrender (Article X *bis*) provisions shall apply to extradition requests predating the U.S.-Croatia Extradition Agreement's entry into force.

Article 5 contains final clauses addressing the U.S.-Croatia Extradition Agreement's entry into force and termination. Article 5(1) provides that the U.S.-Croatia Extradition Agreement is subject to the completion of the countries' respective, applicable, internal procedures for entry into force, and will enter into force upon the completion of an exchange of notifications, upon the date of receipt of the latter notification. Article 5(2) provides that the U.S.-Croatia Extradition Agreement shall be terminated in the event that the U.S.-EU Extradition Agreement is terminated, in which case the 1901 Extradition Treaty would be applied. It further notes that the Parties may in the alternative agree to continue to apply the provisions of the U.S.-Croatia Extradition Agreement, in whole or in part.

Pursuant to Articles 1 and 2 of the U.S.-Croatia Extradition Agreement, the Annex reflects the integrated text of the 1901 Extradition Treaty and the provisions derived from the U.S.-EU Extradition Agreement that are to be applied to the 1901 Extradition Treaty ("the Integrated Treaty Text"). The following is an article-by-article description of the provisions

reflected in the Annex. In addition to the modifications required by the U.S.-EU Extradition Agreement, the Integrated Treaty Text is updated throughout to refer directly to the Republic of Croatia, refer to “State” or “States” rather than “country” or “countries,” respectively, and add captions and enumerated paragraphs for ease of reference.

Article I is modified, consistent with Article 4 of the U.S.-EU Extradition Agreement, to reflect—together with Article II(1)—the basic obligation for each Party to extradite to the other persons who are sought for prosecution or for imposition or service of a sentence with respect to an extraditable offense, provided there is sufficient evidence under the laws of the requested State.

Article II, which is taken from Article 4 of the U.S.-EU Agreement, provides for a “dual criminality” approach to extraditable offenses. Article II(1) defines an offense as extraditable if the conduct on which the offense is based 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. The approach taken in the Integrated Treaty Text with respect to extraditable offenses is consistent with the modern “dual criminality” approach, rather than the old “list” approach, and is one of the key benefits of integrating the texts. Use of a “dual criminality” clause, rather than the categories of offenses listed in the 1901 Extradition Treaty, obviates the need to renegotiate or supplement the 1901 Extradition Treaty as additional offenses become punishable under the laws of both States. Use of the dual criminality standard also ensures a comprehensive coverage of criminal conduct for which extradition might be sought. Article II(1) further defines an extraditable offense to include an attempt or a conspiracy to commit, or participation in the commission of, an extraditable offense. The Parties intended to include, under the broad description of “participation,” the offenses of aiding, abetting, counseling or procuring the commission of an offense, as well as being an accessory to a request.

Article II(2) directs that if extradition is granted for an extraditable offense, it must also be granted for any other offense specified in the request that is punishable by one year’s deprivation of liberty or less, provided that all other requirements for extradition are met.

Article II(3) establishes that an offense is an extraditable offense regardless of whether: (a) the laws in the requesting and requested State place the offense in the same category or use the same terminology in defining the offense; (b) the offense is one for which U.S. 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 asserting federal jurisdiction; or, (c) 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, in criminal cases related to such matters.

Article II(4) provides that, with regard to offenses committed outside the territory of the requesting State, extradition shall be granted if the laws of the requested State provide for the punishment of such conduct committed outside its territory in similar circumstances. If the laws of the requested State do not so provide, the executive authority of the requested State may, at its discretion, grant extradition provided that all other applicable requirements for extradition are met.

Article III expands and updates the procedures and required documents for extradition. Article III(1), taken from Articles 5(1) and 7(1) of the U.S.-EU Extradition Agreement, requires transmission of extradition requests through the diplomatic channel, allowing that if the person sought is held under provisional arrest this requirement may be met by submitting the request to the embassy of the requested State located in the requesting State. It further specifies that in such cases, the date of delivery to the embassy is the date of receipt for purposes of satisfying the time limit established in Article IV.

Article III(2) preserves original language from the 1901 Extradition Treaty.

Article III(3), taken from Article 5(2) of the U.S.-EU Extradition Agreement, provides that documents bearing the 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 legalization. The article also defines “ministry of justice” as the Department of Justice for the United States and as the Ministry of Justice for the Republic of Croatia, respectively.

Article III(4) preserves original language from the 1901 Extradition Treaty.

Article III *bis*, taken from Article 8 of the U.S.-EU Extradition Agreement, allows the requested State to require from the requesting State supplementary information within a reasonable period of time if the requested State considers the original request not to include sufficient information. It further provides that such requests may be made and satisfied directly between the respective ministries of justice.

Article III *ter*, taken from Article 14 of the U.S.-EU Extradition Agreement, provides for consultations between the Parties in cases where the requesting State is considering submitting sensitive information as part of an extradition request, to determine to what extent the information can be protected by the requested State. If the requested State cannot protect the information as sought, the requesting State may nevertheless determine to include the information in the request.

