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**THE IMPLICATIONS FOR COUNCIL OF
EUROPE MEMBER STATES OF THE
RATIFICATION OF THE
ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT**

**LES IMPLICATIONS POUR LES ETATS
MEMBRES DU CONSEIL DE L'EUROPE
DE LA RATIFICATION DU STATUT DE
ROME DE LA COUR PENALE
INTERNATIONALE**

PROGRESS REPORT BY LITHUANIA

According to paragraph 1 of Article 125 of the Rome Statute of the International Criminal Court, it was signed on behalf of the Republic of Lithuania on 10 December 1998.

The Rome Statute of the International Criminal Court was ratified by the Republic of Lithuania on 1 April 2003. The Republic of Lithuania has made the following declarations:

1. Whereas, it is provided in paragraph 1 of Article 87, the Seimas of the Republic of Lithuania declares that requests of the International Criminal Court for cooperation may be transmitted directly to the Ministry of Justice of the Republic of Lithuania or to the Prosecutor's General Office of the Republic of Lithuania;
2. Whereas, it is provided in paragraph 2 of Article 87, the Seimas of the Republic of Lithuania declares that requests of the International Criminal Court for cooperation and any documents supporting the request shall be presented either in Lithuanian language, which is State Language of the Republic of Lithuania, or in English language, which is one of the working languages of the International Criminal Court, or be accompanied by a translation either into Lithuanian language or in English language;
3. Whereas, it is provided in paragraph 1(b) of Article 103, the Seimas of the Republic of Lithuania declares that the 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;

Article 13 of the Constitution of the Republic of Lithuania provides that it shall be prohibited to extradite a citizen of the Republic of Lithuania to another state unless an international agreement where to the Republic of Lithuania is a party establishes otherwise.

The new Code of Criminal Procedure was adopted by the Parliament of the Republic of Lithuania on 14 March 2002. The provisions of the mentioned Code are fully aligned with the provisions of the Rome Statute of the International Criminal Court:

1. Part 4 of the Article 67 of the Code of Criminal Procedure provides that officers of the foreign courts, the prosecution and pre-trial investigation institutions or the International Criminal Court shall be permitted to take proceedings in the territory of the Republic of Lithuania only in cases provided for in an international agreement to which the Republic of Lithuania is a party and with the participation of the officers of the Republic of Lithuania.
2. Article 71 provides that a national of the Republic of Lithuania, on suspicion of having committed a criminal act, may be transferred to the International Criminal Court only if such an obligation is provided by an international agreement to which the Republic of Lithuania is a party or by resolution of the UN Security Council. An alien, on suspicion of having committed a criminal act in the territory of the Republic of Lithuania or any other states, shall be transferred to the International Criminal Court only if such an obligation is provided by an international agreement to which the Republic of Lithuania is a party or by resolution of the UN Security Council.
3. Article 72 provides that the person whose extradition or transfer to the International Criminal Court is requested shall be arrested on the grounds provided for in international

agreements to which the Republic of Lithuania is a party and in this Code. The procedure of ordering arrest of persons whose extradition or transfer to the International Criminal Court is requested and appealing against the arrest shall be set forth by this Code. The duration of arrest of persons whose extradition or transfer to the International Criminal Court is requested shall be laid down by international agreements to which the Republic of Lithuania is a party and this Code.

The same provisions are incorporated in Article 9 of the Criminal Code of the Republic of Lithuania of 2000.

4. Article 73 provides that a prosecutor of the Office of the Prosecutor General, on the grounds provided for by an international agreement to which the Republic of Lithuania is a party, shall apply, with regard to extradition of a person or his transfer to the International Criminal Court, to the Vilnius County Court. A judge must, within seven days, hold a hearing to which the extraditable person, his counsel for the defence and the prosecutor must be summoned. Participation of the prosecutor and the counsel during such a hearing is obligatory. A record of the hearing shall be taken. Upon making a decision to grant the prosecutor's request, the judge must render an order to extradite the person or transfer him to the International Criminal Court; where the prosecutor declines to grant the request, he shall render an order to refuse to extradite the person or transfer him to the International Criminal Court. If the person whose extradition or transfer to the International Criminal court is requested is in custody, the judge, when rendering an order of refusal to extradite the person or transfer him to the International Criminal Court, shall also determine the question of the provisional measure.
5. Article 74 provides that a person with regard to whom an order has been rendered, or his counsel for the defence, objecting to the order to extradite the person or transfer him to the International Criminal Court, and the prosecutor objecting to the order not to extradite the person or transfer him to the International Criminal Court shall be entitled, within seven days, to lodge an appeal with the Court of Appeals of Lithuania. A judge of the Court of Appeals of Lithuania must examine the appeal within fourteen days from the date of lodging it. A court hearing for considering the appeal may be held to which the person concerned together with his counsel or only the counsel may be summoned. Participation of the prosecutor in such a hearing is obligatory. The judge may decide to reverse the order of the county court or to uphold it. The decision of the judge of the Court of Appeals of Lithuania shall be definitive and not subject to appeal by cassation. Filing an appeal against the order of the judge of the Vilnius county court shall stay the execution of this order.
6. Article 76 provides that the procedure and conditions of the transfer of the person claimed with regard to whom there is an effective order for his extradition or surrender to the International Criminal Court shall be established by the international agreements to which the Republic of Lithuania is a party. Article 77 provides that in cases provided for and following the procedure established by an international agreement to which the Republic of Lithuania is a party, an arrested or convicted person may be transferred temporarily to another state or the International Criminal Court for the performance of procedural acts. 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.

7. Article 4 also provides that the procedure shall be established pursuant to the Code of Criminal Procedure effective at the moment of carrying out procedural actions. The procedure in the territory of the Republic of Lithuania shall be conducted pursuant to the Code of Criminal Procedure of the Republic of Lithuania, irrespective of the place where a criminal act has been committed. Where an international agreement of the Republic of Lithuania prescribes rules other than this Code, the international rules shall apply.