

EXTRADITION

**Agreement Between the
UNITED STATES OF AMERICA
and SLOVENIA Amending the
Treaty with the Kingdom of Serbia
of October 25, 1901**

Signed at Ljubljana October 17, 2005

with

Annex



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

SLOVENIA

Extradition

*Agreement amending the treaty with the
Kingdom of Serbia of October 25, 1901.
Signed at Ljubljana October 17, 2005;
Transmitted by the President of the United States of America
to the Senate September 28, 2006 (Treaty Doc. 109-14,
109th Congress, 2d Session);
Reported favorably by the Senate Committee on Foreign Relations
July 29, 2008 (Senate Executive Report No. 110-12,
110th Congress, 2d Session);
Advice and consent to ratification by the Senate
September 23, 2008;
Ratified by the President December 11, 2008;
Exchange of Instruments of Ratification
at Washington July 29, 2009;
Entered into force February 1, 2010.
With annex.*

**Agreement between the Government of the United States of America and
the Government of the Republic of Slovenia 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 between the United States and
the Kingdom of Serbia, signed 25 October 1901**

The Government of the United States of America and the Government of the Republic of Slovenia 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 (hereafter "the U.S.-EU Extradition Agreement"), the Governments of the United States of America and the Republic of Slovenia 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 Slovenia (the Treaty on Extradition between the United States and the Kingdom of Serbia, signed 25 October 1901; hereafter "the 1901 Treaty on Extradition"), under the following terms:

- (a) Article 4 of the U.S.-EU Extradition Agreement as set forth in Articles 1 and 2 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 3(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 3(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 4(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 3 *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 10 *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 country;
- (g) Article 10 of the U.S.-EU Extradition Agreement as set forth in Article 10 of the Annex to this Agreement shall govern the decision on requests made by several countries for the extradition or surrender of the same person;

- (h) Article 11 of the U.S.-EU Extradition Agreement as set forth in Article 10 *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 11 *bis* 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 8 *bis* of the Annex to this Agreement shall govern extradition with respect to conduct punishable by death in the requesting country; and
- (k) Article 14 of the U.S.-EU Extradition Agreement as set forth in Article 3 *ter* of the Annex to this Agreement shall govern consultations where the requesting country 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 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 1, 2 and 10 *bis* of the Annex shall be applicable to requests made prior to such entry into force.

Article 5

- (a) This Agreement shall be subject to the completion by the United States of America and the Republic of Slovenia of their respective applicable internal procedures for entry into force. The Governments of the United States of America and the Republic of Slovenia shall thereupon exchange instruments indicating that such measures have been completed. This Agreement shall enter into force on the date of entry into force of the U.S.-EU Extradition Agreement.
- (b) In the event of termination of the U.S.-EU Extradition Agreement, this 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 Slovenia nevertheless may agree to continue to apply some or all of the provisions of this Agreement.

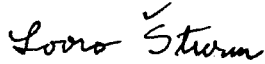
IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Ljubljana, in duplicate, this **17** day of October, 2005, in the English and Slovenian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF THE
REPUBLIC OF SLOVENIA:



ANNEX

Treaty on Extradition between the Governments of the United States of America and the Republic of Slovenia

ARTICLE 1

The Government of the United States of America and the Government of the Republic of Slovenia mutually agree to deliver up persons who, having been charged with or convicted of any of the offenses specified in the following article, shall be found within their respective territories; provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the offense had been committed there.

ARTICLE 2

1. An offense shall be an extraditable offense if it is punishable under the laws of the requesting and requested countries by deprivation of liberty for a maximum period of more than one year or by a more severe penalty. 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 countries 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 countries 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 country, extradition shall be granted, subject to the other applicable requirements for extradition,

if the laws of the requested country provide for the punishment of an offense committed outside its territory in similar circumstances. If the laws of the requested country do not provide for the punishment of an offense committed outside its territory in similar circumstances, the executive authority of the requested country, at its discretion, may grant extradition provided that all other applicable requirements for extradition are met.

ARTICLE 3

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 country, the requesting country 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 country located in the requesting country. In that case, the date of receipt of such request by the Embassy shall be considered to be the date of receipt by the requested country for purposes of applying the time limit that must be met under Article 4 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 country 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 country shall be admissible in extradition proceedings in the requested country without further certification, authentication, or other legalization. "Ministry of Justice" shall, for the United States, mean the United States Department of Justice; and, for the Republic of Slovenia, the Ministry of Justice of the Republic of Slovenia.