Article IV(1), taken from Article 6 of the U.S.-EU Extradition Agreement, allows for provisional arrest requests to be made directly between the respective ministries of justice, or by using the facilities of the International Criminal Police Organization (INTERPOL), as an alternative to using the diplomatic channel.

Articles IV(2), V, VI, VII, and VIII preserve original language from the 1901 Extradition Treaty.

Article VIII *bis*, taken from Article 13 of the U.S.-EU Extradition Agreement, provides that where extradition is sought for an offense that is punishable by death under the laws of the requesting State but not under the laws of the requested State, the requested State may grant extradition subject to the condition that the death penalty, if imposed, shall not be carried out. If the requesting State does not accept such conditions, the request for extradition may be denied.

Article IX preserves original language from the 1901 Extradition Treaty.

Article X, taken from Article 10 of the U.S.-EU Extradition Agreement, regards decisions on multiple requests for the surrender of the same person. Article X(1) establishes that, where the requested State receives requests from the requesting State and one or more additional States for the extradition of the same person, the executive authority of the requested State shall determine to which State, if any, the person will be surrendered. Article X(2) elaborates that if the Republic of Croatia receives an extradition request from the United States and a surrender request pursuant to a European arrest warrant for the same person, the Minister of Justice of the Republic of Croatia shall determine to which State, if any, the person will be surrendered. Article X(3) sets forth a non-exhaustive list of factors that the requested State will consider in determining to which State a person will be surrendered, according to the provisions of Article X(1) and (2).

Article X *bis*, taken from Article 9 of the U.S.-EU Extradition Agreement, allows for temporary surrender for purposes of prosecution in the requesting State, of a person who is being proceeded against or serving a sentence in the requested State. Its second paragraph provides further that a person so surrendered will be kept in custody by the requesting State and returned to the requested State following the completion of proceedings in the requesting State, according to conditions mutually agreed between the Parties. It also allows that time spent in custody of the requesting State may be deducted from the time remaining to be served in the requested State.

Article X *ter*, taken from Article 11 of the U.S.-EU Extradition Agreement, allows for simplified extradition, consistent with the principles and procedures of the legal system of the requested State, in cases where the person sought has consented to surrender, which consent may also include waiver of protection of the rule of specialty. In such situations, the requested State shall surrender the person to the requesting State as expeditiously as possible.

Article X *quater*, taken from Article 12 of the U.S.-EU Extradition Agreement, concerns requests for transit of persons in custody. Article X *quater*(1) provides that the Parties may authorize transit through their respective territory of a person surrendered to the other Party by a third state, or by the other Party to a third state. Article X *quater*(2) specifies that transit requests shall be made through the diplomatic channel, or directly between the United States Department of Justice and the Ministry of Justice of the Republic of Croatia. It further allows that INTERPOL facilities may be used. Finally, it specifies the substantive content of a transit request, and that a person in transit must be detained during the transit period.

Article X *quater*(3) provides that a transit request is not required for air transit where no landing is scheduled in the territory of the transited State. It allows for the transited state to require a transit request in the case of an unscheduled landing, and provides that all necessary measures will be taken to prevent the person in custody from absconding until transit is effected, so long as the transit request is received within 96 hours of the unscheduled landing.

Article XI preserves original language from the 1901 Extradition Treaty, with minor revisions to the punctuation of the first sentence.

Article XII provides for the 1901 Extradition Treaty to remain in force for six months following notice of termination from either Party.

The Department of Justice joins the Department of State in urging that the Senate provide advice and consent to ratification of the U.S.-Croatia Extradition Agreement at the earliest possible date.

U.S. – Croatia Mutual Legal Assistance Agreement

Overview

In view of the Republic of Croatia's accession to the European Union (EU) on July 1, 2013, the Agreement between the Government of the United States of America and the Government of the Republic of Croatia comprising the Instrument as contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed at Washington on 25 June 2003 ("the U.S.-Croatia Mutual Legal Assistance Agreement") serves to implement, as between the two Parties, the Agreement on Mutual Legal Assistance between the United States of America and the European Union, signed on June 25, 2003 ("the U.S.-EU Mutual Legal Assistance Agreement"), and which entered into force on February 1, 2010.

Since the United States of America and the Republic of Croatia do not have a bilateral mutual legal assistance treaty in force between them, the bilateral instrument is a partial treaty governing only those issues regulated by the U.S.-EU Mutual Legal Assistance Agreement. The implementing bilateral instrument required by the U.S.-EU Mutual Legal Assistance Agreement takes the form of the U.S.-Croatia Mutual Legal Assistance Agreement, accompanied by an Annex representing the provisions of the U.S.-EU Mutual Legal Assistance Agreement applied between the United States of America and the Republic of Croatia. The following is an article-by-article description of the provisions of the U.S.-Croatia Mutual Legal Assistance Agreement.

