

DRAFT
TREATY
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS
BETWEEN
THE UNITED ARAB EMIRATES
AND
THE REPUBLIC OF LITHUANIA

THE UNITED ARAB EMIRATES and THE REPUBLIC OF LITHUANIA (hereinafter referred to as “the Parties”).

Desiring further to improve the effectiveness of the law enforcement authorities of both countries in the investigation and prosecution of crime, and to combat crime in a more effective way as a means of protecting their respective democratic societies and common values,

Recognising the need to facilitate the widest measure of mutual assistance in criminal matters,

Have agreed as follows:

Article 1

Scope of Assistance

1. The Parties shall grant each other under this Treaty the widest measures of mutual legal assistance in criminal matters in respect of the investigation, prosecution and proceedings related to criminal matters.

2. Assistance shall include:

- a) taking the testimony or statements of persons including by videoconference, according to the law of the requested Party;
- b) providing documents, records, and items;
- c) providing documents, records, information related to bank account and financial institution accounts;
- d) serving of judicial documents;
- e) transferring persons in custody temporarily for testimony or for obtaining other type of evidence;
- f) executing requests for searches and seizures;
- g) confiscating proceeds from criminal activities and instruments of crime;

h) any other form of cooperation within the scope of this Treaty in so far as not contrary to the law of the requested Party.

Article 2

Central Authorities

1. The Central authority of the United Arab Emirates is the Ministry of Justice.
2. The Central authorities of the Republic of Lithuania are:
 - a) the Ministry of Justice for mutual legal assistance requests at the stage of trial proceedings and
 - b) the Prosecutor General's Office for mutual legal assistance requests at the stage of pre-trial investigation.
3. The Parties shall, without delay, through diplomatic channels communicate to each other contact data and changes of the Central authorities. The Central authorities shall directly inform each other of any change relating to their contact data as soon as possible.
4. For the purpose of this Treaty, the Parties shall communicate with each other through their Central authorities via diplomatic channels or directly in urgent circumstances.

Article 3

Exchange of Information

The Parties may exchange information concerning the laws in force and the judicial practice of their respective countries related to the application of this Treaty.

Article 4

Refusal of Assistance

1. The requested Party may deny assistance if:
 - a) the execution of the request would impair the sovereignty, security, public order or similar essential interests of the requested Party;
 - b) the request relates to an offence under military law that would not be an offence under ordinary criminal law;
 - c) the request relates to a political offence;
 - d) there is an immunity or a privilege under the law of the Requested Party which makes it impossible to execute the request;
 - e) there are reasonable grounds to believe that the execution of the request would result in torture or cruel, inhuman or degrading treatment or punishment or the person concerned would not receive the minimum guarantees in criminal proceedings;
 - f) the requested assistance relates to an offence which does not constitute an offence under the law of the requested Party;
 - g) the request is not made in substantial compliance with the requirements set forth in Article 5 of this Treaty;

h) a final judgment has been rendered or proceedings were terminated in respect of that offence in the requested Party under its own jurisdiction;

i) the request relates to a criminal offence which is alleged to have been committed outside the territory of the requesting Party and wholly or partially committed on the territory of the requested Party.

2. If the request relates to an offence which may be punishable by a capital punishment under the law of the requesting Party and not punishable by a capital punishment under the law of the requested Party, the requested Party may execute request if the requesting Party gives assurance that the capital punishment if imposed shall not be carried out.

3. Before denying assistance pursuant to the provisions of this Article, the Central authority of the requested Party may consult with the Central authority of the requesting Party to consider whether assistance can be given subject to such conditions, as it deems necessary. If the requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.

4. For the purpose of application of this Treaty, the following shall not be regarded as political offences:

a) for the United Arab Emirates assault against the president of the State or his deputy or head of the government or any member of their families, or any member of the Federal Supreme Council or any member of their families;

for the Republic of Lithuania assault against the president of the State;

b) terrorist offences;

c) murder;

d) any offence specified in an international Treaty to which both Parties are members which obligates the Parties to prosecute for such offence.