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 and in the Republic of Slovenia, 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 3 *bis*

1. The requested country may require the requesting country to furnish additional information within such reasonable length of time as it specifies, if it considers that the information furnished in support of the request for extradition is not sufficient to 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 Slovenia.

Article 3 *ter*

Where the requesting country contemplates the submission of particularly sensitive information in support of its request for extradition, it may consult the requested

country to determine the extent to which the information can be protected by the requested country. If the requested country cannot protect the information in the manner sought by the requesting country, the requesting country shall determine whether the information shall nonetheless be submitted.

ARTICLE 4

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 Slovenia, 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 5

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

ARTICLE 6

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 7

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 country to which the requisition is addressed.

ARTICLE 8

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 country from which he was surrendered.

Article 8 bis

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

ARTICLE 9

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 countries, be given up to the country making the demand, when the extradition takes place. Nevertheless, the rights of third parties with regard to such articles shall be duly respected.

ARTICLE 10

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

2. If the Republic of Slovenia receives an extradition request from the United States 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 Supreme Court of the Republic of Slovenia, or such other authority as the Republic of Slovenia may subsequently designate, shall determine to which country, if any, it will surrender the person.

3. In making its decision under paragraphs 1 and 2 of this Article, the requested country shall consider all of the relevant factors, including, but not limited to, the following:

- (a) whether the requests were made pursuant to a treaty;
- (b) the places where each of the offenses was committed;
- (c) the respective interests of the requesting countries;
- (d) the seriousness of the offenses;
- (e) the nationality of the victim;
- (f) the possibility of any subsequent extradition between the requesting countries; and

- (g) the chronological order in which the requests were received from the requesting countries.

Article 10 *bis*

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

Article 10 *ter*

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

ARTICLE 11

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 country of which they are officers.

Article 11 *bis*

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

3. Authorization is not required when air transportation is used and no landing is scheduled on the territory of the transit country. If an unscheduled landing does occur, the country in which the unscheduled landing occurs may require a request for transit pursuant to paragraph 2 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 12

The present 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.

Sporazum med Vlado Združenih držav Amerike in Vlado Republike Slovenije o instrumentu iz drugega odstavka 3. člena Sporazuma o izročitvi med Združenimi državami Amerike in Evropsko unijo, podpisanega 25. junija 2003, o uporabi Konvencije o izročitvi med Združenimi državami Amerike in Kraljevino Srbijo, podpisane 25. oktobra 1901

Vlada Združenih držav Amerike in Vlada Republike Slovenije sta se dogovorili naslednje:

1. člen

Kot je predvideno v drugem odstavku 3. člena Sporazuma o izročitvi med Združenimi državami Amerike in Evropsko unijo, podpisanega 25. junija 2003 (v nadaljevanju "Sporazum o izročitvi med ZDA in EU"), vladi Združenih držav Amerike in Republike Slovenije potrjujeta, da se v skladu z določbami tega sporazuma Sporazum o izročitvi med ZDA in EU glede na dvostransko pogodbo o izročitvi, ki trenutno velja med Združenimi državami Amerike in Republiko Slovenijo (Pogodba o izročitvi med Združenimi državami Amerike in Kraljevino Srbijo, podpisana 25. oktobra 1901, v nadaljevanju "Pogodba o izročitvi iz leta 1901"), uporablja pod temi pogoji:

- (a) 4. člen Sporazuma o izročitvi med ZDA in EU, kot je določeno v 1. in 2. členu priloge k temu sporazumu, določa, za katera kazniva dejanja se lahko zahteva izročitev;
- (b) prvi odstavek 5. člena in prvi odstavek 7. člena Sporazuma o izročitvi med ZDA in EU, kot je določeno v prvem odstavku 3. člena priloge k temu sporazumu, urejata način pošiljanja prošenj za izročitev in pripadajočih listin ter določata nadomestni način za pošiljanje prošenj za izročitev in pripadajočih listin po začasnem odvzemu prostosti;
- (c) drugi odstavek 5. člena Sporazuma o izročitvi med ZDA in EU, kot je določeno v tretjem odstavku 3. člena priloge k temu sporazumu, ureja zahteve glede ugotavljanja istovetnosti, potrjevanja ali overjanja prošenj za izročitev in pripadajočih listin;
- (d) 6. člen Sporazuma o izročitvi med ZDA in EU, kot je določeno v prvem odstavku 4. člena priloge k temu sporazumu, dovoljuje nadomestni način za pošiljanje prošenj za začasen odvzem prostosti;
- (e) 8. člen Sporazuma o izročitvi med ZDA in EU, kot je določeno v 3. *bis* členu priloge k temu sporazumu, ureja način, ki se uporablja za predložitev dodatnih podatkov;
- (f) 9. člen Sporazuma o izročitvi med ZDA in EU, kot je določeno v 10. *bis* členu priloge k temu sporazumu, ureja začasno predajo osebe, ki je v postopku ali prestaja kazen v zaproseni državi;
- (g) 10. člen Sporazuma o izročitvi med ZDA in EU, kot je določeno v 10. členu priloge k temu sporazumu, ureja odločanje o prošnjah več držav za izročitev ali predajo iste osebe;