Article 1 acknowledges that the U.S.-EU Mutual Legal Assistance Agreement is applied between the United States of America and Croatia, and identifies those articles of the U.S.-EU Mutual Legal Assistance Agreement establishing the substantive terms of the agreement. The identified articles of the U.S.-EU Mutual Legal Assistance Agreement are:

- (a) Article 4, governing the identification of financial accounts and transactions;
- (b) Article 5, governing the formation and activities of joint investigative teams;
- (c) Article 6, governing the taking of testimony of a person located in the requested State by use of video transmission technology between the requesting and requested States;
- (d) Article 7, governing the use of expedited means of communication;
- (e) Article 8, governing the providing of mutual legal assistance to administrative authorities;
- (f) Article 9, governing the limitation on use of information or evidence provided to the requesting State, and the conditioning or refusal of assistance on data protection grounds;
- (g) Article 10, governing the circumstances under which a requesting State may seek the confidentiality of its request; and
- (h) Article 13, governing the invocation by the requested State of grounds for refusal.

Article 2 establishes that the Annex is an integral part of the U.S.-Croatia Mutual Legal Assistance Agreement and reflects the provisions of the U.S.-EU Mutual Legal Assistance Agreement applied between the United States of America and the Republic of Croatia upon the entry into force of the U.S.-Croatia Mutual Legal Assistance Agreement.

Article 3 specifies that the U.S.-Croatia Mutual Legal Assistance Agreement applies to offenses committed prior to and following entry into force.

Article 4 provides that the U.S.-Croatia Mutual Legal Assistance Agreement does not apply to requests made prior to its entry into force, save for certain limited exceptions. In accordance with Article 12 of the U.S.-EU Mutual Legal Assistance Agreement, provisions related to video conferencing (Annex, Article 3) and the expedited transmission of requests (Annex, Article 4) shall apply to requests made prior to the U.S.-Croatia Mutual Legal Assistance Agreement's entry into force.

Article 5 contains final clauses addressing the U.S.-Croatia Mutual Legal Assistance Agreement's entry into force and termination. Article 5(1) provides that the U.S.-Croatia Mutual Legal Assistance Agreement is subject to the completion of the countries' respective, applicable, internal procedures for entry into force and will enter into force upon the completion of an exchange of notifications, upon the date of receipt of the latter notification. Article 5(2) provides that the U.S.-Croatia Mutual Legal Assistance Agreement shall be terminated in the event that the U.S.-EU Mutual Legal Assistance Agreement is terminated, provided however that, in the alternative, the Parties may agree to continue to apply the provisions of the U.S.-Croatia Mutual Legal Assistance Agreement, in whole or in part.

As provided in Article 2, the Annex reflects the provisions of the U.S.-EU Mutual Legal Assistance Treaty applied between the United States of America and the Republic of Croatia. The following is an article-by-article description of these provisions.

Article 1, taken from Article 4 of the U.S.-EU Mutual Legal Assistance Agreement, regards the identification of bank information. Article 1(1) provides that, upon request, the requested State shall promptly ascertain whether banks in its territory possess information on whether an identified natural or legal person suspected of or charged with a criminal offense is the holder of one or more bank accounts. The requested State must also promptly communicate its findings to the requesting State. Article 1(1) goes on to extend the same obligations to identification of information regarding persons convicted or otherwise involved in a criminal offense, information in the possession of non-bank financial institutions, or financial transactions unrelated to accounts.

Article 1(2) describes the information that must be contained in requests for such information as may be requested under the preceding paragraph. Article 1(3) identifies for each Party the channels of transmission for requests under this Article, which may be modified only by exchange of diplomatic notes between the United States and the European Union. For the United States, requests shall be transmitted by the attaché responsible for the Republic of Croatia of the Drug Enforcement Administration and the Bureau of Immigration and Customs Enforcement, for matters under their respective jurisdictions, and the Federal Bureau of Investigation, for all other matters. For the Republic of Croatia, requests shall be transmitted by the Ministry of Justice.

Article 1(4) limits the scope of criminal activity in relation to which the Parties will provide assistance under this Article to money laundering or terrorist activity punishable under

the laws of both the requesting and requested States, as well as any additional criminal activity as one Party may subsequently notify to the other Party. U.S. negotiators verified that under Croatian law assistance will be available for a wide range of conduct associated with terrorism (which includes the conduct criminalized in international counterterrorism conventions to which they are party) and money laundering with respect to an extremely broad range of predicate offenses. Article 1(5) provides that requests under this Article may not be denied on the grounds of bank secrecy. Article 1(6) provides that the requested State shall respond to a request for production of the records concerning the accounts or transactions identified pursuant to this Article in accordance with the requirements of its domestic law.

Article 2, taken from Article 5 of the U.S.-EU Mutual Legal Assistance Agreement, regards the establishment and operation of joint investigative teams. Article 2(1) allows for joint investigative teams to be established and operated in the respective territories of the United States of America and the Republic of Croatia to facilitate criminal investigations or prosecutions involving the United States and at least one Member State of the European Union. Article 2(2) provides that the operational procedures for the joint investigative team will be agreed between the competent authorities of the respective States concerned, as determined by those States. Article 2(3) provides for direct communication among the identified competent authorities, except where otherwise agreed among the concerned States in light of a need for more central coordination. This approach facilitates speed, efficiency and clarity by providing in most cases for direct communications among the affected law enforcement components, rather than through a mutual legal assistance request transmitted through a central authority, as would otherwise generally take place.