Article 5

Form and Content of Requests

1. A request of assistance shall be in writing and in urgent and emergency circumstances, request may be made by facsimile, electronic mail or other similar type of communication and shall be confirmed in writing within (40) forty days thereafter unless both Parties otherwise agree.

2. All requests and supporting documents shall be accompanied by a translation into the language of the requested Party or English language, and shall be officially signed and sealed by the competent authorities, unless otherwise the Parties agreed.

3. The request shall include the following:

a) the name of the authority conducting the investigation, prosecution, or proceedings to which the request relates;

b) a description of the subject matter and nature of the investigation, prosecution, or proceedings, including offences that relate to the matter;

c) a description of the evidence, information or other assistance sought;

d) a description of the purpose for which the request for assistance is made in respect of the evidence, information or other assistance sought;

e) the text of the laws describing the offences for which assistance is requested, including information on the penalty which may be imposed for these offences.

4. To the extent necessary and possible, the request shall also include:

a) information on the identity and location of the person from whom evidence is sought;

b) information on the identity and location of the person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;

c) information on the identity and suspected location of the person or item;

d) a precise description of the place of the person to be searched and of the items to be seized;

e) a description of the manner in which any testimony or statement is to be taken and recorded and a description of the testimony or statement sought, including a list of questions to be asked of a person;

f) a description of any particular procedure to be followed in executing the request;

g) information as to the allowances and expenses to which a person asked to appear in the requesting Party will be entitled;

h) any other information that may be brought to the attention of the requested Party to facilitate the execution of the request.

5. If the requested Party considers that the information provided in a request for mutual legal assistance is insufficient, it may request additional information that should be submitted within the time limit specified by the requested Party.

Article 6

Execution of Requests

1. The Central authority of the requested Party shall transmit the request to the competent authority for execution according to the law of requested Party. The said authority shall use its best efforts to execute the request.

2. Requests shall be executed in accordance with the law of the requested Party except to the extent that this Treaty provides otherwise. Procedures specified in the request shall be followed to the extent those procedures are not contrary to the law of requested Party.

3. If the requested Party determines that execution of a request would interfere with an ongoing investigation, prosecution or proceedings in that Party, it may postpone execution or make execution subject to conditions determined to be necessary after consultations with the Central authority of the requesting Party. If the requesting Party accepts the assistance subject to conditions specified by the requested Party, it shall comply with such conditions.

4. The requested Party shall use its best efforts to keep confidential the request and its contents if the requesting Party so required. If the request cannot be executed without breaching such confidentiality, the requested Party shall so inform the requesting Party, which shall then determine whether the request should nevertheless be executed.

5. The Central authority of the requested Party shall respond to reasonable requests

by the Central authority of the requesting Party on progress towards execution of the request.

6. The Central authority of the requested Party shall promptly inform the Central authority of the requesting Party of the outcome of the execution of the request. If the execution of the request is denied or postponed, the Central authority of the requested Party shall promptly inform the Central authority of the requesting Party of the reasons for the denial or postponement thereof.

Article 7

Costs

1. The requested Party shall bear all costs relating to the execution of a request except the following, which shall be borne by the requesting Party:

- a) the fees of experts;
- b) the allowances and expenses related to travel of persons travelling either in the requested Party for the convenience of the requesting Party or pursuant to the provisions of Articles 11 and 12 of this Treaty;
- c) the costs related to the hearing by videoconference, to the extent set forth in Article 14 of this Treaty, unless otherwise agreed by the requesting and requested Parties.

2. If during the execution of a request it becomes apparent that complete execution will entail expenses of an extraordinary nature, the Central authorities shall consult to determine the terms and conditions under which the execution may continue.

Article 8

Limitation on Use

1. The requested Party may request that the requesting Party limit the use of any information or evidence obtained under this Treaty to the following purposes:

- a) for the purpose of its criminal investigations and proceedings;
- b) for preventing an immediate and serious threat to its public security;
- c) 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) and b); and
- d) for any other purpose, only with the prior consent of the requested Party.

2. The requested Party may request that information or evidence furnished under this Treaty be kept confidential or be used only subject to terms and conditions it may specify. If the requesting Party accepts the information or evidence subject to such conditions, the requesting Party shall comply with the conditions.

