



**EMBASSY OF THE REPUBLIC OF LITHUANIA TO THE KINGDOM OF
THE NETHERLANDS**

No. 415 /2012

The Embassy of the Republic of Lithuania to the Kingdom of the Netherlands presents its compliments to the Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court and, with reference to the latter's note verbale No. ICC-ASP/11/SP/PA/12, has the honour to convey the information provided by the Ministry of Justice of the Republic of Lithuania.

The Embassy of the Republic of Lithuania to the Kingdom of the Netherlands avails itself of this opportunity to renew to the Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court the assurances of its highest consideration.

ENCLOSURE: 8 pages.



The Hague, August 31, 2012

SECRETARIAT OF THE ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE
OF THE INTERNATIONAL CRIMINAL COURT
The Hague

Post Received

31 AUG. 2012

ASP/2012/..085

**Information regarding the ratification and implementation of the Rome Statute by the
Republic of Lithuania**

The Republic of Lithuania signed on 10 December 1998 and on 12 May 2003 ratified the Rome Statute of the International Criminal Court.

Substantive provisions of the Rome Statute were incorporated into the Criminal Code of the Republic of Lithuania (the new code entered into force on 1 May 2003). Other relevant national law provisions are attached to the Implementing legislation questionnaire.

The Republic of Lithuania signed on 25 May 2004 and ratified on 30 December 2004 the Agreement on the Privileges and Immunities of the International Criminal Court.

The national contact point (according to paragraph 6, sub-paragraph (h) of the Plan of Action) is the International Law Department of the Ministry of Justice of the Republic of Lithuania, email: rastine@tm.lt, tel.: +370 5 266 2981.

Implementing legislation questionnaire for State Parties

1. Yes, Lithuania has adopted national legislation implementing the Rome Statute.

Part B

5. Lithuania has incorporated the substantive provisions of the Rome Statute into the national Criminal Code (Entered into force on 1 May, 2003; see Annex I).

6. The substantive crimes were incorporated into domestic law (see Annex I).

7.

(a) YES, Articles 71-74, 76-77, 122 of the Code of Criminal Procedure, inter alia, regulate provisional measures and surrender of persons to the International Criminal Court (see Annex II).

(b) NO.

(c) NO, however, Article 67 of the Code of Criminal Procedure stipulates general obligation for competent national authorities to execute the requests of foreign authorities and international organisations, including the International Criminal Court and its Office of the Prosecutor (see Annex II).

(d) NO, however, Article 67 of the Code of Criminal Procedure stipulates general obligation for competent national authorities to execute the requests of foreign authorities and international organisations, including the International Criminal Court and its Office of the Prosecutor (see Annex II).

(e) YES, Article 365 of the Code of Criminal Procedure and Article 5 of the Code of the Execution of Punishments foresee a possibility to execute effective judgements of international judicial institutions. It should be also noted that when ratifying the Rome Statute the Republic of Lithuania has made the declaration regarding application of Article 103 of the Rome Statute – "Republic of Lithuania is willing to accept persons, sentenced by the International Criminal Court to serve the sentence of imprisonment, if such persons are nationals of the Republic of Lithuania".

(f) NO, however, Article 67 of the Code of Criminal Procedure stipulates general obligation for competent national authorities in cases provided by an international treaty to which the Republic of Lithuania is a party (in this case it is the Rome Statute) to execute the requests of foreign authorities and international organisations, including the International Criminal Court and its Office of the Prosecutor (see Annex II).

8. NO, however, Article 67 of the Code of Criminal Procedure stipulates general obligation for competent national authorities to communicate and to execute the requests of foreign authorities and international organisations, including the International Criminal Court and its Office of the Prosecutor (see Annex II).

ADD.:

1. Annex I, 3 pages;
2. Annex II, 3 pages.

Annex I*Unofficial translation from Lithuanian***Extracts from the Criminal Code of the Republic of Lithuania**
(Entered into force on 1 May, 2003 as amended on 22 March, 2011)**Article 7. Criminal Liability for the Crimes Provided for in Treaties**

Persons shall be liable under this Code regardless of their citizenship and place of residence, also of the place of commission of a crime and whether the act committed is subject to punishment under laws of the place of commission of the crime where they commit the following crimes subject to liability under treaties:

- 1) crimes against humanity and war crimes (Articles 99-113¹);
[...]

CHAPTER XV
CRIMES AGAINST HUMANITY AND WAR CRIMES**Article 99. Genocide**

A person who, seeking to physically destroy, in whole or in part, the persons belonging to any national, ethnic, racial, religious, social or political group, organises, is in charge of or participates in their killing, torturing, causing bodily harm to them, hindering their mental development, their deportation or otherwise inflicting on them the conditions of life bringing about the death of all or a part of them, restricts the birth of the persons belonging to those groups or forcibly transfers their children to other groups

shall be punished by imprisonment for a term of five up to twenty years or by life imprisonment.