Article 2(4) establishes that where a joint investigative team needs investigative measures to be taken in one of the constituent States, a team member from that State may request such measures from its own competent authorities without requiring a mutual legal assistance request from the other constituent States. The legal standard for obtaining the measure is the applicable domestic standard in the state where the measure is to be carried out. Thus, where an investigative measure is to be carried out in the United States, for example, a U.S. team member could do so by invoking existing domestic investigative authority, and would share resulting information or evidence seized pursuant to such an action with the foreign authorities. A formal mutual legal assistance request would not be required. In a case in which there is no domestic U.S. jurisdiction and consequently a compulsory measure cannot be carried out based on domestic authority, the provisions of 18 U.S.C. Section 3512 may furnish a separate legal basis for carrying out such a measure.

Article 3, taken from Article 6 of the U.S.-EU Mutual Legal Assistance Agreement, concerns the use of video conferencing. Article 3(1) establishes that video transmission technology shall be available between the United States of America and the Republic of Croatia for the testimony of a witness or expert located in the requested State, for use in a proceeding for which mutual legal assistance is available. It further provides that unless modified by this article, the procedure for taking such testimony will follow the laws of the requested State. Article 3(2) provides that the requesting State will bear the cost of establishing and operating the video transmission, unless otherwise agreed, and that other costs will be assigned as agreed by the

Parties. Article 3(3) allows for consultations between the Parties to resolve legal, technical, or logistical issues.

Article 3(4) provides that, without prejudice to jurisdiction under the laws of the requesting State, the making an intentionally false statement or other misconduct by the witness or expert in the course of the video testimony is punishable in the requested State in the same manner as if it occurred in the course of its domestic proceedings. This is already the case where the United States has been requested to facilitate the taking of video testimony from a witness or expert located in the United States on behalf of a foreign State, since the proceeding to execute the request is a U.S. proceeding and therefore penalties under U.S. law for perjury, obstruction of justice, or contempt of court are applicable. Article 3(5) notes that this Article is without prejudice to other available legal means for obtaining testimony in the requested State. Article 3(6) allows that the requested State may make video conferencing available for purposes other than those specified in Article 3(1), including for purposes of identification of persons or objects, and taking of investigative statements.

Article 4, taken from Article 7 of the U.S.-EU Mutual Legal Assistance Agreement, allows requests and related communications to be made by expedited means, with subsequent formal confirmation if required by the requested State. The requested State may also respond using expedited means.

Article 5, taken from Article 8 of the U.S.-EU Mutual Legal Assistance Agreement, regards assistance to administrative authorities. Article 5(1) provides that mutual legal assistance will be afforded to national administrative authorities investigating conduct pursuant to a specific administrative or regulatory authority and with a view to a criminal prosecution or referral for criminal prosecution or investigation. If the administrative authority anticipates that no prosecution or referral will take place, assistance is not available. It also allows for, but does not require, assistance to be afforded to other administrative authorities under similar circumstances. Article 5(2) provides that requests for assistance under this Article will be transmitted between the U.S. Department of Justice and the Ministry of Justice of the Republic of Croatia, unless otherwise agreed.

Article 6, taken from Article 9 of the U.S.-EU Mutual Legal Assistance Agreement, regards limitations on use to protect personal and other data. Article 6(1) permits the requesting State to use evidence or information it has obtained from the requested State for its criminal investigations and proceedings, for preventing an immediate and serious threat to its public security, for non-criminal judicial or administrative proceedings directly related to its criminal investigations, for non-criminal judicial or administrative proceedings directly related to criminal investigation or proceedings or for which assistance was provided under Article 5, and for any other purpose if the information or evidence was made public within the framework of the proceedings for which it was transmitted or pursuant to the above permissible uses. Other uses of the evidence or information require the prior consent of the requested State.

Article 6(2)(a) specifies that the article does not preclude the requested State from imposing additional conditions where the particular request for assistance could not be granted in the absence of such conditions. Where such additional conditions are imposed, the requested

State may require the requesting State to give information on the use made of the evidence or information. Article 6(2)(b) provides that generic restrictions with respect to the legal standards in the requesting State for processing personal data may not be imposed by the requested State as a condition under paragraph 2(a) to providing evidence or information. This provision is further elaborated upon in the explanatory note to the U.S.-EU Mutual Legal Assistance Agreement (regarding Article 9(2)(b) of that Agreement), which specifies that the fact that the requesting and requested States have different systems of protecting the privacy of data does not give rise to a ground for refusal of assistance and may not as such give rise to additional conditions under Article 6(2)(a). Such refusal of assistance could only arise in exceptional cases in which, upon balancing the important interests involved in the particular case, furnishing the specific data sought by the requesting State would raise difficulties so fundamental as to be considered by the requested State to fall within the “essential interests” grounds for refusal contained in Article 8. Article 6(3) provides that where, following disclosure to the requesting State, the requested State becomes aware of circumstances that may cause it to seek additional conditions in a particular case, it may consult with the requesting State to determine the extent to which the evidence or information can be protected.