3. This Article shall not prevent the requested Party from imposing additional conditions under this Treaty in a particular case if a particular request for assistance could not be complied with without the imposition of such conditions. Where additional conditions have been imposed under this paragraph, the requested Party may require that the requesting Party provide information on the use of the evidence or information obtained.

4. If, following the disclosure of information to the requesting Party, the requested

Party becomes aware of the circumstances that may cause it to seek additional conditions, the requested Party may consult the requesting Party with a view to establishing how the evidence and information may be protected.

Article 9

Testimony or Evidence in the Requested Party

1. A person in the requested Party from whom testimony or evidence is requested pursuant to the provisions of this Treaty shall be compelled, if necessary, to appear and testify or produce items, including documents, records, and other articles of evidence, according to the law of the requested Party. A person who gives false testimony, either orally or in writing, in execution of a request shall be subject to prosecution in the requested Party in accordance with the criminal law of that Party.

2. The requested Party may permit the presence of persons specified in the request during the execution of the request, in accordance with the procedures prescribed by the law of the requested Party.

3. If the person referred in paragraph 1 of this Article asserts a claim of right of not giving evidence or testimony under the law of the requesting Party, the Central authorities shall consult to the existence of that right.

Article 10

Official Documents and Records

1. Upon request of the requesting Party, the requested Party according to its law provides copies of documents and records in the possession of an executive, legislative, or judicial authority in the requested Party, in so far as they are open to public access.

2. Upon request of the requesting Party the requested Party according to its law may provide the requesting Party with copies of any other document or record that are not stipulated in paragraph 1 of this Article to the same extent and under the same conditions as such copies would be available to its own law enforcement or judicial authorities. The requested Party may in its discretion deny a request pursuant to this paragraph entirely or in part.

Article 11

Testimony Outside the Territory of the Requested Party

1. When the requesting Party requests that a person in the requested Party appear in the requesting Party, the requested Party shall invite the person for testimony before the competent authority in the requesting Party if he or she consents. The Central authority of the requested Party shall inform the Central authority of the requesting Party of the action taken thereof.

2. The requesting Party shall indicate the extent to which the person's expenses will be paid.

3. The Central authority of the requesting Party may, in its discretion, determine that a person appearing in the requesting Party pursuant to this Article shall not be subject to service of process, detained or subjected to any restriction of personal liberty, by reason of

any acts or convictions that preceded his or her departure from the requested Party.

4. If the person appearing in the requesting Party had the liberty and means to leave the requesting Party and did not leave within the subsequent thirty days after being notified that his or her presence is no longer required or when the person having left it and voluntary returned, in this case that person may be tried for the other offences. This shall not include the period during which the person fails to leave the territory for reasons beyond his or her control.

Article 12

Provisional Transfer of Persons in Custody

1. A person in the custody of the requested Party may be provisionally transferred to the custody of the requesting Party for the purpose of assistance under this Treaty, if the person sought consents and both Parties agree.

2. For the purpose of this Article:

a) the requesting Party shall keep the person transferred in custody unless otherwise authorized by the requested Party;

b) the person transferred shall not be required, without his or her consent, to testify in proceedings not specified in the request;

c) the requesting Party shall return the person transferred to the requested Party as soon as circumstances permit or as otherwise agreed by both Parties;

d) the person transferred shall receive credit for service of the sentence imposed in the requested Party for time served in the custody in the requesting Party.

Article 13

Transit of Persons in Custody

1. When either of the Parties is to transfer a person in custody from a third state through the territory of the other Party, the former should request the latter for the permission of such transit. A request for transit shall be submitted through the Central authorities. The facilities of the International Criminal Police Organization (Interpol) may also be used to transmit such a request to the above-mentioned authorities. The request for transit shall contain a description of the person being transported and a brief statement of the case.

2. The requested Party shall, in so far as it is not contrary to its law, approve the request for transit made by the requesting Party.

3. No permission is required where air transport is used and no landing is scheduled for on the territory of the other Party.

4. In the event of an unscheduled landing, the Party in which the unscheduled landing occurs may require a request for transit pursuant to paragraph 1 of this Article and it may detain the person until the request for transit is received and the transit is effected, as long as the request is received within 48 hours of the unscheduled landing.