Article 100. Treatment of Persons Prohibited under International Law

A person who intentionally, by carrying out or supporting the policy of the State or an organisation, attacks civilians on a large scale or in a systematic way and commits their killing or causes serious impairment to their health; inflicts on them such conditions of life as bring about their death; enslaves persons; commits deportation or forcible transfer of the population; illegally detains or otherwise restricts the physical freedom of persons in violation of international law; tortures; rapes, involves in sexual slavery, forces to engage in prostitution; illegally restricts the freedom of a forcibly inseminated woman in order to change the ethnical composition of the population or otherwise in violation of norms of international law; forcibly sterilises or performs similar acts of sexual violence; persecutes any group or community of persons for political, racial, national, ethnic, cultural, religious, sexual or other reasons prohibited under international law; detains, arrests or otherwise deprives them of liberty, where such a deprivation of liberty is not recognised, or fails to report the fate or whereabouts of the persons; carries out the policy of apartheid

shall be punished by imprisonment for a term of five up to twenty years or by life imprisonment.

Article 101. Killing of Persons Protected under International Humanitarian Law

Any person who, in violation of norms of international humanitarian law in time of war or during an international armed conflict, occupation or annexation, orders to kill or kills persons protected under international humanitarian law

shall be punished by imprisonment for a period of ten up to twenty years or by life imprisonment.

Article 102. Deportation or Transfer of the Civilian Population

A person who, in time of war or during an international armed conflict or under the conditions of occupation or annexation, orders, instigates to deport or carries out deportation of the civilian population from an occupied or annexed territory to the territory of an occupying or annexing country or of a third country; orders, instigates to transfer or transfers the civilian population of the occupied or annexed territory to the territory of that state in violation of norms of international law; orders, instigates to transfer or transfers the civilian population of the occupying state to the territory of the occupied country shall be punished by imprisonment for a term of three up to fifteen years.

Article 103. Causing Bodily Harm to, Torture or Other Inhuman Treatment of Persons Protected under International Humanitarian Law or violation of their property protection

A person who, in time of war or during an armed international conflict or under the conditions of occupation or annexation and in violation of norms of international humanitarian law orders, inflicts, organises, instigates to inhuman treatment or inhumanly treats persons protected under international humanitarian law: inflicts a serious bodily harm to or an illness upon or tortures; conducts a biological or medical experiment with them, unlawfully takes their organ or tissue for transplanting purposes, unlawfully takes their blood or subjects them to other inhuman treatment; takes them as hostages; imposes upon them criminal penalties without a judgement of an independent and impartial court or without guarantees of defence in court; imposes collective penalties; rapes, involves in sexual slavery, forces to engage in prostitution; forcibly inseminates or sterilises; uses means of threat and terror; illegally deprives them of liberty; separates children from their parents or foster parents; causes the threat of death from famine; illegally deprives, confiscates property of civilians or performs expropriation on a large scale not justifiable by military necessity; humiliates them; forces to change their religion; commits an outrage on the remains of the fallen;

shall be punished by imprisonment for a term of three up to twelve years.

Article 105. Forcible Use of Civilians or Prisoners of War in the Armed Forces of the Enemy

1. A person who, in time of war, during an armed international conflict, occupation or annexation and in violation of international humanitarian law, forces civilians or prisoners of war to serve in the armed forces of their enemy, uses them as a human shield in a military operation, conscripts or recruits children under the age of 18 years into the armed forces or uses them in a military operation

shall be punished by imprisonment for a term of three up to ten years.

2. A person who conscripts or recruits children under the age of 18 years into military service in the military groups not belonging to the armed forces of the State or uses them in a military operation

shall be punished by imprisonment for a term of three up to twelve years.

Article 106. Destruction of Protected Objects or Plunder of National Valuable Properties

A person who issues an order not justifiable by military necessity to destroy or destroys the historic monuments, objects of culture, art, education, upbringing, science or religion protected by treaties or national legal acts, plundered national valuable properties in an occupied or annexed territory and causes extensive damage

shall be punished by imprisonment for a term of three up to twelve years.

Article 107. Delay in Repatriation of Prisoners of War

A person who, after the signing of a peace treaty or cessation of hostilities, unjustifiably delays the release or repatriation of prisoners of war

shall be punished by imprisonment for a term of up to three years or a fine.

Article 108. Delay in Release of Interned Civilians or Impeding Repatriation of Other Civilians

A person who, after cessation of hostilities, unjustifiably delays the release of interned civilians or does not permit other civilians to repatriate to their Homeland from the territory of an armed conflict, where they so wish

shall be punished by imprisonment for a term of up to three years or a fine.

Article 109. Unlawful Use of the Emblem of the Red Cross, Red Crescent, Red Crystal and the United Nations Organization or Another Universally Recognised Emblem (Sign) or Designation

A person who unlawfully uses the emblem of the Red Cross, Red Crescent, Red Crystal, the United Nations Organization or another universally recognised emblem (sign) or designation during an armed conflict

shall be punished by imprisonment for a term of up to three years or a fine.

Article 110. Aggression

Any person who causes an aggression against another state or is in command thereof

shall be punished by imprisonment for a period of ten up to twenty years or by life imprisonment.