Article 7, taken from Article 10 of the U.S.-EU Mutual Legal Assistance Agreement, requires the requested State, if asked, to use its best efforts to keep confidential a request and its contents, and to inform the requesting State if the request cannot be executed without breaching confidentiality.

Article 8, taken from Article 13 of the U.S.-EU Mutual Legal Assistance Agreement, confirms that the U.S.-Croatia Mutual Legal Assistance Agreement’s provisions do not preclude the assertion of a ground for refusal based on applicable, legal principles, such as sovereignty, security, *ordre public* or other essential interests, except where such ground for refusal is precluded by Articles 1(5) (bank secrecy) and 6(2)(b) (generic restrictions relating to personal data) of the U.S.-Croatia Mutual Legal Assistance Agreement.

The Department of Justice joins the Department of State in urging that the Senate provide advice and consent to ratification of U.S.-Croatia Mutual Legal Assistance Agreement at the earliest possible date.

**Agreement between the Government of the United States of America
and the Government of the Republic of Croatia comprising the
Instrument 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 to the Application of the Treaty on
Extradition signed 25 October 1901**

The Government of the United States of America

and

the Government of the Republic of Croatia

have agreed as follows:

Article 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 (hereinafter "the U.S.-EU Extradition Agreement"), the Governments of the United States of America and the Republic of Croatia acknowledge that, in accordance with the provisions of this Agreement, the U.S.-EU Extradition Agreement is applied in relation to the bilateral extradition treaty currently in force between the United States of America and the Republic of Croatia (the Treaty between the United States of America and the Kingdom of Serbia for the Extradition of Fugitives from Justice, signed 25 October 1901, hereinafter "the 1901 Treaty on Extradition"), 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 Agreement 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 III(1) of the Annex to this Agreement 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 III(3) of the Annex to this Agreement 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 IV(1) of the Annex to this Agreement 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 III *bis* of the Annex to this Agreement shall govern the channel to be used for submitting supplementary information;

- (f) Article 9 of the U.S.-EU Extradition Agreement as set forth in Article X *bis* of the Annex to this Agreement 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 X of the Annex to this Agreement 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 X *ter* of the Annex to this Agreement shall govern the use of simplified extradition procedures;
- (i) Article 12 of the U.S.-EU Extradition Agreement as set forth in Article X *quater* of the Annex to this Agreement shall govern requests for transit of persons in custody;
- (j) Article 13 of the U.S.-EU Extradition Agreement as set forth in Article VIII *bis* of the Annex to this Agreement 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 III *ter* of the Annex to this Agreement shall govern consultations where the requesting State contemplates the submission of particularly sensitive information in support of a request for extradition.

Article 2

The Annex reflects the integrated text of the provisions of the 1901 Treaty on Extradition and the U.S.-EU Extradition Agreement. The Governments of the United States of America and the Republic of Croatia have agreed to revise certain articles of the 1901 Treaty on Extradition to make minor numbering and terminological modifications in the Annex. In addition, the term "high contracting parties" shall be understood to refer to the Governments of the United States of America and the Republic of Croatia. The Annex is an integral part of this Agreement that shall apply upon entry into force of this Agreement.

Article 3

In accordance with Article 16 of the U.S.-EU Extradition Agreement, this Agreement shall apply to offenses committed before as well as after it enters into force.

Article 4

This Agreement 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 I, II and X *bis* of the Annex shall be applicable to requests made prior to such entry into force.

Article 5

1. This Agreement shall be subject to the completion by the United States of America and the Republic of Croatia of their respective applicable internal procedures for entry into force. The Governments of the United States of America and the Republic of Croatia shall thereupon exchange through the diplomatic channel written notifications confirming that such procedures have been completed. The Agreement shall enter into force upon completion of the exchange of notifications, on the date of receipt of the last notification.

2. In the event of termination of the U.S.-EU Extradition Agreement, this Agreement shall be terminated and the 1901 Treaty on Extradition shall be applied. The Governments of the United States of America and the Republic of Croatia nevertheless may agree to continue to apply some or all of the provisions of this Agreement.

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

DONE at Washington, in duplicate, this 10th day of December, 2019, in the English and Croatian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF
AMERICA:



FOR THE GOVERNMENT OF
THE REPUBLIC OF CROATIA:



ANNEX**Article I
Object and Purpose**

The Government of the United States of America and the Government of the Republic of Croatia mutually agree to deliver up persons who shall be found within their respective territories and are sought for prosecution or for imposition or service of a sentence with respect to any of the offenses specified in the following Article, provided that this shall only be done upon such evidence as, according to the laws of the place where the person sought shall be found, would justify his or her apprehension and commitment for trial if the offense had been committed there.