- (h) 11. člen Sporazuma o izročitvi med ZDA in EU, kot je določeno v 10. *ter* členu priloge k temu sporazumu, ureja uporabo poenostavljenih postopkov izročitve;
- (i) 12. člen Sporazuma o izročitvi med ZDA in EU, kot je določeno v 11. *bis* členu priloge k temu sporazumu, ureja prošnje za tranzit priprtih oseb;
- (j) 13. člen Sporazuma o izročitvi med ZDA in EU, kot je določeno v 8. *bis* členu priloge k temu sporazumu, ureja izročitev zaradi dejanja, za katero je v državi prosilki predpisana smrtna kazen, in
- (k) 14. člen Sporazuma o izročitvi med ZDA in EU, kot je določeno v 3. *ter* členu priloge k temu sporazumu, ureja posvetovanje, če država prosilka proučuje možnost za predložitev posebej občutljivih podatkov v podporo prošnji za izročitev.

2. člen

Priloga upošteva celotno besedilo določb Pogodbe o izročitvi iz leta 1901 in Sporazuma o izročitvi med ZDA in EU. Priloga je sestavni del tega sporazuma in se začne uporabljati z začetkom njegove veljavnosti.

3. člen

V skladu s 16. členom Sporazuma o izročitvi med ZDA in EU se ta sporazum uporablja tudi za kazniva dejanja, storjena pred začetkom njegove veljavnosti.

4. člen

Ta sporazum se ne uporablja za prošnje za izročitev, poslane pred začetkom njegove veljavnosti; 1., 2. in 10. *bis* člen priloge pa se v skladu s 16. členom Sporazuma o izročitvi med ZDA in EU uporabljajo tudi za prošnje, poslane pred začetkom veljavnosti tega sporazuma.

5. člen

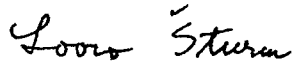
(a) Za začetek veljavnosti tega sporazuma morajo Združene države Amerike in Republika Slovenija izpolniti svoje notranjepravne postopke. Vladi Združenih držav Amerike in Republike Slovenije si nato izmenjata listini o dokončanju teh postopkov. Ta sporazum začne veljati z dnem začetka veljavnosti Sporazuma o izročitvi med ZDA in EU.

(b) Če preneha veljati Sporazum o izročitvi med ZDA in EU, preneha veljati tudi ta sporazum in se uporablja Pogodba o izročitvi iz leta 1901. Vladi Združenih držav Amerike in Republike Slovenije pa se lahko dogovorita, da bosta nekatere ali vse določbe tega sporazuma uporabljali še naprej.

V POTRDITEV TEGA sta spodaj podpisana, ki sta ju za to pravilno pooblastili njuni vladi, podpisala ta sporazum.

SESTAVLJENO v Ljubljani dne 17 oktobra 2005 v dveh izvodih v angleškem in slovenskem jeziku, pri čemer sta besedili enako verodostojni.

ZA VLADO ZDRUŽENIH DRŽAV AMERIKE ZA VLADO REPUBLIKE SLOVENIJE



PRILOGA

Pogodba o izročitvi med vladama Združenih držav Amerike in Republike Slovenije

1. člen

Vlada Združenih držav Amerike in Vlada Republike Slovenije se zavezujeta, da si bosta vzajemno izročali osebe, ki so na ozemlju ene države pogodbenice in so bile na ozemlju druge pogodbenice obdolžene ali obsojene za katero koli kaznivo dejanje, določeno v naslednjem členu in storjeno na njenem ozemlju: to je mogoče samo na podlagi takih dokazov o storitvi kaznivega dejanja, ki po zakonodaji države, v kateri odkrijejo osebo na begu ali obdolženo osebo, omogočajo prijetje in zagotovitev navzočnosti te osebe zaradi sojenja, kot da bi bilo dejanje storjeno na njenem ozemlju.