Article 111. Prohibited Military Attack

1. A person who orders to carry out or carries out a military attack prohibited under international humanitarian law against civilians, medical or civil defence personnel, a military or civilian hospital, a first-aid post, a vehicle carrying wounded or sick persons, the personnel of the International Red Cross Committee or a National Red Cross or Red Crescent Society, a military attack against an undefended settlement or a demilitarised zone, a military attack against protected cultural property, a military attack without selecting a specific target and being aware that it could result in civilian casualties or destruction of a civilian object, or a military attack against the combatants who had clearly withdrawn from the battle and had given up resistance

shall be punished by imprisonment for a term of five up to fifteen years.

2. A person who orders to carry out or carries out a military attack contravening international humanitarian law against a target posing a considerable danger to the environment and people, such as a nuclear plant, a dam, a facility for the storage of toxic substances or another object, while being aware that it could cause grave consequences, or a military attack using weapons of mass destruction

shall be punished by imprisonment for a period of ten up to twenty years or by life imprisonment.

Article 112. Use of Prohibited Means of Warfare

A person who, in violation of treaties to which the Republic of Lithuania is party or universally accepted international practices regarding means of warfare or methods of warfare, orders the use of or uses in hostilities prohibited means of warfare or methods of warfare

shall be punished by imprisonment for a term of three up to ten years.

Article 113. Marauding

A person who orders the plundering of or plunders property on the battlefield from the fallen or the wounded

shall be punished by imprisonment for a term of up to five years.

Article 113¹. Negligent command

A person who negligently performs his/her functions of command and consequently persons under his/her de jure or de facto control commits a crime foreseen in this chapter

shall be punished by imprisonment for a period of two up to eight years.

Annex II*Unofficial translation from Lithuanian***Extracts from the Code of Criminal Procedure of the Republic of Lithuania
(Entered into force on 1 May, 2003)****Article 67. Execution of the requests of foreign authorities and international organisations for proceedings**

1. In carrying out requests of foreign authorities and international organisations, the courts, the prosecution and pre-trial investigation institutions of the Republic of Lithuania shall take proceedings set out in this Code. When executing requests of foreign authorities and international organisations in cases provided by an international treaty to which the Republic of Lithuania is a party, proceedings which are not set out in this Code may also be taken, provided this does not contravene the Constitution and the laws of the Republic of Lithuania and is not against the fundamental principles of the criminal procedure of the Republic of Lithuania.

2. The courts, the prosecution and pre-trial investigation institutions of the Republic of Lithuania shall receive the requests of foreign authorities and international organisations through the Ministry of Justice or the Office of the Prosecutor General of the Republic of Lithuania. If a request is received directly by a court, the prosecution or pre-trial investigation institution, it shall be executed only subject to an authorisation of either the Ministry of Justice or the Office of the Prosecutor General, with the exception of cases provided for in Paragraph 5 of this Article.

3. If a request of a foreign authority or an international organisation cannot be executed, it shall be sent back to this institution either through the Ministry of Justice or the Office of the Prosecutor General of the Republic of Lithuania with an explanation of the reasons why execution of the request is not possible.

4. Officers of the courts, the prosecution and pre-trial investigation institutions of a foreign state, or of the International Criminal Court, or of any other international organisations shall be permitted to take proceedings within the territory of the Republic of Lithuania only in cases provided for in an international treaty to which the Republic of Lithuania is a party and with the participation of the officers of the Republic of Lithuania.

5. In cases provided for in an international treaty to which the Republic of Lithuania is a party, the courts, institutions of prosecution and pre-trial investigation shall execute the requests of foreign authorities or international organisations received directly and shall directly transmit to foreign authorities and international organisations replies to their requests.

Article 71. Extradition of persons from the Republic of Lithuania or their surrender to the International Criminal Court

1. A national of the Republic of Lithuania, on suspicion of having committed a criminal act, may be extradited to a foreign state or may be surrendered to the International Criminal Court only if such an obligation is provided by an international treaty to which the Republic of Lithuania is a party or a United Nations Security Council Resolution.

2. An alien, on suspicion of having committed a criminal act within the territory of the Republic of Lithuania or any other states, shall be extradited to appropriate states or shall be surrendered to the International Criminal Court only if such an obligation is provided by an international treaty to which the Republic of Lithuania is a party or a United Nations Security Council Resolution.

[...]

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 treaties 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 treaties 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 treaty 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.

[...]

Article 76. Procedure of 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 treaties to which the Republic of Lithuania is a party and by other legal acts.

[...]

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 treaty 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 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 365. Execution of judgements rendered by courts of foreign states and the International Criminal Court

1. The judgements rendered by the courts of foreign states and the International Criminal Court shall be executed in the Republic of Lithuania according to the rules laid down in Part Seven of this Code.

[...]

**Extract from the Code of Execution of Punishments of the Republic of Lithuania
(Entered into force on 1 May, 2003)****Article 5. Principle of legality**

1. A ground for the execution of punishment is an effective judgement of the court of the Republic of Lithuania. In cases provided for by an international treaty to which the Republic of Lithuania is a party, a ground for the execution of punishment is an effective judgement rendered by courts of foreign states or an effective judgement (decision) of the international judicial institution.

[...]