**Article II
Extraditable Offenses**

1. An offense shall be an extraditable 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. An offense shall also be an extraditable offense if it consists of an attempt or conspiracy to commit, or participation in the commission of, an extraditable offense. Where the request is for enforcement of the sentence of a person convicted of an extraditable offense, the deprivation of liberty remaining to be served must be at least four months.
2. If extradition is granted for an extraditable offense, it shall also be granted for any other offense specified in the request if the latter 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, an offense shall be considered an extraditable offense:
 - (a) regardless of whether 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;
 - (b) regardless of whether 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; 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 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 an offense committed outside its territory in similar circumstances. If the laws of the requested State do not provide for the punishment of an 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

Extradition Procedures and Required Documents

1. 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 Article IV to enable the person's continued detention.
2. If the person whose extradition is requested shall have been convicted of an offense, a duly authenticated copy of the sentence of the Court in which he has been convicted, or if the fugitive is merely charged with an offense, a duly authenticated copy of the warrant of arrest in the State where the offense has been committed, and of the depositions or other evidence upon which such warrant was issued, shall be produced.
3. 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 Croatia, mean the Ministry of Justice of the Republic of Croatia.
4. To the extent not inconsistent with this Treaty, the extradition of fugitives under the provisions of this Treaty shall be carried out in the United States of America and in the Republic of Croatia, respectively, in conformity with the laws regulating extradition for the time being in force in the State on which the demand for surrender is made.

Article III 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 Croatia.

Article III *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 IV
Provisional Arrest

1. Requests for provisional arrest may be made directly between the United States Department of Justice and the Ministry of Justice of the Republic of Croatia, 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.
2. The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender, accompanied by the necessary evidence of criminality, has not been produced under the stipulations of this Treaty, within two months from the date of his provisional arrest and detention.

Article V
Extradition of Nationals

Neither of the high contracting parties shall be bound to deliver up its own citizens under the stipulations of this Treaty.

Article VI
Political Offenses

1. A fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded be of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try to punish him for an offense of a political character.
2. No person surrendered by either of the high contracting parties to the other shall be triable or tried, or be punished, for any political offense, or for any act connected therewith, committed previously to his extradition.
3. If any questions shall arise as to whether a case comes within the provisions of this Article, the decision of the authorities of the Government on which the demand for surrender is made, or which may have granted the extradition, shall be final.

Article VII**Limitations**

Extradition shall not be granted, in pursuance of the provisions of this Treaty, if legal proceedings or the enforcement of the penalty for the act committed by the person claimed has become barred by limitation, according to the laws of the State to which the requisition is addressed.

Article VIII**Rule of Specialty**

No person surrendered by either of the high contracting parties to the other shall, without his consent, freely granted and publicly declared by him, be triable or tried or be punished for any offense committed prior to his extradition, other than that for which he was delivered up, until he shall have had an opportunity of returning to the State from which he was surrendered.

Article VIII bis**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 IX**Seizure of Articles**

All articles seized which are in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the offense charged, or being material as evidence in making proof of the offense, shall, so far as practicable and in conformity with the laws of the respective States, be given up to the State making the demand, when the extradition takes place. Nevertheless, the rights of third parties with regard to such articles shall be duly respected.

Article X**Requests for Extradition or Surrender from More Than One State**

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 Croatia 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, the Minister of Justice of the Republic of Croatia 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 X bis
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 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 X ter
Simplified Extradition

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 X *quater*
Transit

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

The expenses incurred in the arrest, detention, examination, and delivery of fugitives under this Treaty shall be borne by the State in whose name the extradition is sought, provided, that the demanding Government shall not be compelled to bear any expense for the services of such public officers of the Government from which extradition is sought as received a fixed salary, and, provided, that the charge for the services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the State of which they are officers.

Article XII
Termination

This Treaty shall remain in force for a period of six months after either of the contracting Governments shall have given notice of a purpose to terminate it.

**Agreement between the Government of the United States of America
and the Government of the Republic of Croatia comprising the
Instrument as contemplated by Article 3(3) of the Agreement on
Mutual Legal Assistance between the United States of America and
the European Union signed at Washington on 25 June 2003**

The Government of United States of America
and
the Government of the Republic of Croatia
have agreed as follows:

Article 1

As contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed in Washington on 25 June 2003 (hereinafter "the U.S.-EU Mutual Legal Assistance Agreement"), the Governments of the United States of America and the Republic of Croatia acknowledge that, in accordance with the provisions of this Agreement, the U.S.-EU Mutual Legal Assistance Agreement is applied between them under the following terms:

- (a) Article 4 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 1 of the Annex to this Agreement shall govern the identification of financial accounts and transactions;
- (b) Article 5 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 2 of the Annex to this Agreement shall govern the formation and activities of joint investigative teams;
- (c) Article 6 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 3 of the Annex to this Agreement shall govern the taking of testimony of a person located in the requested State by use of video transmission technology between the requesting and requested States;
- (d) Article 7 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 4 of the Annex to this Agreement shall govern the use of expedited means of communication;
- (e) Article 8 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 5 of the Annex to this Agreement shall govern the providing of mutual legal assistance to the administrative authorities concerned;
- (f) Article 9 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 6 of the Annex to this Agreement shall govern the limitation on use of information or evidence provided to the requesting State, and shall govern the conditioning or refusal of assistance on data protection grounds;
- (g) Article 10 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 7 of the Annex to this Agreement shall govern the circumstances

under which a requesting State may seek the confidentiality of its request;
and

(h) Article 13 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 8 of the Annex to this Agreement shall govern the invocation by the requested State of grounds for refusal.