2. člen

1. Izročitev se lahko zahteva za kaznivo dejanje, za katero je po pravu države prosilke in zaprosene države najvišja zagrožena kazen odvzem prostosti za več kot eno leto ali je določena strožja kazen. Izročitev se lahko zahteva tudi za dejanje poskusa storitve kaznivega dejanja, za katero se lahko zahteva izročitev, dogovora za njegovo storitev ali udeležbe pri njem. Če se prosi za izročitev zaradi izvršitve kazni za osebo, obsojeno za kaznivo dejanje, za katero se lahko zahteva izročitev, mora biti čas odvzema prostosti, ki ga mora oseba še prestati, najmanj štiri mesece.

2. Če se izročitev dovoli za kaznivo dejanje, za katero se lahko zahteva izročitev, se dovoli tudi za vsa druga kazniva dejanja, navedena v prošnji, če se kaznujejo z odvzemanjem prostosti enega leta ali manj, če so izpolnjeni vsi drugi pogoji za izročitev.

3. Za namene tega člena se šteje, da se izročitev lahko zahteva za kaznivo dejanje:

(a) ne glede na to, ali zakonodaja države prosilke in zaprosene države uvršča kaznivo dejanje v isto skupino kaznivih dejanj in ali opisuje kaznivo dejanje z enakimi izrazi;

(b) ne glede na to, ali gre za kaznivo dejanje, za katero je po zvezni zakonodaji Združenih držav Amerike treba prikazati obstoj znakov, kot so meddržavni prevoz ali uporaba pošte ali drugih sredstev, povezanih z meddržavno ali zunanjo trgovino, in se uporabljajo le za določanje pristojnosti zveznih sodišč Združenih držav Amerike, in

(c) v kazenskih zadevah v zvezi z davki, carinami, valutnim nadzorom in uvozom ali izvozom blaga, ne glede na to, ali zakonodaja države prosilke in zaprosene države ureja iste vrste davkov, carin, valutnega nadzora ali uvoza ali izvoza enakega blaga.

4. Če je bilo kaznivo dejanje storjeno zunaj ozemlja države prosilke, se izročitev dovoli, če so izpolnjeni drugi veljavni pogoji za izročitev, če zakonodaja zaprosene države predpisuje kazen za kaznivo dejanje, storjeno zunaj njenega ozemlja v podobnih okoliščinah. Če zakonodaja zaprosene države ne predpisuje kazni za kaznivo dejanje, storjeno zunaj njenega ozemlja v podobnih okoliščinah, lahko izvršilni organ zaprosene države po lastni presoji dovoli izročitev, če so izpolnjeni vsi drugi veljavni pogoji za izročitev.

3. člen

1. Prošnje za izročitev in pripadajoče listine se pošiljajo po diplomatski poti. Če je osebi, katere izročitev se zahteva, začasno odvzeta prostost v zaprošeni državi, lahko država prosilka izpolni svojo obveznost pošiljanja prošnje za izročitev in pripadajočih listin po diplomatski poti, tako da jih vloži pri veleposlaništvu zaprošene države v državi prosilki. V tem primeru se zaradi upoštevanja roka, v katerem je na podlagi 4. člena treba vložiti prošnjo za izročitev, da se zagotovi neprekinjeno pridržanje osebe, dan, ko veleposlaništvo prejme prošnjo, šteje za dan, ko jo je prejela zaprošena država.

2. Če je bila oseba, katere izročitev se zahteva, obsojena za kaznivo dejanje, se pošljejo ustrezno overjena kopija sodbe sodišča, ki je osebo obsodilo, če pa je oseba na begu samo obdolžena za kaznivo dejanje, ustrezno overjena kopija odločbe o priporu v državi, v kateri je bilo dejanje storjeno, in zapisniki o zaslišanjih ali drugi dokazi, na podlagi katerih je bila taka odločba izdana.

3. Listine s potrdilom ali žigom ministrstva za pravosodje države prosilke ali ministrstva države prosilke, pristojnega za zunanje zadeve, se v postopkih izročitve v zaprošeni državi sprejmejo brez kakršnega koli nadaljnjega ugotavljanja istovetnosti, potrjevanja ali overjanja. Ministrstvo za pravosodje pomeni za Združene države Amerike Ministrstvo za pravosodje Združenih držav Amerike, za Republiko Slovenijo pa Ministrstvo za pravosodje Republike Slovenije.