Article 14

Hearing by Videoconference

For the purpose of the application of this Treaty the Parties may agree for the use of live video or all live television links or other appropriate communication facilities in accordance with the laws and procedures of both Parties if it is expedient and in the interests of justice. The conditions and modalities hereof shall be agreed by the Parties on case by case basis.

Article 15

Service of Documents

1. The requested Party shall use its best efforts to effect service of any document relating, in whole or in part, to any request for assistance made by the requesting Party under the provisions of this Treaty.

2. The requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority in the requesting Party within a reasonable time before the scheduled appearance.

3. The requested Party shall return a proof of service in the manner specified in the request.

Article 16

Search and Seizure

1. The requested Party shall, to the extent its law permits, carry out requests made in respect of a criminal matter in the requesting Party for the search and seizure.

2. The requested Party shall provide such information as may be required by the requesting Party concerning the result of any search, the place and circumstances of seizure and the subsequent custody of the material seized.

3. The requesting Party shall observe any conditions required by the requested Party in relation to any seized material which is delivered to the requesting Party.

4. The requested Party may require that the requesting Party agree to terms and conditions deemed necessary to protect third party's interests in the item to be transferred.

Article 17

Return of Items

The requested Party may require the requesting Party to return any item, including documents and records, furnished to it in execution of a request under this Treaty.

Article 18

Assistance in Confiscation Proceedings

1. If one Party becomes aware of proceeds or instrumentalities of offences that are located in the other Party and may be confiscated or otherwise subject to seizure under the law of that Party, it may so inform the Central authority of the other Party. If that other Party has jurisdiction in this regard, it may present this information to its authorities to take any

decisions in this regard and these authorities shall issue their decision in accordance with their national law and report to the other Party on the action taken.

2. Each Party shall assist the other Party to the extent permitted by their respective law in proceedings relating to the confiscation of the proceeds and instrumentalities of offences and restitution to the victims of the crime.

3. The Party that has custody over proceeds or instrumentalities of offences shall dispose of them in accordance with its law. Either Party may transfer all or part of such assets, or the proceeds of their sale, to the other Party, to the extent permitted by the law of the transferring Party and upon such terms as it deems appropriate.

Article 19

Spontaneous Information

1. Without prejudice to their own investigations or proceedings, the competent authorities of a Party may, without prior request, forward to the competent authorities of another Party information obtained within the framework of their own investigations, when they consider that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings, or might lead to a request by that Party under the present Treaty.

2. The providing Party may, pursuant to its law, impose conditions of confidentiality and data protection related to such information to the receiving Party. If the receiving Party agrees to be bound by those conditions, the information is forwarded under paragraph 1 of this Article.

Article 20

Validity of Documents

For the purposes of the present Treaty, documents transferred in the original or authentic copy shall be exempt from any form of legalisation.

Article 21

Obligations under International Treaties

The provisions of this Treaty shall not affect the rights and obligations of the Parties arising from other international treaties to which one or both of them are Parties.

Article 22

Settlement of Disputes

Any dispute arising from application or interpretation of this Treaty shall be settled by consultations or negotiations through diplomatic channels if the Central authorities of the Parties are themselves unable to reach agreement.

Article 23

Final Provisions

1. The present Treaty shall enter into force on the thirtieth day after the latter of the dates on which each of the Parties has notified the other through diplomatic channels that the procedures required by its law for the entry into force of the Treaty have been complied with.

2. By the agreement of both Parties this Treaty may be subject to amendments, which shall form the inseparable part of it and shall be drawn in the form of Protocols, which shall enter into force as established in paragraph 1 of this Article.

3. Either Party may terminate this Treaty by notice in writing through diplomatic channels at any time. Termination shall take effect six months after the date on which the notice is received. However, proceedings under the legal assistance already commenced before the notice is received shall continue to be governed by this Treaty until conclusion therein.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Treaty.

Done at on this (day) of..... (month)(year) 20..., in duplicate in the Arabic, Lithuanian and English languages, all texts being equally authentic. In the event of any differences in interpretation of this Treaty, the English text shall prevail.

For the United Arab Emirates
For the Republic of Lithuania