Article 2

The Annex, which is an integral part of this Agreement, reflects the provisions of the U.S.-EU Mutual Legal Assistance Agreement that shall apply between the United States of America and the Republic of Croatia upon entry into force of this Agreement.

Article 3

In accordance with Article 12 of the U.S.-EU Mutual Legal Assistance Agreement, this Agreement shall apply to offenses committed before as well as after it enters into force.

Article 4

This Agreement shall not apply to requests made prior to its entry into force; except that, in accordance with Article 12 of the U.S.-EU Mutual Legal Assistance Agreement, Articles 3 and 4 of the Annex shall be applicable to requests made prior to such entry into force.

Article 5

1. This Agreement shall be subject to completion by the United States of America and the Republic of Croatia of their respective applicable internal procedures for entry into force. The Governments of the United States of America and the Republic of Croatia shall thereupon exchange through the diplomatic channel written notifications confirming that such procedures have been completed. The Agreement shall enter into force upon completion of the exchange of notifications, on the date of receipt of the last notification.

2. In the event of termination of the U.S.-EU Mutual Legal Assistance Agreement, this Agreement shall be terminated. The Governments of the United States of America and the Republic of Croatia nevertheless may agree to continue to apply some or all of the provisions of this Agreement.

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

DONE at Washington in duplicate, this 10th day of December, 2019, in the English and Croatian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF
AMERICA:

FOR THE GOVERNMENT OF
THE REPUBLIC OF CROATIA:



ANNEX

**Article 1
Identification of Bank Information**

1. (a) Upon request of the requesting State, the requested State shall, in accordance with the terms of this Article, promptly ascertain if the banks located in its territory possess information on whether an identified natural or legal person suspected of or charged with a criminal offense is the holder of a bank account or accounts. The requested State shall promptly communicate the results of its enquiries to the requesting State.

(b) The actions described in subparagraph (a) may also be taken for the purpose of identifying:
 - (i) information regarding natural or legal persons convicted of or otherwise involved in a criminal offense;
 - (ii) information in the possession of non-bank financial institutions; or
 - (iii) financial transactions unrelated to accounts.
2. A request for information described in paragraph 1 of this Article shall include:
 - (a) the identity of the natural or legal person relevant to locating such accounts or transactions;
 - (b) sufficient information to enable the competent authority of the requested State to:
 - (i) reasonably suspect that the natural or legal person concerned has engaged in a criminal offense and that banks or non-bank financial institutions in the territory of the requested State may have the information requested; and
 - (ii) conclude that the information sought relates to the criminal investigation or proceeding; and
 - (c) to the extent possible, information concerning which bank or non-bank financial institution may be involved, and other information the availability of which may aid in reducing the breadth of the enquiry.
3. Unless subsequently modified by exchange of diplomatic notes between the United States of America and the European Union, requests for assistance under this Article shall be transmitted between:

- (a) for the United States of America, the attaché responsible for the Republic of Croatia of the:
 - (i) U.S. Department of Justice, Drug Enforcement Administration, with respect to matters within its jurisdiction;
 - (ii) U.S. Department of Homeland Security, Bureau of Immigration and Customs Enforcement, with respect to matters within its jurisdiction;
 - (iii) U.S. Department of Justice, Federal Bureau of Investigation, with respect to all other matters.
 - (b) for the Republic of Croatia, the Ministry of Justice of the Republic of Croatia.
4. The Republic of Croatia shall provide assistance under this Article with respect to money laundering and terrorist activity punishable under the laws of both the requesting and requested States, and with respect to such other criminal activity as the Republic of Croatia may notify the United States of America. The United States of America shall provide assistance under this Article with respect to money laundering and terrorist activity punishable under the laws of both the requesting and requested States, and with respect to such other criminal activity as the United States of America may notify the Republic of Croatia.
5. Assistance may not be refused under this Article on grounds of bank secrecy.
6. The requested State shall respond to a request for production of the records concerning the accounts or transactions identified pursuant to this Article in accordance with the requirements of its domestic law.
- Article 2**
Joint Investigative Teams
1. Joint investigative teams may be established and operated in the respective territories of the United States of America and the Republic of Croatia for the purpose of facilitating criminal investigations or prosecutions involving the United States of America and one or more Member States of the European Union where deemed appropriate by the United States of America and the Republic of Croatia.
2. The procedures under which the team is to operate, such as its composition, duration, location, organization, functions, purpose, and terms of participation of team members of a State in investigative activities taking place in another State's territory shall be as agreed between the competent authorities responsible for the investigation or prosecution of criminal offenses, as determined by the respective States concerned.