4. Če ni v nasprotju s to pogodbo, se izročitev osebe na begu po njenih določbah v Združenih državah Amerike in Republiko Sloveniji opravi skladno z veljavno notranjo zakonodajo zaprošene države.

3. bis člen

1. Zaprošena država lahko zahteva, da država prosilka v razumnem času, ki ga določi prva, pošlje dodatne podatke, če meni, da podatki, poslani s prošnjo za izročitev, ne zadostujejo za izpolnitev pogojev te pogodbe.

2. Taki dodatni podatki se lahko zahtevajo in pošiljajo neposredno med Ministrstvom za pravosodje Združenih držav Amerike in Ministrstvom za pravosodje Republike Slovenije.

3. ter člen

Če država prosilka proučuje možnost za predložitev posebej občutljivih podatkov v prošnji za izročitev, se lahko posvetuje z zaprošeno državo, da bi ugotovila, v kolikšni meri lahko zaprošena država varuje podatke. Če zaprošena država ne more varovati podatkov tako, kot to zahteva država prosilka, se država prosilka odloči, ali bo vseeno poslala podatke.

4. člen

1. Namesto pošiljanja po diplomatski poti si lahko prošnje za začasen odvzem prostosti pošiljata neposredno Ministrstvo za pravosodje Združenih držav Amerike in Ministrstvo za pravosodje Republike Slovenije. Za pošiljanje takih prošenj se lahko uporabljajo tudi sredstva Mednarodne organizacije kriminalistične policije (Interpol).

2. Začasni pripor osebi preneha in priprti je izpuščen, če se skladno s to pogodbo v dveh mesecih od dneva, ko je bil priprt, ne vložijo formalna prošnja za njegovo izročitev in potrebni dokazi o storitvi kaznivega dejanja.

5. člen

Nobena pogodbenica ni dolžna izročati svojih državljanov po določbah te pogodbe.

6. člen

1. Izročitev se ne dovoli, če je kaznivo dejanje, zaradi katerega se zaproša izročitev, politične narave, ali če oseba, katere izročitev se zahteva, dokaže, da je prošnja za izročitev vložena zato, da se kaznuje zaradi kaznivega dejanja politične narave.

2. Oseba, ki jo ena pogodbenica izroči drugi, ne sme biti preganjana ali kaznovana za nobeno politično kaznivo dejanje niti za katero koli s tem povezano dejanje, ki ga je storila pred izročitvijo.

3. Če se pojavi vprašanje, ali za posamezen primer veljajo določbe tega člena, je odločitev, ki jo sprejmejo organi vlade, od katere se zahteva izročitev, ali organi, ki so morda dovolili izročitev, dokončna.

7. člen

Ne dovoli se izročitev v skladu z določbami te pogodbe, če je po zakonodaji zaprošene države nastopilo zastaranje kazenskega pregona ali izvršitve kazni za dejanje, ki ga je storila zahtevana oseba.

8. člen

Zoper osebo, ki jo je katera koli pogodbenica izročila drugi, brez njenega prostovoljnega in javno izraženega soglasja ne bo uveden kazenski postopek, ne sme biti preganjana ali kaznovana za kaznivo dejanje, ki ga je storila pred izročitvijo, razen za tisto kaznivo dejanje, zaradi katerega je bila izročena, in sicer dokler ne dobi možnosti, da se vrne v državo, ki jo je izročila.

8. bis člen

Če je za kaznivo dejanje, zaradi katerega se zahteva izročitev, po zakonodaji države prosilke predpisana smrtna kazen, po zakonodaji zaprošene države pa ne, lahko zaprošena država dovoli izročitev pod pogojem, da smrtna kazen ne bo izrečena, ali če država prosilka iz postopkovnih razlogov ne more izpolniti takega pogoja, pod pogojem, da smrtna kazen, če bo izrečena, ne bo izvršena. Če država prosilka soglaša z izročitvijo pod pogoji iz tega člena, mora te pogoje izpolniti. Če država prosilka ne sprejme pogojev, se lahko prošnja za izročitev zavrne.

9. člen

Vsi zaseženi predmeti, ki jih ima oseba, ki bo izročena, pri sebi ob prijettu, ne glede na to, ali so to predmeti, pridobljeni s storitvijo kaznivega dejanja, za katero je obdolžena, ali so pomembni kot dokaz pri dokazovanju kaznivega dejanja, se, če je to izvedljivo in

v skladu z zakonodajo držav, ob izročitvi odstopijo državi, ki zahteva izročitev. Pri tem je treba upoštevati pravice tretjih oseb do teh predmetov.