3. The competent authorities determined by the respective States concerned shall communicate directly for the purposes of the establishment and operation of such team except that where the exceptional complexity, broad scope, or other circumstances involved are deemed to require more central coordination as to some or all aspects, the States may agree upon other appropriate channels of communications to that end.
4. Where the joint investigative team needs investigative measures to be taken in one of the States setting up the team, a member of the team of that State may request its own competent authorities to take those measures without the other States having to submit a request for mutual legal assistance. The required legal standard for obtaining the measure in that State shall be the standard applicable to its domestic investigative activities.

Article 3 Video Conferencing

1. The use of video transmission technology shall be available between the United States of America and the Republic of Croatia for taking testimony in a proceeding for which mutual legal assistance is available of a witness or expert located in the requested State. To the extent not specifically set forth in this Article, the modalities governing such procedure shall be as provided under the law of the requested State.
2. Unless otherwise agreed by the requesting and requested States, the requesting State shall bear the costs associated with establishing and servicing the video transmission. Other costs arising in the course of providing assistance (including costs associated with travel of participants in the requested State) shall be borne as agreed upon by the requesting and requested States.
3. The requesting and requested States may consult in order to facilitate resolution of legal, technical or logistical issues that may arise in the execution of the request.
4. Without prejudice to any jurisdiction under the law of the requesting State, making an intentionally false statement or other misconduct of the witness or expert during the course of the video conference shall be punishable in the requested State in the same manner as if it had been committed in the course of its domestic proceedings.
5. This Article is without prejudice to the use of other means for obtaining of testimony in the requested State available under applicable treaty or law.
6. The requested State may permit the use of video conferencing technology for purposes other than those described in paragraph 1 of this Article, including for purposes of identification of persons or objects, or taking of investigative statements.

Article 4
Expedited Transmission of Requests

Requests for mutual legal assistance, and communications related thereto, may be made by expedited means of communications, including fax or e-mail, with formal confirmation to follow where required by the requested State. The requested State may respond to the request by any such expedited means of communication.

Article 5
Mutual Legal Assistance to Administrative Authorities

1. Mutual legal assistance shall also be afforded to a national administrative authority, investigating conduct with a view to a criminal prosecution of the conduct, or referral of the conduct to criminal investigation or prosecution authorities, pursuant to its specific administrative or regulatory authority to undertake such investigation. Mutual legal assistance may also be afforded to other administrative authorities under such circumstances. Assistance shall not be available for matters in which the administrative authority anticipates that no prosecution or referral, as applicable, will take place.
2. Requests for assistance under this Article shall be transmitted between the United States Department of Justice and the Ministry of Justice of the Republic of Croatia, or between such other authorities as may be agreed by the United States Department of Justice and the Ministry of Justice of the Republic of Croatia.

Article 6
Limitations on Use to Protect Personal and Other Data

1. The requesting State may use any evidence or information obtained from the requested State:
 - (a) for the purpose of its criminal investigations and proceedings;
 - (b) for preventing an immediate and serious threat to its public security;
 - (c) in its non-criminal judicial or administrative proceedings directly related to investigations or proceedings:
 - (i) set forth in subparagraph (a); or
 - (ii) for which mutual legal assistance was rendered under Article 5 of this Annex;
 - (d) for any other purpose, if the information or evidence has been made public within the framework of proceedings for which they were transmitted, or in any of the situations described in subparagraphs (a), (b) and (c); and

- (e) for any other purpose, only with the prior consent of the requested State.
2. (a) This Article shall not prejudice the ability of the requested State to impose additional conditions in a particular case where the particular request for assistance could not be complied with in the absence of such conditions. Where additional conditions have been imposed in accordance with this subparagraph, the requested State may require the requesting State to give information on the use made of the evidence or information.
- (b) Generic restrictions with respect to the legal standards of the requesting State for processing personal data may not be imposed by the requested State as a condition under subparagraph (a) to providing evidence or information.
3. Where, following disclosure to the requesting State, the requested State becomes aware of circumstances that may cause it to seek an additional condition in a particular case, the requested State may consult with the requesting State to determine the extent to which the evidence and information can be protected.

Article 7

Requesting State's Request for Confidentiality

The requested State shall use its best efforts to keep confidential a request and its contents if such confidentiality is requested by the requesting State. If the request cannot be executed without breaching the requested confidentiality, the Department of Justice or the Ministry of Justice of the requested State shall so inform the requesting State, which shall then determine whether the request should nevertheless be executed.

Article 8

Refusal of Assistance

Subject to Article 1(5) and 6(2)(b) of this Annex, the provisions of this Annex are without prejudice to the invocation by the requested State of grounds for refusal of assistance available pursuant to its applicable legal principles, including where execution of the request would prejudice its sovereignty, security, *ordre public* or other essential interests.