10. člen

1. Če zaprošena država prejme prošnjo za izročitev iste osebe od države prosilke in od katere koli druge države ali držav zaradi istega ali različnih kaznivih dejanj, izvršilni organ zaprošene države odloči, ali in kateri državi bo izročila osebo.
2. Če Republika Slovenija prejme prošnjo za izročitev iz Združenih držav Amerike in prošnjo za predajo na podlagi evropskega naloga za prijetje in predajo za isto osebo zaradi istega ali različnih kaznivih dejanj, Vrhovno sodišče Republike Slovenije ali drug organ, ki ga Republika Slovenija pozneje določi, odloči, ali in kateri državi bo osebo izročila.
3. Pri odločanju na podlagi prvega in drugega odstavka tega člena zaprošena država upošteva vse pomembne dejavnike, med drugimi tudi:
 - (a) ali so prošnje v skladu s pogodbo;
 - (b) kraje, kjer so bila storjena kazniva dejanja;
 - (c) interese vsake države prosilke;
 - (d) težo kaznivih dejanj;
 - (e) državljanstvo žrtve;
 - (f) možnost za poznejšo izročitev med državami prosilkami in
 - (g) vrstni red prejema prošenj držav prosilk.

10. bis člen

1. Če se dovoli izročitev osebe, ki je v postopku ali prestaja kazen v zaprošeni državi, lahko zaprošena država zaradi pregona zahtevano osebo začasno preda državi prosilki.
2. Tako izročena oseba se pripre v državi prosilki in se vrne zaprošeni državi ob koncu sodnega postopka proti njej v skladu s pogoji, ki jih država prosilka in zaprošena država sporazumno določita. Čas, ko je oseba v priporu na ozemlju države prosilke med postopkom v tej državi, se lahko všteje v preostalo kazen, ki jo mora oseba prestati v zaprošeni državi.

10. ter člen

Če zahtevana oseba soglaša z izročitvijo državi prosilki, lahko zaprošena država v skladu z načeli in postopki svojega pravnega sistema čim prej in brez nadaljnjih formalnosti preda osebo. Soglasje zahtevane osebe lahko vključuje odpoved zaščiti po načelu specialnosti.

11. člen

Stroške, ki nastanejo zaradi odvzema prostosti, pridržanja, zaslišanja in izročitve osebe na begu po tej pogodbi, krije država, ki prosi za izročitev: pogoja za to sta, da vladi države prosilke ni treba kriti stroškov za delo javnih uslužbencev zaprosene države, ki so prejeli redno plačo, in da stroški za delo javnih uslužbencev, ki prejemajo le honorar ali dodatne ugodnosti, ne presegajo njihovih običajnih honorarjev za delo ali storitve, ki bi jih opravili v običajnih kazenskih postopkih po zakonodaji države, katere uslužbenci so.

11. bis člen

1. Združene države Amerike lahko dovolijo prevoz osebe, ki jo tretja država izroči Republiki Sloveniji ali jo Republika Slovenija izroči tretji državi, čez svoje ozemlje. Republika Slovenija lahko dovoli prevoz osebe, ki jo tretja država izroči Združenim državam Amerike ali jo Združene države Amerike izročijo tretji državi, čez svoje ozemlje.

2. Prošnje za tranzit se pošiljajo po diplomatski poti ali neposredno med ministrstvom za pravosodje Združenih držav Amerike in Republike Slovenije. Za pošiljanje takih prošenj se lahko uporabljajo tudi sredstva Interpola. Prošnja vsebuje opis osebe, ki jo je treba prepeljati, in kratko izjavo o dejstvih v posameznem primeru. Oseba v tranzitu je med tranzitom priprta.

3. Dovoljenje ni potrebno pri letalskem prevozu, če na ozemlju tranzitne države ni predviden postanek. Ob nepredvidenem postanku lahko država, v kateri pride do nepredvidenega postanka, zahteva prošnjo za tranzit v skladu z drugim odstavkom tega člena. Če je prošnja za tranzit prejeta v 96 urah od nepredvidenega postanka, se stori vse potrebno, da se do izvedbe tranzita osebi prepreči, da bi pobegnila.

12. člen

Ta pogodba velja šest mesecev po tem, ko ena vlada pogodbenica obvesti drugo, da jo bo odpovedala.